

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

MERRILL LYNCH & CO., INC.

(Exact Name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

13-2740599
(I.R.S. Employer Identification No.)

4 World Financial Center
New York, New York 10080
(212) 449-1000

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

RICHARD ALSOP, ESQ.
General Counsel
Corporate Law
Merrill Lynch & Co., Inc.
4 World Financial Center
New York, New York 10080
(212) 449-1000

(Name, address, including zip code, and telephone number, including area code, of agent for service)

With copies to:
NORMAN D. SLONAKER, ESQ.
Sidley Austin LLP
787 Seventh Avenue
New York, New York 10019

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. _____

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. _____

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered (1)(2)	Amount to be registered(1)	Proposed maximum offering price per unit (1)	Proposed maximum aggregate offering price (1)	Amount of registration fee(1)
Debt Securities				
Warrants				
Preferred Stock				
Depository Shares				
Common Stock (including preferred share purchase rights)(3)				

- (1) An unspecified and indeterminate aggregate initial offering price and number or amount of the securities of each identified class is being registered as may from time to time be sold at indeterminate prices. Separate consideration may or may not be received for securities that are issuable upon conversion of, or in exchange for, or upon exercise of, convertible or exchangeable securities. In accordance with rule 456(b) and rule 457(r), the registrant is deferring payment of all of the registration fee, except for \$2,176,753 that has already been paid with respect to \$35,000,000,000 aggregate initial offering price of securities that were previously registered pursuant to Registration Statement No. 333-122639 filed on February 8, 2005, and were not sold thereunder. Pursuant to rule 457(p), such unutilized filing fee may be applied to the filing fee payable pursuant to this Registration Statement.
- (2) This Registration Statement also registers, where required, an indeterminate amount of securities that may be reoffered and resold by Merrill Lynch, Pierce, Fenner & Smith Incorporated and other affiliates of the registrant in market-making transactions.
- (3) Prior to the occurrence of certain events, the preferred share purchase rights will not be evidenced separately from the Common Stock. The value attributable to such rights, if any, is reflected in the market price of the Common Stock.



Merrill Lynch & Co., Inc.
Debt Securities, Warrants, Preferred Stock,
Depository Shares, Common Stock

We may offer from time to time in one or more series, together or separately:

- debt securities;
- warrants;
- preferred stock;
- depository shares; and
- common stock.

We may offer the securities independently or together with other securities and the securities may be attached to, or separate from other securities.

We may issue debt securities that may be senior or subordinated to other indebtedness of ML&Co. We may also issue debt securities that are convertible into or exchangeable for common stock or preferred stock or depository shares or other securities issued by us or another entity. Any preferred stock or depository shares issued may also be convertible into common stock or another series of preferred stock or depository shares or convertible into or exchangeable for other securities issued by us or another entity.

We will provide specific terms of any offering in supplements to this prospectus. You should read this prospectus and any prospectus supplement carefully before you invest.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

We may sell these securities on a continuous or delayed basis directly, through agents or underwriters as designated from time to time, or through a combination of these methods. We reserve the sole right to accept, and together with any agents, dealers and underwriters, reserve the right to reject, in whole or in part, any proposed purchase of securities. If any agents, dealer or underwriters are involved in the sale of any securities, the applicable prospectus supplement will set forth any applicable commissions or discounts. Our net proceeds from the sale of securities will also be set forth in the applicable prospectus supplement.

Merrill Lynch, Pierce, Fenner & Smith Incorporated or any other affiliate of ours may use this prospectus in a market-making transaction in any of these or similar securities after its initial sale.

The date of this prospectus is March 31, 2006.

WHERE YOU CAN FIND MORE INFORMATION

We file reports, proxy statements and other information with the SEC. You may read and copy any document we file 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 further information on the public reference room. In addition, the SEC maintains a website that contains reports, proxy statements and other information that we electronically file. The address of the SEC's website is <http://www.sec.gov>. You may also inspect our SEC reports and other information at the New York Stock Exchange, Inc., 20 Broad Street, New York, New York 10005.

INCORPORATION OF INFORMATION WE FILE WITH THE SEC

The SEC allows us to incorporate by reference the information we file with them, which means:

- incorporated documents are considered part of the prospectus;
- we can disclose important information to you by referring you to those documents; and
- information that we file with the SEC will automatically update and supersede this incorporated information.

We incorporate by reference the documents listed below which were filed with the SEC under the Securities Exchange Act of 1934 (the "Exchange Act") (other than information in the documents that is deemed not to be filed):

- annual report on Form 10-K for the year ended December 30, 2005;
- current report on Form 8-K filed with the SEC on March 7, 2006.

We also incorporate by reference each of the following documents that we will file with the SEC after the date of this prospectus until this offering is completed (other than information in the documents that is deemed not to be filed):

- reports filed under Section 13(a) and (c) of the Exchange Act;
- definitive proxy or information statements filed under Section 14 of the Exchange Act in connection with any subsequent stockholders' meeting; and
- any reports filed under Section 15(d) of the Exchange Act.

You should assume that the information appearing in this prospectus is accurate as of the date of this prospectus only. Our business, financial condition and results of operations may have changed since that date.

You may request a copy of any filings referred to above (excluding exhibits not specifically incorporated by reference into the filing), at no cost, by contacting us in writing or by telephone at the following address: Judith A. Witterschein, Corporate Secretary, Merrill Lynch & Co., Inc., 222 Broadway, 17th Floor, New York, New York 10038.

You should rely only on the information contained or incorporated by reference or deemed to be incorporated by reference in this prospectus or in a prospectus supplement related to an offering prepared by or on behalf of ML&Co. or used or referred to by us. We have not authorized anyone else to provide you with different or additional information. You should not rely on any other information or representations. Our affairs may change after this prospectus and any related prospectus supplement are conveyed. You should not assume that the information in this prospectus and any related prospectus supplement is accurate as of any date other than the dates indicated in those documents. You should read all information supplementing this prospectus.

EXPERTS

The consolidated financial statements, the related financial statement schedule, and management's report on the effectiveness of internal control over financial reporting incorporated in this prospectus by reference from Merrill Lynch & Co., Inc.'s Annual Report on Form 10-K for the year ended December 30, 2005 have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports, which are incorporated herein by reference, and have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

Estimated expenses, other than underwriting discounts and commissions, in connection with the issuance and distribution of the securities are as follows:

Registration fee*	\$	
Fees and expenses of accountants	\$	250,000
Fees and expenses of counsel	\$	1,700,000
NASD filing fee	\$	75,500
Fees and expenses of Trustees and Warrant Agents	\$	1,275,000
Printing expenses	\$	2,000,000
Printing and engraving of securities	\$	600,000
Rating agency fees	\$	650,000
Stock exchange listing fees	\$	600,000
Miscellaneous	\$	20,000
Total	\$	7,170,500

* An unutilized filing fee of \$2,176,753 previously paid in connection with Registration Statement No. 333-122639 filed on February 8, 2005 is being applied the fee payable pursuant to this Registration Statement. The payment of any additional filing fee is deferred pursuant to Rule 456(b) and 457(r).

Item 15. Indemnification of Directors and Officers

Section 145 of the General Corporation Law of the State of Delaware, as amended, provides that under certain circumstances a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer, employee or agent of the corporation or is or was serving at its request in such capacity in another corporation or business association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, has no reasonable cause to believe such person's conduct was unlawful.

Article XIII, Section 2 of the Restated Certificate of Incorporation of ML&Co. provides in effect that, subject to certain limited exceptions, ML&Co. shall indemnify its directors and officers to the extent authorized or permitted by the General Corporation Law of the State of Delaware.

Each of the underwriting and distribution agreements and forms thereof filed as Exhibit 1 provides for the indemnification of ML&Co., its controlling persons, its directors and certain of its officers by the Underwriters against certain liabilities, including liabilities under the Securities Act of 1933, as amended (the "Securities Act").

The directors and officers of ML&Co. are insured under policies of insurance maintained by ML&Co., subject to the limits of the policies, against certain losses arising from any claim made against them by reason of being or having been such directors or officers. In addition, ML&Co. has entered into contracts with all of its directors providing for indemnification of such persons by ML&Co. to the fullest extent authorized or permitted by law, subject to certain limited exceptions. ML&Co. has established trusts to fund its obligations, up to the

amount of trust assets, that may arise under these agreements and also to directors, officers and employees under the provisions of the General Corporation Law of the State of Delaware and ML&Co.'s Restated Certificate of Incorporation.

Item 16. Exhibits and Financial Statement Schedules

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
1(a)	— Underwriting Agreement for Debt Securities and Warrants, including forms of Terms Agreement, dated as of March 31, 2006, between Merrill Lynch & Co., Inc. (the “Company”) and Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”).*	
1(b)	— Distribution Agreement, including form of Terms Agreement, relating to Medium-Term Notes Due Nine Months or More from Date of Issue, dated as of March 31, 2006, between the Company and MLPF&S.*	
1(c)	— Form of Underwriting Agreement for Common Stock, Common Stock Warrants, Preferred Stock, Preferred Stock Warrants and Depositary Shares.	Exhibit 1(c) to Company’s Registration Statement on Form S-3 (No. 333-59997).
2	— Transaction Agreement and Plan of Merger, dated February 15, 2006, by and among the Company, BlackRock Inc., New Boise, Inc. and Boise Merger Sub, Inc.	Exhibit 2.1 to Company’s Current Report on Form 8-K dated February 22, 2006.
4(a)(i)	— Senior Indenture, dated as of April 1, 1983, as amended and restated (the “1983 Senior Indenture”), between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit (3) to Company’s Registration Statement on Form 8-A dated July 20, 1992.
4(a)(ii)	— Form of initial Subsequent Indenture with respect to Senior Debt Securities.	Exhibit 4(a)(iii) to Company’s Registration Statement on Form S-3 (No. 333-38792).
4(a)(iii)	— Form of Subsequent Indenture with respect to Senior Debt Securities.	Exhibit 4(a)(iv) to Company’s Registration Statement on Form S-3 (No. 333-38792).
4(b)(i)	— Supplemental Indenture to the 1983 Senior Indenture, dated as of March 15, 1990, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit (3) to Company’s Registration Statement on Form 8-A dated July 20, 1992.

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(b)(ii)	— Sixth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 25, 1993, among the Company, JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank and The Chase Manhattan Bank (successor by merger to The Chase Manhattan Bank (National Association)) and JPMorgan Chase Bank, N.A., (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company))).	Exhibit 4(b)(ii) to Company’s Registration Statement on Form S-3 (No. 33-61559).
4(b)(iii)	— Seventh Supplemental Indenture to the 1983 Senior Indenture, dated as of July 1, 1995, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 1 to Company’s Registration Statement on Form S-3 (No. 33-60413).
4(b)(iv)	— Eighth Supplemental Indenture to the 1983 Senior Indenture, dated as of May 1, 1996, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 1 to Company’s Registration Statement on Form S-3 (No. 33-65135).
4(b)(v)	— Ninth Supplemental Indenture to the 1983 Senior Indenture, dated as of June 1, 1996, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 4 to Company’s Registration Statement on Form S-3 (No. 33-65135).
4(b)(vi)	— Tenth Supplemental Indenture to the 1983 Senior Indenture, dated as of July 1, 1996, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 5 to Company’s Registration Statement on Form S-3 (No. 33-65135).
4(b)(vii)	— Eleventh Supplemental Indenture to the 1983 Senior Indenture, dated as of January 30, 1998, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(yyyy) to Amendment No. 1 to Company’s Registration Statement on Form S-3 (No. 333-44173).
4(b)(viii)	— Twelfth Supplemental Indenture to the 1983 Senior Indenture, dated as of September 1, 1998, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).*	

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(b)(ix)	— Thirteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of July 31, 2002, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(vii) to Company's Registration Statement on Form S-3 (No. 333-109802).
4(b)(x)	— Fourteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of September 23, 2002, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(viii) to Company's Registration Statement on Form S-3 (No. 333-109802).
4(b)(xi)	— Fifteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 14, 2003, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(ix) to Company's Registration Statement on Form S-3 (No. 333-109802).
4(b)(xii)	— Sixteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of June 4, 2004, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(xii) to Company's Registration Statement on Form S-3 (No. 333-122639).
4(b)(xiii)	— Seventeenth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 14, 2004, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(xiii) to Company's Registration Statement on Form S-3 (No. 333-122639).
4(b)(xiv)	— Eighteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 21, 2004, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(xiv) to Company's Registration Statement on Form S-3 (No. 333-122639).
4(c)(i)	— Form of Subordinated Indenture.	Exhibit 4.7 to Amendment No. 2 to Company's Registration Statement on Form S-3 (No. 333-16603).
4(c)(ii)	— Form of Subsequent Indenture with respect to Subordinated Debt Securities.	Exhibit 4(c)(ii) to Company's Registration Statement on Form S-3 (No. 333-38792).
4(d)	— Form of Fixed Rate Medium-Term Note, Series B.	Exhibit 4(dd) to Company's Registration Statement on Form S-3 (No. 333-38792).

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(e)	— Form of Redeemable Fixed Rate Medium-Term Note, Series B.	Exhibit 4(e) to Company's Registration Statement on Form S-3 (No. 333-83374).
4(f)	— Form of Floating Rate Medium-Term Note, Series B.	Exhibit 4(ff) to Company's Registration Statement on Form S-3 (No. 333-38792).
4(g)	— Form of Modified Federal Funds Rate Medium-Term Note, Series B.	Exhibit 4(g) to Company's Registration Statement on Form S-3 (No. 333-83374).
4(h)	— Form of Weekly Average Federal Funds Rate Medium-Term Note, Series B.	Exhibit 4(h) to Company's Registration Statement on Form S-3 (No. 333-83374).
4(i)	— Form of Multi-Currency Medium-Term Note, Series B.	Exhibit 4(fff) to Company's Registration Statement on Form S-3 (No. 33-52647).
4(j)	— Form of Warrant Agreement, including form of Warrant Certificate.	Exhibit 4(aa) to Company's Registration Statement on Form S-3 (No. 33-35456).
4(k)	— Form of Currency [Put/Call] Warrant Agreement, including form of Global Currency Warrant Certificate.	Exhibit 4 to Company's Registration Statement on Form S-3 (No. 33-17965).
4(l)	— Form of Index Warrant Agreement, including form of Global Index Warrant Certificate.	Exhibit 4(III) to Company's Registration Statement on Form S-3 (No. 33-54218).
4(m)	— Form of Index Warrant Trust Indenture, including form of Global Index Warrant Certificate.	Exhibit 4(mmm) to Company's Registration Statement on Form S-3 (No. 33-54218).
4(n)	— Form of Preferred Stock and Common Stock Warrant Agreement, including forms of Preferred Stock and Common Stock Warrant Certificates.	Exhibit 4(eeee) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(o)	— Form of Deposit Agreement, including form of Depositary Receipt Certificate representing the Depositary Shares.	Exhibit 4(ffff) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(p)	— Restated Certificate of Incorporation of the Company, effective as of May 3, 2001.	Exhibit 3.1 to Company's Current Report on Form 8-K dated November 14, 2005.
4(q)	— Amended By-Laws of the Company, effective as of June 6, 2005.	Exhibit 3 to Company's Quarterly Report on Form 10-Q for the quarter ended July 1, 2005

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(r)	— Form of Certificate of Designation of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to a series of the Preferred Stock.	Exhibit 4(ssss) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(s)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Floating Rate Non-Cumulative Preferred Stock, Series 1	Exhibit 3.2 and 4.1 to Company's Current Report on Form 8-K dated November 14, 2005.
4(t)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Preferred Stock, Series 2.	Exhibit 3.3 and 4.2 to Company's Current Report on Form 8-K dated November 14, 2005.
4(u)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Preferred Stock, Series 3.	Exhibit 3.4 and 4.3 to Company's Current Report on Form 8-K dated November 14, 2005.
4(v)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Preferred Stock, Series 4.	Exhibit 3.5 and 4.4 to Company's Current Report on Form 8-K dated November 14, 2005
4(w)	— Form of Deposit Agreement, dated as of November 1, 2004, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the Floating Rate Non-Cumulative Preferred Stock, Series 1 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated October 26, 2004.
4(x)	— Form of Deposit Agreement, dated as of March 14, 2005, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the Floating Rate Non-Cumulative Preferred Stock, Series 2 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated March 11, 2005.
4(y)	— Form of Deposit Agreement, dated as of November 17, 2005, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the 6.375% Non-Cumulative Preferred Stock, Series 3 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated November 14, 2005.
4(z)	— Form of Deposit Agreement, dated as of November 17, 2005, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the Floating Rate Non-Cumulative Preferred Stock, Series 4 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated November 14, 2005.
4(aa)	— Form of certificate representing Preferred Stock, Series 1.	Exhibit 4(d) to Company's Registration Statement on Form S-3 (File No. 33-55363).

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(bb)	— Form of certificate representing Preferred Stock, Series 2.	Exhibit 3 to Company's Registration Statement on Form 8-A dated March 11, 2005.
4(cc)	— Form of certificate representing Preferred Stock, Series 3.	Exhibit 3 to Company's Registration Statement on Form 8-A dated November 15, 2005.
4(dd)	— Form of certificate representing Preferred Stock, Series 4.	Exhibit 3 to Company's Registration Statement on Form 8-A dated November 15, 2005.
4(ee)	— Form of certificate representing Common Stock.	Exhibit 4(uuuu) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(ff)	— Form of Amended and Restated Rights Agreement, dated as of December 2, 1997, between the Company and Wells Fargo Bank, N.A. (successor to Mellon Investor Services, L.L.C.), as Rights Agent.*	
4(gg)	— Forms of Merrill Lynch Medium-Term Notes, Series C (identical to the forms of Merrill Lynch Medium-Term Notes included as Exhibits 4(d), 4(e), 4(f), 4(g), 4(h) and 4(i), except that the Merrill Lynch Medium Term Notes, Series C, shall be governed by the 1983 Senior Indenture included as Exhibit 4(a)(i)).	
4(hh)	— Form of Medium-Term Notes, Series C, Accelerated Return Notes (Index-linked).*	
4(ii)	— Form of Medium-Term Notes, Series C, Leveraged Index Return Notes (Index-linked).*	
4(jj)	— Form of Medium-Term Notes, Series C, Market Index Target-Term Securities.*	
4(kk)	— Form of Medium-Term Notes, Series C, Profit Lock-In SUMmation Securities.*	
4(ll)	— Form of Medium-Term Notes, Series C, Currency Basket Notes.*	
4(mm)	— Form of Medium-Term Notes, Series C, Principal Protected Notes.*	
4(nn)	— Form of Medium-Term Notes, Series C, Strategic Return Notes (Index-linked).*	
4(oo)	— Form of Medium-Term Notes, Series C, Long Short Notes (Index-linked).*	

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(pp)	— Form of Medium-Term Notes, Series C, Zero Coupon Convertible Securities.*	
4(qq)	— Form of Medium-Term Notes, Series C, Notes Linked to the Performance of the Consumer Price Index.*	
4(rr)	— Form of Medium-Term Notes, Series C, Currency Notes.*	
5	— Opinion of Sidley Austin LLP.*	
12	— Computation of Ratios of Earnings to Fixed Charges and Combined Fixed Charges and Preferred Stock Dividends.	Exhibit 12 to Company's Annual Report on Form 10-K for the fiscal year ended December 30, 2005.
23(a)	— Consent of Sidley Austin LLP (included as part of each of Exhibit 5).*	
23(b)	— Consent of Deloitte & Touche LLP.*	
24	— Power of Attorney of the Company (included on page II-12).*	
25	— Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of JPMorgan Chase Bank, N.A.*	
99(a)	— Opinion of Deloitte & Touche LLP with respect to ratio of earnings to fixed charges and ratio of earnings to combined fixed charges and preferred stock dividends.	Exhibit 99.1 to Company's Annual Report on Form 10-K for the fiscal year ended December 30, 2005.
99(b)	— Opinion of Deloitte & Touche LLP with respect to selected financial data incorporated by reference in the Registration Statement.	Exhibit 99.2 to Company's Annual Report on Form 10-K for the fiscal year ended December 30, 2005.

* Filed herewith

Item 17. Undertakings

1. The undersigned registrant hereby undertakes:

(a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar amount of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated offering range may be reflected in the form of a prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs 1(a)(i), 1(a)(ii) and 1(a)(iii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in the periodic reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement;

(b) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;

(c) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering;

(d) that, for the purpose of determining liability under the Securities Act to any purchaser:

(i) each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability

purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date;

(e) that, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- (i) any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
- (ii) any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
- (iii) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- (iv) any other communication that is an offer in the offering made by the undersigned registrant to the purchaser;

(f) that, for purposes of determining any liability under the Securities Act, each filing of an annual report of the undersigned registrant pursuant to section 13(a) or section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

2. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement on Form S-3 to be signed on its behalf by the undersigned, thereunto duly authorized, in New York, New York, on the 31st day of March, 2006.

MERRILL LYNCH & CO., INC.
(Registrant)

By: /s/ E. STANLEY O'NEAL

Name: E. Stanley O'Neal
Title: Chairman of the Board, President and Chief Executive Officer

POWERS OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints E. Stanley O'Neal, the Chairman of the Board, President and Chief Executive Officer of the Registrant, Ahmass L. Fakahany, the Chief Administrative Officer of the Registrant, Jeffrey N. Edwards, the Chief Financial Officer of the Registrant and Rosemary T. Berkery, the General Counsel of the Registrant, and each of them, with full power to act without the other, such person's true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign this registration statement, any and all amendments thereto (including post-effective amendments), any subsequent registration statements pursuant to Rule 462 of the Securities Act of 1933, as amended, and any amendments thereto and to file the same, with exhibits and schedules thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing necessary or desirable to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-3 has been signed by the following persons in the capacities and on the date indicated.

<u>Signature</u>	<u>Title</u>
/S/ E. STANLEY O'NEAL <hr/> (E. Stanley O'Neal)	Director, Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer)
/S/ JEFFREY N. EDWARDS <hr/> (Jeffrey N. Edwards)	Senior Vice President and Chief Financial Officer (Principal Financial Officer)
/S/ LAURENCE A. TOSI <hr/> (Laurence A. Tosi)	Vice President and Finance Director (Principal Accounting Officer)
/S/ ARMANDO M. CODINA <hr/> (Armando M. Codina)	Director
/S/ JILL K. CONWAY <hr/> (Jill K. Conway)	Director
/S/ ALBERTO CRIBIORE <hr/> (Alberto Cribiore)	Director
/S/ JOHN D. FINNEGAN <hr/> (John D. Finnegan)	Director
/S/ HEINZ-JOACHIM NEUBÜRGER <hr/> (Heinz-Joachim Neubürger)	Director
/S/ DAVID K. NEWBIGGING <hr/> (David K. Newbigging)	Director
/S/ AULANA L. PETERS <hr/> (Aulana L. Peters)	Director
/S/ JOSEPH W. PRUEHER <hr/> (Joseph W. Prueher)	Director
/S/ ANN N. REESE <hr/> (Ann N. Reese)	Director
/S/ CHARLES O. ROSSOTTI <hr/> (Charles O. Rossotti)	Director

Dated: March 31, 2006

INDEX TO EXHIBITS

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
1(a)	— Underwriting Agreement for Debt Securities and Warrants, including forms of Terms Agreement, dated as of March 31, 2006, between Merrill Lynch & Co., Inc. (the “Company”) and Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”).*	
1(b)	— Distribution Agreement, including form of Terms Agreement, relating to Medium-Term Notes Due Nine Months or More from Date of Issue, dated as of March 31, 2006, between the Company and MLPF&S.*	
1(c)	— Form of Underwriting Agreement for Common Stock, Common Stock Warrants, Preferred Stock, Preferred Stock Warrants and Depositary Shares.	Exhibit 1(c) to Company’s Registration Statement on Form S-3 (No. 333-59997).
2	— Transaction Agreement and Plan of Merger, dated February 15, 2006, by and among the Company, BlackRock Inc., New Boise, Inc. and Boise Merger Sub, Inc.	Exhibit 2.1 to Company’s Current Report on Form 8-K dated February 22, 2006.
4(a)(i)	— Senior Indenture, dated as of April 1, 1983, as amended and restated (the “1983 Senior Indenture”), between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit (3) to Company’s Registration Statement on Form 8-A dated July 20, 1992.
4(a)(ii)	— Form of initial Subsequent Indenture with respect to Senior Debt Securities.	Exhibit 4(a)(iii) to Company’s Registration Statement on Form S-3 (No. 333-38792).
4(a)(iii)	— Form of Subsequent Indenture with respect to Senior Debt Securities.	Exhibit 4(a)(iv) to Company’s Registration Statement on Form S-3 (No. 333-38792).
4(b)(i)	— Supplemental Indenture to the 1983 Senior Indenture, dated as of March 15, 1990, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit (3) to Company’s Registration Statement on Form 8-A dated July 20, 1992.
4(b)(ii)	— Sixth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 25, 1993, among the Company, JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank and The Chase Manhattan Bank (successor by merger to The Chase Manhattan Bank (National Association)) and JPMorgan Chase Bank, N.A., (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company))).	Exhibit 4(b)(ii) to Company’s Registration Statement on Form S-3 (No. 33-61559).

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(b)(iii)	— Seventh Supplemental Indenture to the 1983 Senior Indenture, dated as of July 1, 1995, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 1 to Company’s Registration Statement on Form S-3 (No. 33-60413).
4(b)(iv)	— Eighth Supplemental Indenture to the 1983 Senior Indenture, dated as of May 1, 1996, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 1 to Company’s Registration Statement on Form S-3 (No. 33-65135).
4(b)(v)	— Ninth Supplemental Indenture to the 1983 Senior Indenture, dated as of June 1, 1996, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 4 to Company’s Registration Statement on Form S-3 (No. 33-65135).
4(b)(vi)	— Tenth Supplemental Indenture to the 1983 Senior Indenture, dated as of July 1, 1996, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b) to Post-Effective Amendment No. 5 to Company’s Registration Statement on Form S-3 (No. 33-65135).
4(b)(vii)	— Eleventh Supplemental Indenture to the 1983 Senior Indenture, dated as of January 30, 1998, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(yyyy) to Amendment No. 1 to Company’s Registration Statement on Form S-3 (No. 333-44173).
4(b)(viii)	— Twelfth Supplemental Indenture to the 1983 Senior Indenture, dated as of September 1, 1998, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).*	
4(b)(ix)	— Thirteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of July 31, 2002, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(vii) to Company’s Registration Statement on Form S-3 (No. 333-109802).
4(b)(x)	— Fourteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of September 23, 2002, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(viii) to Company’s Registration Statement on Form S-3 (No. 333-109802).

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(b)(xi)	— Fifteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 14, 2003, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(ix) to Company's Registration Statement on Form S-3 (No. 333-109802).
4(b)(xii)	— Sixteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of June 4, 2004, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(xii) to Company's Registration Statement on Form S-3 (No. 333-122639)
4(b)(xiii)	— Seventeenth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 14, 2004, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(xiii) to Company's Registration Statement on Form S-3 (No. 333-122639)
4(b)(xiv)	— Eighteenth Supplemental Indenture to the 1983 Senior Indenture, dated as of October 21, 2004, between the Company and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank, The Chase Manhattan Bank and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company)).	Exhibit 4(b)(xiv) to Company's Registration Statement on Form S-3 (No. 333-122639)
4(c)(i)	— Form of Subordinated Indenture.	Exhibit 4.7 to Amendment No. 2 to Company's Registration Statement on Form S-3 (No. 333-16603).
4(c)(ii)	— Form of Subsequent Indenture with respect to Subordinated Debt Securities.	Exhibit 4(c)(ii) to Company's Registration Statement on Form S-3 (No. 333-38792).
4(d)	— Form of Fixed Rate Medium-Term Note, Series B.	Exhibit 4(dd) to Company's Registration Statement on Form S-3 (No. 333-38792).
4(e)	— Form of Redeemable Fixed Rate Medium-Term Note, Series B.	Exhibit (4)(e) to Company's Registration Statement on Form S-3 (No. 333-83374).
4(f)	— Form of Floating Rate Medium-Term Note, Series B.	Exhibit 4(ff) to Company's Registration Statement on Form S-3 (No. 333-38792).
4(g)	— Form of Modified Federal Funds Rate Medium-Term Note, Series B.	Exhibit 4(g) to Company's Registration Statement on Form S-3 (No. 333-83374).
4(h)	— Form of Weekly Average Federal Funds Rate Medium-Term Note, Series B.	Exhibit 4(h) to Company's Registration Statement on Form S-3 (No. 333-83374).

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(i)	— Form of Multi-Currency Medium-Term Note, Series B.	Exhibit 4(fff) to Company's Registration Statement on Form S-3 (No. 33-52647).
4(j)	— Form of Warrant Agreement, including form of Warrant Certificate.	Exhibit 4(aa) to Company's Registration Statement on Form S-3 (No. 33-35456).
4(k)	— Form of Currency [Put/Call] Warrant Agreement, including form of Global Currency Warrant Certificate.	Exhibit 4 to Company's Registration Statement on Form S-3 (No. 33-17965).
4(l)	— Form of Index Warrant Agreement, including form of Global Index Warrant Certificate.	Exhibit 4(III) to Company's Registration Statement on Form S-3 (No. 33-54218).
4(m)	— Form of Index Warrant Trust Indenture, including form of Global Index Warrant Certificate.	Exhibit 4(mmm) to Company's Registration Statement on Form S-3 (No. 33-54218).
4(n)	— Form of Preferred Stock and Common Stock Warrant Agreement, including forms of Preferred Stock and Common Stock Warrant Certificates.	Exhibit 4(eeee) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(o)	— Form of Deposit Agreement, including form of Depositary Receipt Certificate representing the Depositary Shares.	Exhibit 4(ffff) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(p)	— Restated Certificate of Incorporation of the Company, effective as of May 3, 2001.	Exhibit 3.1 to Company's Current Report on Form 8-K dated November 14, 2005.
4(q)	— Amended By-Laws of the Company, effective as of June 6, 2005.	Exhibit 3 to Company's Quarterly Report on Form 10-Q for the quarter ended July 1, 2005
4(r)	— Form of Certificate of Designation of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to a series of the Preferred Stock.	Exhibit 4(ssss) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(s)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Floating Rate Non-Cumulative Preferred Stock, Series 1	Exhibit 3.2 and 4.1 to Company's Current Report on Form 8-K dated November 14, 2005.
4(t)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Preferred Stock, Series 2.	Exhibit 3.3 and 4.2 to Company's Current Report on Form 8-K dated November 14, 2005.

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(u)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Preferred Stock, Series 3.	Exhibit 3.4 and 4.3 to Company's Current Report on Form 8-K dated November 14, 2005.
4(v)	— Certificate of Designations of the Company establishing the rights, preferences, privileges, qualifications, restrictions and limitations relating to the Company's Preferred Stock, Series 4.	Exhibit 3.5 and 4.4 to Company's Current Report on Form 8-K dated November 14, 2005
4(w)	— Form of Deposit Agreement, dated as of November 1, 2004, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the Floating Rate Non-Cumulative Preferred Stock, Series 1 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated October 26, 2004.
4(x)	— Form of Deposit Agreement, dated as of March 14, 2005, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the Floating Rate Non-Cumulative Preferred Stock, Series 2 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated March 11, 2005.
4(y)	— Form of Deposit Agreement, dated as of November 17, 2005, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the 6.375% Non-Cumulative Preferred Stock, Series 3 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated November 14, 2005.
4(z)	— Form of Deposit Agreement, dated as of November 17, 2005, between the Company, JPMorgan Chase Bank, N.A., as Depositary, and the holders from time to time of the Floating Rate Non-Cumulative Preferred Stock, Series 4 depositary shares of the Company.	Exhibit 2 to Company's Registration Statement on Form 8-A dated November 14, 2005.
4(aa)	— Form of certificate representing Preferred Stock, Series 1.	Exhibit 4(d) to Company's Registration Statement on Form S-3 (File No. 33-55363).
4(bb)	— Form of certificate representing Preferred Stock, Series 2.	Exhibit 3 to Company's Registration Statement on Form 8-A dated March 11, 2005.
4(cc)	— Form of certificate representing Preferred Stock, Series 3.	Exhibit 3 to Company's Registration Statement on Form 8-A dated November 15, 2005.
4(dd)	— Form of certificate representing Preferred Stock, Series 4.	Exhibit 3 to Company's Registration Statement on Form 8-A dated November 15, 2005.

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
4(cc)	— Form of certificate representing Common Stock.	Exhibit 4(uuuu) to Amendment No. 1 to Company's Registration Statement on Form S-3 (File No. 333-44173).
4(ff)	— Form of Amended and Restated Rights Agreement, dated as of December 2, 1997, between the Company and Wells Fargo Bank, N.A. (successor to Mellon Investor Services, L.L.C.), as Rights Agent.*	
4(gg)	— Forms of Merrill Lynch Medium-Term Notes, Series C (identical to the forms of Merrill Lynch Medium-Term Notes included as Exhibits 4(d), 4(e), 4(f), 4(g), 4(h) and 4(i), except that the Merrill Lynch Medium-Term Notes, Series C, shall be governed by the 1983 Senior Indenture included as Exhibit 4(a)(i)).	
4(hh)	— Form of Medium-Term Notes, Series C, Accelerated Return Notes (Index-linked).*	
4(ii)	— Form of Medium-Term Notes, Series C, Leveraged Index Return Notes (Index-linked).*	
4(jj)	— Form of Medium-Term Notes, Series C, Market Index Target-Term Securities.*	
4(kk)	— Form of Medium-Term Notes, Series C, Profit Lock-In SUMmation Securities.*	
4(ll)	— Form of Medium-Term Notes, Series C, Currency Basket Notes.*	
4(mm)	— Form of Medium-Term Notes, Series C, Principal Protected Notes.*	
4(nn)	— Form of Medium-Term Notes, Series C, Strategic Return Notes (Index-linked).*	
4(oo)	— Form of Medium-Term Notes, Series C, Long Short Notes (Index-linked).*	
4(pp)	— Form of Medium-Term Notes, Series C, Zero Coupon Convertible Securities.*	
4(qq)	— Form of Medium-Term Notes, Series C, Notes Linked to the Performance of the Consumer Price Index.*	
4(rr)	— Form of Medium-Term Notes, Series C, Currency Notes.*	
5	— Opinion of Sidley Austin LLP.*	
12	— Computation of Ratios of Earnings to Fixed Charges and Combined Fixed Charges and Preferred Stock Dividends.	Exhibit 12 to Company's Annual Report on Form 10-K for the fiscal year ended December 30, 2005.
23(a)	— Consent of Sidley Austin LLP (included as part of each of Exhibit 5).*	
23(b)	— Consent of Deloitte & Touche LLP.*	

Exhibit Number	Description	Incorporation by Reference to Filings Indicated
24	— Power of Attorney of the Company (included on page II-12).*	
25	— Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of JPMorgan Chase Bank, N.A.*	
99(a)	— Opinion of Deloitte & Touche LLP with respect to ratio of earnings to fixed charges and ratio of earnings to combined fixed charges and preferred stock dividends.	Exhibit 99.1 to Company's Annual Report on Form 10-K for the fiscal year ended December 30, 2005.
99(b)	— Opinion of Deloitte & Touche LLP with respect to selected financial data incorporated by reference in the Registration Statement.	Exhibit 99.2 to Company's Annual Report on Form 10-K for the fiscal year ended December 30, 2005.

* Filed herewith

MERRILL LYNCH & CO., INC.
(a Delaware corporation)

UNDERWRITING AGREEMENT FOR
DEBT SECURITIES AND WARRANTS

Dated: March 31, 2006

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MERRILL LYNCH & CO., INC.
(a Delaware corporation)

Debt Securities and Warrants

UNDERWRITING AGREEMENT

March 31, 2006

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
4 World Financial Center
New York, New York 10080

Ladies and Gentlemen:

Merrill Lynch & Co., Inc., a Delaware corporation (the "Company"), proposes to issue and sell its (i) senior or subordinated debt securities (the "Debt Securities"), both of which may be convertible into common stock, par value \$1.33 ¹/₃ per share, of the Company (the "Common Stock"), preferred stock, par value \$1.00 per share, of the Company (the "Preferred Stock") or Depositary Shares representing Preferred Stock (the "Depositary Shares"), (ii) warrants to purchase Debt Securities (the "Debt Security Warrants"), (iii) warrants entitling the holders thereof to receive from the Company a payment or delivery determined by reference to decreases or increases in the level of an index or portfolio based on one or more equity or debt securities (including, but not limited to, the price or yield of such securities), any statistical measure of economic or financial performance (including, but not limited to, any consumer price, currency or mortgage index) or the price or value of any commodity or any other item or index or a combination thereof (the "Index Warrants") or (iv) warrants to receive from the Company the cash value in U.S. dollars of the right to purchase (the "Currency Call Warrants") and/or to receive from the Company the cash value in U.S. dollars of the right to sell (the "Currency Put Warrants" and, together with the Currency Call Warrants, the "Currency Warrants") specified foreign currencies or units of two or more such currencies, or any combination thereof, as shall be designated by the Company from time to time in or pursuant to one or more offerings on terms to be determined at the time of sale. The Debt Security Warrants, the Index Warrants and the Currency Warrants are collectively referred to herein as the "Warrants".

Unless otherwise specified in the applicable Terms Agreement (as defined below), the Debt Securities will be issued in one or more series as (i) senior indebtedness (the "Senior Debt Securities") under an indenture, dated as of April 1, 1983, as amended

and restated (the “1983 Indenture” or the “Senior Indenture”), between the Company and JPMorgan Chase Bank, N.A., as trustee (the “1983 Trustee” or the “Senior Trustee”) or (ii) subordinated indebtedness (the “Subordinated Debt Securities”) under an indenture (the “Subordinated Indenture”), between the Company and JPMorgan Chase Bank, N.A., as trustee (the “Subordinated Trustee”). The Senior Debt Securities and the Subordinated Debt Securities may also be issued under one or more other indentures (each, a “Subsequent Indenture”) and have one or more other trustees (each, a “Subsequent Trustee”). Any Subsequent Indenture relating to Senior Debt Securities or Subordinated Debt Securities will have terms and conditions identical in all material respects to the above-referenced Senior Indenture or the Subordinated Indenture, as the case may be. Each series of Debt Securities may vary, as applicable, as to title, aggregate principal amount, rank, interest rate or formula and timing of payments thereof, stated maturity date, redemption and/or repayment provisions, sinking fund requirements, conversion provisions (and terms of the related Underlying Securities (as defined below)) and any other variable terms established by, or pursuant to, the applicable Indenture. Additionally, the Company may issue Subordinated Debt Securities under a separate indenture which provides for a single issue of zero coupon convertible Subordinated Debt Securities.

Unless otherwise specified in the applicable Terms Agreement, Index Warrants with a minimum value payable upon the expiration of the Index Warrants (the “Minimum Expiration Value”) are to be issued under one or more indentures (the indenture relating to any issue of Index Warrants with a Minimum Expiration Value to be sold pursuant to this Underwriting Agreement to be identified in the applicable Terms Agreement and to be referred to herein as the “Index Warrant Indenture”, and the Index Warrant Indentures, the Senior Indenture, the Subordinated Indenture and any Subsequent Indentures being collectively referred to herein as the “Indentures”) between the Company and the index warrant trustee (the “Index Warrant Trustee”, and together with the Senior Trustee, the Subordinated Trustee and any Subsequent Trustees, the “Trustees”). The Debt Security Warrants, Index Warrants and Currency Warrants which do not have a Minimum Expiration Value will be issued under one or more warrant agreements (the warrant agreement relating to any issue of Debt Security Warrants, Index Warrants or Currency Warrants without a Minimum Expiration Value to be sold pursuant to this Underwriting Agreement to be identified in the applicable Terms Agreement and to be referred to herein as the “Warrant Agreement”) between the Company and the warrant agent identified therein (the “Warrant Agent”). The Warrants may vary, as applicable, as to, among other terms, title, type, specific number, exercise dates or periods, exercise price(s), expiration date(s) and terms of the related Underlying Securities (as hereinafter defined).

The Debt Securities and the Warrants may be offered either together or separately. As used herein, “Securities” shall mean the Senior Debt Securities or Subordinated Debt Securities or the Warrants or any combination thereof, initially issuable by the Company and “Underlying Securities” shall mean the Common Stock, Preferred Stock or Depositary Shares issuable upon conversion of the Debt Securities and the Senior Debt Securities or Subordinated Debt Securities issuable upon exercise of the Debt Security Warrants, as applicable.

The Preferred Stock will be issued in one or more series and each series of Preferred Stock may vary, as applicable, as to the title, specific number of shares, rank, stated value, liquidation preference, dividend rate or rates (or method of calculation), dividend payment dates, redemption provisions, sinking fund requirements, conversion provisions (and terms of the related Underlying Securities) and any other variable terms as set forth in the applicable certificate of designations (each, the "Certificate of Designations") relating to such series of Preferred Stock. A series of Preferred Stock may be represented by Depositary Shares that are evidenced by depositary receipts (the "Depositary Receipts") issued pursuant to a deposit agreement (each, a "Deposit Agreement") among the Company, the depositary identified therein (the "Depositary") and the registered holders of the Depositary Receipts issued thereunder.

Whenever the Company determines to make an offering of Securities through Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), or through an underwriting syndicate managed by Merrill Lynch (in such capacity, the "Representative"), the Company will enter into an agreement (each, a "Terms Agreement") providing for the sale of such Securities to, and the purchase and offering thereof by, Merrill Lynch and such other underwriters, if any, selected by Merrill Lynch (the "Underwriters", which term shall include Merrill Lynch, whether acting as sole Underwriter or as a member of an underwriting syndicate, as well as any Underwriter substituted pursuant to Section 10 hereof). The Terms Agreement relating to each offering of Securities shall specify the aggregate principal amount or the number, as the case may be, of Securities to be issued (the "Underwritten Securities"), the name of each Underwriter participating in such offering (subject to substitution as provided in Section 10 hereof) and the name of any Underwriter other than Merrill Lynch acting as co-manager in connection with such offering, the aggregate principal amounts or the number of Warrants, as the case may be, of Underwritten Securities which each such Underwriter severally agrees to purchase, whether such offering is on a fixed or variable price basis and, if on a fixed price basis, the initial offering price, the price at which the Underwritten Securities are to be purchased by the Underwriters, the form, time, date and place of delivery of and payment for the Underwritten Securities and any other material variable terms of the Underwritten Securities, as well as the material variable terms of any related Underlying Securities. The Terms Agreement, which shall be substantially in the form of Exhibit A hereto, may take the form of an exchange of any standard form of written communication (including facsimile) between the Company and Merrill Lynch, acting for itself and, if applicable, as Representative of any other Underwriters. Each offering of Underwritten Securities through Merrill Lynch as sole Underwriter or through an underwriting syndicate managed by the Representative will be governed by this Underwriting Agreement, as supplemented by the applicable Terms Agreement.

The Company has filed with the Securities and Exchange Commission (the "Commission") an automatic shelf registration statement on Form S-3 (No. 333-), including the related preliminary prospectus or prospectuses, which registration became effective upon filing under Rule 462(c) of the rules and regulations of the Commission (the "1933 Act Regulations") under the Securities Act of 1933, as amended (the "1933 Act"). Such registration statement covers the registration of the Securities and the Underlying Securities under the 1933 Act. Promptly after execution and delivery of this

Agreement, the Company will prepare and file a prospectus in accordance with the provisions of Rule 430B ("Rule 430B") of the 1933 Act Regulations and paragraph (b) of Rule 424 ("Rule 424(b)") of the 1933 Act Regulations. Any information included in such prospectus that was omitted from such registration statement at the time it became effective but that is deemed to be part of and included in such registration statement pursuant to Rule 430B is referred to as "Rule 430B Information." Each prospectus used in connection with the offering of the Underwritten Securities that omitted Rule 430B Information is herein called a "preliminary prospectus." Such registration statement, at any given time, including the amendments thereto to such time, the exhibits and any schedules thereto at such time, the documents incorporated by reference therein, which have been filed pursuant to the Securities Exchange Act of 1934 (the "1934 Act") pursuant to Item 12 of Form S-3 under the 1933 Act at such time and the documents otherwise deemed to be part thereof, or included therein by 1933 Act Regulations, is herein called the "Registration Statement." The Registration Statement at the time it originally became effective is herein called the "Original Registration Statement." The final prospectus and any final prospectus supplement(s) in the form first furnished to the Underwriters for use in connection with the offering of the Underwritten Securities, including the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act at the time of the execution of this Agreement is herein called the "Prospectus". The Indenture in effect as of the date of this Underwriting Agreement has been duly qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"). For purposes of this Agreement, all references to the Registration Statement, any preliminary prospectus, the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").

All references in this Underwriting Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" (or other references of like import) in the Registration Statement, Prospectus or preliminary prospectus shall be deemed to mean and include all such financial statements and schedules and other information which is "disclosed", incorporated by reference or otherwise deemed by 1933 Act Regulations to be part of or included in the Registration Statement, Prospectus or preliminary prospectus, as the case may be; and all references in this Underwriting Agreement to amendments or supplements to the Registration Statement, Prospectus or preliminary prospectus shall be deemed to mean and include the filing of any document under the 1934 Act which is incorporated by reference in the Registration Statement, Prospectus or preliminary prospectus, as the case may be.

SECTION 1. Representations and Warranties.

(a) *Representations and Warranties by the Company.* The Company represents and warrants to the Representative, as of the date hereof, as of the time of each acceptance by the Company of an offer for the purchase of Securities (each such time being an "Applicable Time" and to each Underwriter named in the applicable Terms Agreement, as of the date thereof, the relevant Applicable Time and as of the relevant Closing Time (as defined below) (in each case, a "Representation Date"), as follows:

(1) Status as a Well-Known Seasoned Issuer. (A) At the time of filing the Original Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the 1933 Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the 1934 Act or form of prospectus filed pursuant to Rule 424 of the 1933 Act Regulations), (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) of the 1933 Act Regulations) made any offer relating to the Securities in reliance on the exemption of Rule 163 of the 1933 Act Regulations and (D) at the date hereof, the Company was and is a “well-known seasoned issuer” as defined in Rule 405 of the 1933 Act Regulations (“Rule 405”), including not having been and not being an “ineligible issuer” as defined in Rule 405. The Registration Statement is an “automatic shelf registration statement,” as defined in Rule 405, and the Securities, since their registration on the Registration Statement, have been and remain eligible for registration by the Company on a Rule 405 “automatic shelf registration statement”. The Company has not received from the Commission any notice pursuant to Rule 401(g)(2) of the 1933 Act Regulations objecting to the use of the automatic shelf registration statement form.

(2) Registration Statement, Prospectus and Disclosure at Time of Sale The Original Registration Statement became effective upon filing under Rule 462(e) of the 1933 Act Regulations (“Rule 462(e)”) on March 31, 2006, and any post-effective amendment thereto also became effective upon filing under Rule 462(e). No stop order suspending the effectiveness of the Registration Statement has been issued under the 1933 Act and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with. In addition, each Indenture in effect as of each Representation Date has been duly qualified under the 1939 Act.

Any offer that is a written communication relating to the Securities made prior to the filing of the Original Registration Statement by the Company or any person acting on its behalf (within the meaning, for this paragraph only, of Rule 163(c) of the 1933 Act Regulations) has been filed with the Commission in accordance with the exemption provided by Rule 163 of the 1933 Act Regulations (“Rule 163”) and otherwise complied with the requirements of Rule 163, including without limitation the legending requirement, to qualify such offer for the exemption from Section 5(c) of the 1933 Act provided by Rule 163.

At the respective times the Original Registration Statement and each amendment thereto became effective, at each deemed effective date with respect to the Underwriters pursuant to Rule 430B(f)(2) and the 1933 Act Regulations and at each Representation Date, the Registration Statement

complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations and the 1939 Act and the rules and regulations of the Commission under the 1939 Act (the “1939 Act Regulations”), and did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. At the date of the Prospectus and at the Closing Time the Prospectus and any amendments and supplements thereto did not and will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations and warranties in this subsection shall not apply to that part of the Registration Statement that constitutes the Statement of Eligibility on Form T-1 (the “Form T-1”) under the 1939 Act of the relevant Trustee.

Each preliminary prospectus (including the prospectus or prospectuses filed as part of the Original Registration Statement or any amendment thereto, or filed pursuant to Rule 424 under the 1933 Act, complied when so filed in all material respects with the 1933 Act Regulations and each preliminary prospectus and the Prospectus delivered to the Underwriters for use in connection with the offering of Underwritten Securities will, at the time of such delivery, be identical to any electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

As of the Applicable Time, neither (x) the Issuer General Use Free Writing Prospectus(es) (as defined below) issued at or prior to the Applicable Time (as defined below) and the Statutory Prospectus (as defined below), all considered together (collectively, the “General Disclosure Package”), nor (y) any individual Issuer Limited Use Free Writing Prospectus, when considered together with the General Disclosure Package, included any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

As of the time of the filing of the Final Term Sheet, if any, the General Disclosure Package, when considered together with the Final Term Sheet (as defined in Section 3(b)), will not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

As used in this subsection and elsewhere in this Agreement:

“Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433 of the 1933 Act Regulations (“Rule 433”), relating to the Securities that (i) is required to be filed with the Commission by the Company, (ii) is a “road show that is a written communication” within the

meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission or (iii) is exempt from filing pursuant to Rule 433(d)(5)(i) because it contains a description of the Underwritten Securities or of the offering that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g).

"Issuer General Use Free Writing Prospectus" means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors.

"Issuer Limited Use Free Writing Prospectus" means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

"Statutory Prospectus" as of any time means the prospectus relating to the Securities that is included in the Registration Statement immediately prior to that time, including any document incorporated by reference therein and any preliminary or other prospectus deemed to be a part thereof.

Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Underwritten Securities, did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any document incorporated by reference therein and any preliminary or other prospectus deemed to be a part thereof that has not been superseded or modified.

The representations and warranties in this subsection shall not apply to statements in or omissions from the Registration Statement, the Prospectus or any Issuer Free Writing Prospectus made in reliance upon and in conformity with written information furnished to the Company by the Underwriters expressly for use therein.

(3) Incorporated Documents. The documents incorporated or deemed to be incorporated by reference in the Registration Statement and the Prospectus, when they became effective or at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1934 Act and the rules and regulations of the Commission thereunder (the "1934 Act Regulations") and, when read together with the other information in the Prospectus, (a) at the time the Original Registration Statement became effective, (b) at the earlier of the time the Prospectus was first used and the date and time of the first contract of sale of Underwritten Securities in this offering and (c) at the Closing Times, did not and will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(4) No Material Adverse Change in Business. Since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, except as otherwise stated therein or contemplated thereby, there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business (a “Material Adverse Effect”).

(b) *Officer’s Certificates*. Any certificate signed by any officer of the Company or any of its subsidiaries and delivered to any Underwriter or to counsel for the Underwriters in connection with the offering of the Underwritten Securities shall be deemed a representation and warranty by the Company to each Underwriter as to the matters set forth in such certificate as of the date of such certificate and, unless subsequently amended or supplemented, at each Representation Date subsequent thereto.

SECTION 2. Sale and Delivery to Underwriters: Closing

(a) *Underwritten Securities*. The several commitments of the Underwriters to purchase the Underwritten Securities pursuant to the applicable Terms Agreement shall be deemed to have been made on the basis of the representations and warranties herein contained and shall be subject to the terms and conditions herein set forth.

(b) *Payment*. Payment of the purchase price for, and delivery of, the Underwritten Securities shall be made (i) in the case of Securities in registered form, at the offices of Merrill Lynch, Pierce, Fenner & Smith Incorporated, 4 World Financial Center, New York, New York 10080, or (ii) in the case of Securities in bearer form, at the office of Merrill Lynch International, Ropemaker Place, 25 Ropemaker Street, London EC2Y 9LY, or at such other place as shall be agreed upon by Merrill Lynch and the Company, at 9:00 A.M. (Eastern time), on the third (fourth, if the pricing occurs after 4:30 P.M. (Eastern time) on any given day) business day after the date of the applicable Terms Agreement (unless postponed in accordance with the provisions of Section 10 hereof), or such other time not later than ten business days after such date as shall be agreed upon by Merrill Lynch and the Company (such time and date of payment and delivery being herein called the “Closing Time”).

Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated by the Company, against delivery to the Representative for its account or, if applicable, for the respective accounts of the Underwriters of the Underwritten Securities to be purchased by them (unless such Underwritten Securities are issuable only in the form of one or more global

securities registered in the name of a depository or a nominee of a depository, in which event the Underwriters' interest in such global certificate shall be noted in a manner satisfactory to the Underwriters and their counsel). It is understood that each Underwriter has authorized the Representative, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Underwritten Securities which it has severally agreed to purchase. Merrill Lynch, individually and not as representative of the Underwriters, may (but shall not be obligated to) make payment of the purchase price for the Underwritten Securities to be purchased by any Underwriter whose funds have not been received by the Closing Time, but such payment shall not relieve such Underwriter from its obligations hereunder.

(c) *Denominations; Registration.* Certificates for the Underwritten Securities shall be in such denominations and registered in such names as the Representative may request in writing at least one full business day prior to the Closing Time. The certificates for the Underwritten Securities will be made available for examination and packaging by the Representative in The City of New York not later than 10:00 A.M. (Eastern time) on the business day prior to the Closing Time.

SECTION 3. Covenants of the Company. The Company covenants with the Representative, and with each Underwriter participating in the applicable offering of Underwritten Securities, as follows:

(a) *Compliance with Securities Regulations and Commission Requests; Payment of Filing Fees.* The Company, subject to Section 3(b), will comply with the requirements of Rule 430B of the 1933 Act Regulations and will notify the Representative as soon as reasonably possible of (i) the effectiveness of any post-effective amendment to the Registration Statement or new registration statement relating to the Securities or the filing of any supplement or amendment to the Prospectus, (ii) the receipt of any comments from the Commission, (iii) any request by the Commission for any amendment to the Registration Statement or the filing of a new registration statement or any amendment or supplement to the Prospectus or otherwise deemed to be a part thereof or for additional information, (iv) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or such new registration statement or of any order preventing or suspending the use of any preliminary prospectus, or of the suspension of the qualification of the Underwritten Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(e) of the 1933 Act concerning the Registration Statement and (v) if the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Securities. The Company will effect the filings required under Rule 424 of the 1933 Act Regulations, in the manner and within the time period required by Rule 424 (without reliance on Rule 424(b)(8)) and will take such steps as it deems necessary to ascertain promptly whether the Prospectus transmitted for filing under Rule 424 was received for filing by the Commission

and, in the event that it was not, it will promptly file the Prospectus. The Company will make reasonable efforts to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof as soon as reasonably possible. The Company shall pay the required Commission filing fees relating to the Underwritten Securities within the time required by Rule 456(b)(1)(i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of the 1933 Act Regulations (including, if applicable, by updating the "Calculation of Registration Fee" table in accordance with Rule 456(b)(1)(ii) either in a post-effective amendment to the Registration Statement or on the cover page of a prospectus filed pursuant to Rule 424(b)).

(b) *Filing of Amendments, Exchange Act Documents and Final Term Sheets* The Company will give the Representative notice of its intention to file or prepare any amendment to the Registration Statement or new registration statement relating to the Securities or any amendment, supplement or revision to either any preliminary prospectus (including any prospectus included in the Original Registration Statement or amendment thereto at the time it became effective) or to the Prospectus, whether pursuant to the 1933 Act, the 1934 Act or otherwise, and the Company will furnish the Representative with copies of any such documents a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file or use any such document to which the Representative or counsel for the Underwriters shall object. The Company will give the Representative notice of any filings made pursuant to the 1934 Act or 1934 Act Regulations within 48 hours prior to the Applicable Time; the Company will give the Representative notice of its intention to make any such filing from the Applicable Time to the Closing Time and will furnish the Representative with copies of any such documents a reasonable amount of time prior to such proposed filing and will not file or use any such document to which the Representative or counsel for the Underwriters shall object. The Company may prepare a final term sheet (the "Final Term Sheet") reflecting the final terms of the Underwritten Securities, in form and substance satisfactory to the Representative, and may file such Final Term Sheet as an "issuer free writing prospectus" pursuant to Rule 433; provided that the Company shall furnish the Representative with copies of any such Final Term Sheet a reasonable amount of time prior to such proposed filing and will not use or file any such document to which the Representative or counsel to the Underwriters shall object.

(c) *Delivery of Registration Statements.* The Company has furnished or will deliver to the Representative and counsel for the Underwriters, without charge, upon written request, signed copies of the Original Registration Statement and of each amendment thereto (including exhibits filed therewith or incorporated by reference therein and documents incorporated or deemed to be incorporated by reference therein or otherwise deemed to be a part thereof) and signed copies of all consents and certificates of experts, and will also deliver to the Representative, without charge, a conformed copy of the Original Registration Statement and of

each amendment thereto (without exhibits) for each of the Underwriters. Copies of the Original Registration Statement and each amendment thereto furnished to the Underwriters will be identical to any electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(d) *Delivery of Prospectuses.* The Company will deliver to each Underwriter, without charge, as many copies of each preliminary prospectus as such Underwriter may reasonably request, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when the Prospectus is required to be delivered under the 1933 Act or the 1934 Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to any electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) *Continued Compliance with Securities Laws.* The Company will comply with the 1933 Act and the 1933 Act Regulations and the 1934 Act and the 1934 Act Regulations so as to permit the completion of the distribution of the Underwritten Securities as contemplated in this Underwriting Agreement and the applicable Terms Agreement and in the Registration Statement and the Prospectus. If at any time when the Prospectus is required by the 1933 Act or the 1934 Act to be delivered in connection with sales of the Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, which the Company may request to be in writing, to amend the Registration Statement in order that the Registration Statement will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or to amend or supplement the Prospectus in order that the Prospectus will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary, in the opinion of such counsel, which the Company may request to be in writing, at any such time to amend the Registration Statement or to file a new registration statement or amend or supplement the Prospectus in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Company will promptly prepare and file with the Commission, subject to Section 3(b), such amendment, supplement or new registration statement as may be reasonably necessary to correct such statement or omission or to comply with such requirements, the Company will use its best efforts to have such amendment or new registration statement declared effective as soon as practicable (if it is not an automatic shelf registration statement with respect to the Underwritten Securities) and the Company will furnish to the Underwriters, without charge, such number of copies of such amendment, supplement or new registration statement as the Underwriters may reasonably

request. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement (or any other registration statement relating to the Underwritten Securities) or the Statutory Prospectus or any preliminary prospectus or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at that subsequent time, not misleading, the Company will promptly notify the Underwriters and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(f) *Blue Sky Qualifications.* The Company will use reasonable efforts, in cooperation with the Underwriters, to qualify the Underwritten Securities and any related Underlying Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representative may request and to maintain such qualifications in effect for a period of not less than one year from the date of the applicable Terms Agreement; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject. In each jurisdiction in which the Underwritten Securities or any related Underlying Securities have been so qualified, the Company will file such statements and reports as may be required by the laws of such jurisdiction to continue such qualification in effect for a period of not less than one year from the date of such Terms Agreement.

(g) *Earnings Statement.* The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its securityholders as soon as reasonably practicable an earnings statement for the purposes of, and to provide to the Underwriters the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(h) *Reporting Requirements.* The Company, during the period when the Prospectus is required to be delivered under the 1933 Act or the 1934 Act, will file all documents required to be filed with the Commission pursuant to the 1934 Act within the time periods required by the 1934 Act and the 1934 Act Regulations.

(i) *Reservation of Securities.* If the applicable Terms Agreement specifies that any related Underlying Securities include Common Stock, Preferred Stock, Debt Securities and/or Depository Shares, the Company will reserve and keep available at all times, free of preemptive or other similar rights, a sufficient number of shares of Common Stock, Preferred Stock and/or Debt Securities, as applicable, for the purpose of enabling the Company to satisfy any obligations to issue such Underlying Securities upon exercise of the related Warrants, as applicable, or upon conversion of the Debt Securities.

(j) *Listing*. The Company will use all reasonable efforts to effect the listing of the Underwritten Securities and any related Underlying Securities, prior to the Closing Time, on any national securities exchange or quotation system if and as specified in the applicable Terms Agreement.

(k) *Issuer Free Writing Prospectuses*. The Company represents and agrees that, unless it obtains the prior consent of the Underwriters, and each Underwriter represents and agrees that, unless it obtains the prior consent of the Company, it has not made and will not make any offer relating to the Underwritten Securities that would constitute an "issuer free writing prospectus," as defined in Rule 433, or that would otherwise constitute a "free writing prospectus," as defined in Rule 405, required to be filed with the Commission; provided, however, that prior to the preparation of any Final Term Sheet in accordance with Section 3(b), the Underwriters are authorized to use the information with respect to the final terms of the Underwritten Securities in communications conveying information relating to the offering to investors. Any such free writing prospectus consented to by the Company and the Underwriters is hereinafter referred to as a "Permitted Free Writing Prospectus." The Company represents that it has treated or agrees that it will treat each Permitted Free Writing Prospectus as an "issuer free writing prospectus," as defined in Rule 433, and has complied and will comply with the requirements of Rule 433 applicable to any Permitted Free Writing Prospectus, including timely filing with the Commission where required, legending and record keeping.

(l) *Restriction on Sale of Securities*. Between the date of the applicable Terms Agreement and the Closing Time (or such later date as is mutually agreed), the Company will be subject to such restrictions on the sale of securities as are set forth in the applicable Terms Agreement.

SECTION 4. Payment of Expenses.

(a) *Expenses*. Unless otherwise agreed between the Company and the Representative, the Company will pay all expenses incident to the performance of its obligations under this Underwriting Agreement or the applicable Terms Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment thereto, (ii) the preparation, printing and delivery to the Underwriters of this Underwriting Agreement, any Terms Agreement, any Agreement among Underwriters, the Indentures, any Warrant Agreement, any Deposit Agreement and such other documents as may be required in connection with the offering, purchase, sale, issuance or delivery of the Underwritten Securities or any related Underlying Securities, (iii) the preparation, issuance and delivery of the Underwritten Securities and any related Underlying Securities, any certificates for the Underwritten Securities or such Underlying Securities, as

applicable, to the Underwriters, including any transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Underwritten Securities to the Underwriters, (iv) the fees and disbursements of the Company's counsel, accountants and other advisors or agents (including transfer agents and registrars), as well as the fees and disbursements of the Trustees, any Warrant Agent, and any Depositary and their respective counsel, (v) the qualification of the Underwritten Securities and any related Underlying Securities under state securities laws in accordance with the provisions of Section 3(f) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation, printing and delivery of the Blue Sky Survey and any Legal Investment Survey, and any amendment thereto, (vi) the printing and delivery to the Underwriters of copies of each preliminary prospectus, any Permitted Free Writing Prospectus and the Prospectus and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Underwriters to investors, (vii) the fees charged by nationally recognized statistical rating organizations for the rating of the Underwritten Securities and any related Underlying Securities, if applicable, (viii) the fees and expenses incurred with respect to the listing of the Underwritten Securities and any related Underlying Securities, if applicable, and (ix) the filing fees incident to, and the reasonable fees and disbursements of counsel to the Underwriters in connection with, the review, if any, by the National Association of Securities Dealers, Inc. (the "NASD") of the terms of the sale of the Underwritten Securities and any related Underlying Securities.

(b) *Termination of Agreement.* If the applicable Terms Agreement is terminated by the Representative in accordance with the provisions of Section 5 or Section 9(b)(i) hereof, the Company shall reimburse the Underwriters named in such Terms Agreement for all of their out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Underwriters.

SECTION 5. Conditions of Underwriters' Obligations. The obligations of the Underwriters to purchase and pay for the Underwritten Securities pursuant to the applicable Terms Agreement are subject to the accuracy of the representations and warranties of the Company contained in Section 1 hereof or in certificates of any officer of the Company or any of its subsidiaries delivered pursuant to the provisions hereof, to the performance by the Company of its covenants and other obligations hereunder, and to the following further conditions:

(a) *Effectiveness of Registration Statement; Filing of Prospectus.* The Registration Statement has become effective under the 1933 Act and no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act and no proceedings for that purpose shall have been initiated or be pending or threatened by the Commission, and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of counsel to the Underwriters. A prospectus containing information relating to the description of

the Underwritten Securities and any related Underlying Securities, the specific method of distribution and similar matters shall have been filed with the Commission in the manner and within the time period required by Rule 424(b) without reliance on Rule 424(b)(8), as applicable (or any required post-effective amendment providing such information shall have been filed and become effective in accordance with the requirements of Rule 430B).

(b) *Opinion of Counsel for Company.* At Closing Time, the Representative shall have received the favorable opinion, dated as of Closing Time, of counsel for the Company named in the applicable Terms Agreement, in form and substance satisfactory to counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, to the effect set forth in Exhibit B hereto and to such further effect as counsel to the Underwriters may reasonably request.

(c) *Opinion of Counsel for Underwriters.* At Closing Time, the Representative shall have received the favorable opinion, dated as of Closing Time, of counsel for the Underwriters named in the applicable Terms Agreement, together with signed or reproduced copies of such letter for each of the other Underwriters, with respect to the matters set forth in (1), (5), (6) to (12), as applicable, (13), (14) (solely as to the information in a prospectus supplement under “Description of Debt Securities”, “Description of Debt Warrants”, “Description of Currency Warrants”, “Description of Index Warrants”, “Description of Preferred Stock”, “Description of Depositary Shares”, “Description of Preferred Stock Warrants”, “Description of Common Stock” and “Description of Common Stock Warrants”, if any, or any caption purporting to describe any such Securities), (16), (17) and the penultimate paragraph of Exhibit B hereto. In giving such opinion, such counsel may rely, as to all matters governed by the laws of jurisdictions other than the law of the State of New York, the federal law of the United States and the General Corporation Law of the State of Delaware, upon the opinions of counsel satisfactory to the Representative. Such counsel may also state that, insofar as such opinion involves factual matters, they have relied, to the extent they deem proper, upon certificates of officers of the Company and its subsidiaries and certificates of public officials.

(d) *Officers’ Certificate.* At Closing Time, there shall not have been, since the date of the applicable Terms Agreement or since the respective dates as of which information is given in the Prospectus or the General Disclosure Package, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, and the Representative shall have received a certificate of the President, a Vice President, the Treasurer, an Assistant Treasurer, or the Controller of the Company, dated as of Closing Time, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties in Section 1 are true and correct with the same force and effect as though expressly made at and as of the Closing Time, (iii) the Company has complied

with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been initiated or, to the Company's knowledge, threatened by the Commission.

(e) *Accountant's Comfort Letter.* At Closing Time, the Representative shall have received, together with signed or reproduced copies for each of the other Underwriters, either (i) a letter from Deloitte & Touche LLP, in form and substance satisfactory to the Representative, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement and the Prospectus (each, a "Comfort Letter") dated as of the Closing Time, or (ii) a copy of a Comfort Letter in the form contemplated in sub-clause (i) above, but dated prior to the Closing Time, provided that such date shall not be prior to the date of the most recent amendment or supplement to the Registration Statement or the Prospectus which included additional financial information or the date of the most recent filing with the Commission of any document incorporated by reference into the Prospectus which contains additional financial information, and a certificate of representations with respect to certain financial and accounting matters of the Company (such certificate being in a form substantially similar to that which is required for the delivery of a Comfort Letter by that firm) executed by an official of the Company familiar with such financial and accounting matters; provided, however, the Representative shall have received, together with signed or reproduced copies for each of the other Underwriters, a Comfort Letter in the form described in sub-clause (i) above if required by the terms of the applicable Terms Agreement.

(f) *Ratings.* At Closing Time, the Underwritten Securities shall have the ratings accorded by any "nationally recognized statistical rating organization", as defined by the Commission for purposes of Rule 436(g)(2) of the 1933 Act Regulations, if and as specified in the applicable Terms Agreement. Since the time of execution of such Terms Agreement, there shall not have occurred a downgrading in the rating assigned to the Underwritten Securities or any of the Company's other securities by any such rating organization, and no such rating organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of the Underwritten Securities or any of the Company's other securities.

(g) *Approval of Listing.* At Closing Time, the Underwritten Securities shall have been approved for listing, subject only to official notice of issuance, if and as specified in the applicable Terms Agreement.

(h) *No Objection.* If the Registration Statement or an offering of Underwritten Securities has been filed with the NASD for review, the NASD shall not have raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements.

(i) *Additional Documents.* At Closing Time, counsel for the Underwriters shall have been furnished with such documents and opinions as they may require for the purpose of enabling them to pass upon the issuance and sale of the Underwritten Securities as herein contemplated and, if applicable, certain matters relating to the Underlying Securities, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Underwritten Securities as herein contemplated shall be satisfactory in form and substance to the Representative and counsel for the Underwriters.

(j) *Termination of Terms Agreement.* If any condition specified in this Section 5 shall not have been fulfilled when and as required to be fulfilled, the applicable Terms Agreement may be terminated by the Representative by notice to the Company at any time at or prior to the Closing Time, and such termination shall be without liability of any party to any other party except as provided in Section 4 and except that Sections 1, 6, 7 and 8 shall survive any such termination and remain in full force and effect.

SECTION 6. Indemnification.

(a) *Indemnification of Underwriters.* The Company agrees to indemnify and hold harmless each Underwriter and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including the Rule 430B Information or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 6(d) below) any such settlement is effected with the written consent of the Company; and

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by the Representative), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by any Underwriter expressly for use in the Registration Statement (or any amendment thereto), including the Rule 430B Information or any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto).

Insofar as this indemnity agreement may permit indemnification for liabilities under the 1933 Act of any person who is a partner of an Underwriter or who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and who is a director or officer of the Company or controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act, such indemnity agreement is subject to the undertaking of the Company in the Registration Statement.

(b) *Indemnification of Company, Directors and Officers.* Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), including the Rule 430B Information or any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information furnished to the Company by such Underwriter through the Representative expressly for use therein.

(c) *Documentary Stamp or Similar Issue Tax Indemnification.* The Company agrees to indemnify and hold harmless each Underwriter against any documentary stamp or similar issue tax and any related interest or penalties on the issue or sale of the Underwritten Securities to the Underwriters which are due in the United States of America, the United Kingdom or any other jurisdiction.

(d) *Actions against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 6(a) above, counsel to the indemnified parties shall be selected by the Representative, and, in the case of parties indemnified pursuant to Section 6(b) above, counsel to the indemnified parties shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, except that the Company shall be liable for the fees and expenses of one counsel representing the Representative and the persons controlling the Representative and one counsel representing all other Underwriters and the persons controlling them. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 6 or Section 7 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(e) *Settlement without Consent if Failure to Reimburse.* If at any time an indemnified party shall have requested in writing an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 6(a)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received written notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such written request prior to the date of such settlement.

SECTION 7. Contribution. If the indemnification provided for in Section 6 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified

party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, from the offering of the Underwritten Securities pursuant to the applicable Terms Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and of the Underwriters, on the other hand, in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Underwritten Securities pursuant to the applicable Terms Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of such Underwritten Securities (before deducting expenses) received by the Company and the total underwriting discount received by the Underwriters, in each case as set forth on the cover of the Prospectus.

The relative fault of the Company, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 7. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 7 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Underwritten Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of any such untrue or alleged untrue statement or omission or alleged omission.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 7, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company. The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the number or aggregate principal amount, as the case may be, of Underwritten Securities set forth opposite their respective names in the applicable Terms Agreement, and not joint.

SECTION 8. Representations, Warranties and Agreements to Survive Delivery. All representations, warranties and agreements contained in this Underwriting Agreement or the applicable Terms Agreement or in certificates of officers of the Company submitted pursuant hereto or thereto shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of any Underwriter or controlling person, or by or on behalf of the Company, and shall survive delivery of and payment for the Underwritten Securities.

SECTION 9. Termination.

(a) *Underwriting Agreement.* This Underwriting Agreement (excluding the applicable Terms Agreement) may be terminated for any reason at any time by the Company or the Representative upon the giving of 30 days' prior written notice of such termination to the other party hereto.

(b) *Terms Agreement.* The Representative may terminate the applicable Terms Agreement, by notice to the Company, at any time at or prior to the Closing Time, if (i) there has been, since the time of execution of such Terms Agreement or since the respective dates as of which information is given in the Prospectus (exclusive of any supplement thereto) or the General Disclosure Package, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, or (ii) there has occurred any material adverse change in the financial markets in the United States or, if the Underwritten Securities or any related Underlying Securities include Debt Securities denominated or payable in, or indexed to, one or more foreign or composite currencies, in the international financial markets, or any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Representative, impracticable to market the Underwritten Securities or to enforce contracts for the

sale of the Underwritten Securities, or (iii) trading in any securities of the Company has been suspended or limited by the Commission or the New York Stock Exchange, or if trading generally on the New York Stock Exchange or the American Stock Exchange or in the Nasdaq Global Market System has been suspended or limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by either of said exchanges or by such system or by order of the Commission, the NASD or any other governmental authority, or (iv) a banking moratorium has been declared by either Federal or New York authorities or, if the Underwritten Securities or any related Underlying Securities include Debt Securities denominated or payable in, or indexed to, one or more foreign or composite currencies, by the relevant authorities in the related foreign country or countries.

(c) *Liabilities.* If this Underwriting Agreement or the applicable Terms Agreement is terminated pursuant to this Section 9, such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that Sections 1, 6, 7 and 8 shall survive such termination and remain in full force and effect.

SECTION 10. Default by One or More of the Underwriters. If one or more of the Underwriters shall fail at the Closing Time to purchase the Underwritten Securities which it or they are obligated to purchase under the applicable Terms Agreement (the "Defaulted Securities"), then the Representative shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representative shall not have completed such arrangements within such 24-hour period, then:

(a) if the number or aggregate principal amount, as the case may be, of Defaulted Securities does not exceed 10% of the aggregate principal amount or number, as the case may be, of Underwritten Securities to be purchased on such date pursuant to such Terms Agreement, the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations under such Terms Agreement bear to the underwriting obligations of all non-defaulting Underwriters, or

(b) if the aggregate principal amount or number, as the case may be, of Defaulted Securities exceeds 10% of the aggregate principal amount or number, as the case may be, of Underwritten Securities to be purchased on such date pursuant to such Terms Agreement, such Terms Agreement shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section 10 shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of the applicable Terms Agreement either the Representative or the Company shall have the right to postpone the Closing Time for a period not exceeding seven calendar days in order to effect any required changes in the Registration Statement or the Prospectus or in any other documents or arrangements.

SECTION 11. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to the Representative at 4 World Financial Center, New York, New York 10080, attention of Venkat Badinehal, or, in respect of any Terms Agreement, to such other person and place as may be specified therein; and notices to the Company shall be directed to it at 4 World Financial Center, 24th Floor, New York, New York 10080, attention of the Treasurer with a copy to the Corporate Secretary at 222 Broadway, 17th Floor, New York, New York 10038.

SECTION 12. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that (a) the purchase and sale of the Underwritten Securities pursuant to this Agreement, including the determination of the public offering price of the Underwritten Securities and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the Underwriters, on the other hand, (b) in connection with the offering contemplated hereby and the process leading to such transaction each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company, or its stockholders, creditors, employees or any other party, (c) each Underwriter has not assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Underwriter has advised or is currently advising the Company on other matters) and each Underwriter has no obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (d) each Underwriter and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, and (e) each Underwriter has not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

SECTION 13. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Underwriters, or any of them, with respect to the subject matter hereof.

SECTION 14. Parties. This Underwriting Agreement and the applicable Terms Agreement shall each inure to the benefit of and be binding upon the Company, the Representative and, upon execution of such Terms Agreement, any other Underwriters and their respective successors. Nothing expressed or mentioned in this Underwriting Agreement or such Terms Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters and the Company and their respective successors and the controlling persons and officers and directors referred to in

Sections 6 and 7 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Underwriting Agreement or such Terms Agreement or any provision herein or therein contained. This Underwriting Agreement and such Terms Agreement and all conditions and provisions hereof and thereof are intended to be for the sole and exclusive benefit of the parties hereto and thereto and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Underwritten Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

SECTION 15. GOVERNING LAW. THIS UNDERWRITING AGREEMENT AND ANY APPLICABLE TERMS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED IN SUCH STATE.

SECTION 16. Effect of Headings. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this Underwriting Agreement, along with all counterparts, will become a binding agreement between Merrill Lynch and the Company in accordance with its terms.

Very truly yours,

MERRILL LYNCH & CO., INC.

By: /s/ John Laws

Name: John Laws

Title: Assistant Treasurer

CONFIRMED AND ACCEPTED,
as of the date first above written:

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: /s/ Scott G. Primrose

Name: Scott G. Primrose

Title: Authorized Signatory

Managing Director

Global Debt Capital Markets

MERRILL LYNCH & CO., INC.
(a Delaware corporation)

Debt Securities and Warrants

TERMS AGREEMENT

Dated: _____, 20____

To: Merrill Lynch & Co., Inc.
4 World Financial Center
New York, New York 10080

Ladies and Gentlemen:

We understand that Merrill Lynch & Co., Inc., a Delaware corporation (the "Company"), proposes to issue and sell [\$ aggregate principal amount of its [senior] [subordinated] debt securities (the "Debt Securities") [warrants (the "Debt Security Warrants") to purchase \$ aggregate principal amount of [senior] [subordinated] debt securities] [title of Index Warrants or Currency Warrants being purchased] (such securities also being hereinafter referred to as the "Underwritten Securities"). Subject to the terms and conditions set forth or incorporated by reference herein, we [the underwriters named below (the "Underwriters")] offer to purchase [, severally and not jointly,] the [principal amount] [number] of Underwritten Securities [opposite their names set forth below] at the purchase price set forth below.

<u>Underwriter</u>	<u>[Principal Amount] [Number] of Underwritten Securities</u>
Total	\$ []

The Underwritten Securities shall have the following terms:

[Debt Securities]

- Title:
- Rank:
- Aggregate principal amount:
- Denominations:
- Currency of payment:
- Interest rate or formula:

Interest payment dates:
Regular record dates:
Stated maturity date:
Redemption provisions:
Sinking fund requirements:
Conversion provisions:
Listing requirements:
Rating requirements:
Black-out provisions:
Fixed or Variable Price Offering: [Fixed] [Variable] Price Offering
If Fixed Price Offering, initial public offering price per share: _____% of the principal amount, plus accrued interest [amortized original issue discount], if any, from_____.
Purchase price: _____% of principal amount, plus accrued interest [amortized original issue discount], if any, from_____.
Form:
Other terms and conditions:
Closing date and location:

Debt Security Warrants

Title:
Type:
Number:
Warrant Agreement:
Warrant Agent:
Issuable jointly with Debt Securities: [Yes] [No]
 [Number of Debt Security Warrants issued with each \$_____ principal amount of Debt Securities:]
 [Detachable Date:]
Date(s) from which or period(s) during which Debt Security Warrants are exercisable:
Date(s) on which Debt Security Warrants expire:
Exercise price(s):
Initial public offering price: \$_____
Purchase price: \$_____
Title of Underlying Securities:
 Principal amount purchasable upon exercise of one Debt Security Warrant:
 Terms of Underlying Securities:
Form: [Registered] [Bearer]
Listing requirements:
Rating requirements:
Other terms and conditions:
Closing date and location:

Index Warrants

Title:
Number:
[Warrant Agreement] [Index Warrant Indenture]:
Issuable jointly with Debt Securities: [Yes] [No]
 [Number of Index Warrants issued with each \$_____ principal amount of Debt Securities:]
 [Detachable Date:]
Date(s) from which or period(s) during which Index Warrants are exercisable:
Date(s) on which Index Warrants expire:
Circumstances causing automatic exercise:
Strike price(s) of Index Warrants:
Initial public offering price: \$_____
Purchase price: \$_____
Cash Settlement Value formula:
Listing requirements:
Rating requirements:
Other terms and conditions:
Closing date and location:

Currency Warrants

Title:
Number:
Warrant Agreement:
Issuable jointly with Debt Securities: [Yes] [No]
 [Number of Currency Warrants issued with each \$_____ principal amount of Debt Securities:]
 [Detachable Date:]
Date(s) from which or period(s) during which Currency Warrants are exercisable:
Date(s) on which Currency Warrants expire:
Circumstances causing automatic exercise:
Strike price(s) of Currency Warrants:
Initial Public offering price: \$_____
Purchase price: \$_____
Cash Settlement Value formula:
Listing requirements:
Rating requirements:
Other terms and conditions:
Closing date and location:

All of the provisions contained in the document attached as Annex I hereto entitled "MERRILL LYNCH & CO., INC. — Debt Securities and Warrants — Underwriting Agreement" (the "Underwriting Agreement") are hereby incorporated by reference in their entirety herein and shall be deemed to be a part of this Terms Agreement to the same extent as if such provisions had been set forth in full herein.

Terms defined in such document are used herein as therein defined. Each reference to Underwriters in the Underwriting Agreement so incorporated herein by reference shall be deemed to refer to the Underwriters as defined in this Terms Agreement. Legal counsel to the Company is [_____] and legal counsel to the Underwriters is [_____].

[Pursuant to Section 3(k) of the Underwriting Agreement, the Company agrees with the Underwriters that, between the date hereof and [the Closing Time], the Company shall be subject to the following restrictions on sales of its securities: _____]

Please accept this offer no later than _____ o'clock P.M. (New York City time) on _____ by signing a copy of this Terms Agreement in the space set forth below and returning the signed copy to us.

Very truly yours,

MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

By _____
Authorized Signatory
[Acting on behalf of itself and the other named Underwriters.]

Accepted:

MERRILL LYNCH & CO., INC.

By _____
Name:
Title:

FORM OF OPINION OF COMPANY'S COUNSEL
TO BE DELIVERED PURSUANT TO
SECTION 5(b)

- (1) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware.
- (2) The Company has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Prospectus and to enter into and perform its obligations under, [or as contemplated under,] the Underwriting Agreement and the applicable Terms Agreement.
- (3) The Company is duly qualified as a foreign corporation to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or be in good standing would not result in a Material Adverse Effect (as defined in Section 1(a)(3) of the Underwriting Agreement).
- (4) Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Prospectus and is duly qualified as a foreign corporation to transact business and is in good standing in the State of New York; all of the issued and outstanding capital stock of MLPF&S has been duly authorized and validly issued, is fully paid and non-assessable and, to the best of our knowledge, is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity; and none of the outstanding shares of capital stock of MLPF&S was issued in violation of preemptive or similar rights of any securityholder of MLPF&S.
- (5) The Underwriting Agreement and the applicable Terms Agreement have been duly authorized, executed and delivered by the Company.
- (6) [Include if the Underwritten Securities being sold pursuant to the applicable Terms Agreement include Senior Debt Securities and/or Subordinated Debt Securities —] The Underwritten Securities have been duly authorized by the Company for issuance and sale pursuant to the Underwriting Agreement and the applicable Terms Agreement. The Underwritten Securities, when issued and authenticated by the respective Trustee in the manner provided for in the applicable Indenture and delivered against payment of the consideration therefor specified in such Terms Agreement, will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether the enforcement is considered in a proceeding

in equity or at law), and except further as enforcement thereof may be limited by (A) requirements that a claim with respect to any Debt Securities denominated other than in U.S. dollars (or a foreign or composite currency judgment in respect of such claim) be converted into U.S. dollars at a rate of exchange prevailing on a date determined pursuant to applicable law or (B) governmental authority to limit, delay or prohibit the making of payments outside the United States; and the Underwritten Securities are in the form contemplated by, and each registered holder thereof is entitled to the benefits of, the applicable Indenture.

(7) [Include if the Underwritten Securities being sold pursuant to the applicable Terms Agreement include Senior Debt Securities and/or Subordinated Debt Securities —]. The [Each] applicable Indenture has been duly authorized, executed and delivered by the Company and (assuming due authorization, execution and delivery thereof by the respective Trustee) constitutes a valid and legally binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law)[, and except further as enforcement thereof may be limited by (A) requirements that a claim with respect to any Debt Securities denominated other than in U.S. dollars (or a foreign or composite currency judgment in respect of such claim) be converted into U.S. dollars at a rate of exchange prevailing on a date determined pursuant to applicable law or (B) governmental authority to limit, delay or prohibit the making of payments outside the United States].

(8) [Include if the Underwritten Securities being sold pursuant to the applicable Terms Agreement include Warrants —] The Underwritten Securities have been duly authorized by the Company for issuance and sale pursuant to the Underwriting Agreement and the applicable Terms Agreement. The Underwritten Securities, when issued and authenticated in the manner provided for in the applicable Index Warrant Indenture or Warrant Agreement and delivered against payment of the consideration therefor specified in such Terms Agreement, will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law)[, and except further as enforcement thereof may be limited by (A) requirements that a claim with respect to any Warrant payable other than in U.S. dollars (or a foreign or composite currency judgment in respect of such claim) be converted into U.S. dollars at a rate of exchange prevailing on a date determined pursuant to applicable law or (B) governmental authority to limit, delay or prohibit the making of payments outside the United States; and the Underwritten Securities are in the form contemplated by and each registered holder thereof is entitled to the benefits of, the applicable Index Warrant Indenture or Warrant Agreement].

(9) [Include if the Underwritten Securities being sold pursuant to the applicable Terms Agreement include Warrants —] The [Each] applicable Index Warrant Indenture or Warrant Agreement has been duly authorized, executed and delivered by the Company and (assuming due authorization, execution and delivery thereof by the applicable Trustee or Warrant Agent) constitutes a valid and legally binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law)[, and except further as enforcement thereof may be limited by (A) requirements that a claim with respect to any Warrant payable other than in U.S. dollars (or a foreign or composite currency judgment in respect of such claim) be converted into U.S. dollars at a rate of exchange prevailing on a date determined pursuant to applicable law or (B) governmental authority to limited, delay or prohibit the making of payments outside the United States].

(10) [Include if the Underlying Securities related to the Underwritten Securities being sold pursuant to the applicable Terms Agreement include Senior Debt Securities and/or Subordinated Debt Securities —] The Underlying Securities have been duly authorized for issuance upon exercise of the Debt Security Warrants. The Underlying Securities, when issued and authenticated in the manner provided for in the applicable Indenture and delivered against payment of the consideration therefor in accordance with the terms of the Debt Security Warrants, will constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law)[, and except further as enforcement thereof may be limited by (A) requirements that a claim with respect to any Debt Securities denominated other than in U.S. dollars (or a foreign or composite currency judgment in respect of such claim) be converted into U.S. dollars at a rate of exchange prevailing on a date determined pursuant to applicable law or (B) governmental authority to limit, delay or prohibit the making of payments outside the United States]. [Include if the Underlying Securities related to the Underwritten Securities being sold pursuant to the applicable Terms Agreement include Common Stock, Preferred Stock or Depositary Shares —] The Underlying Securities have been duly authorized and reserved for issuance by the Company [upon exercise of the [Common Stock] [Preferred Stock] Warrants] [upon conversion of the related [Preferred Stock] [Depositary Shares]. The Underlying Securities, when issued upon such [exercise] [conversion], will be validly issued, fully paid and non-assessable and will not be subject to preemptive or other similar rights of any securityholder of the Company. No holder of the Underlying Securities is or will be subject to personal liability by reason of being such a holder. [In addition, the Underlying Securities, upon deposit by the Company of the Preferred Stock represented thereby with the applicable Depositary and the execution and delivery by such Depositary of the Depositary Receipts evidencing such Underlying Securities, in each case pursuant to the applicable Deposit Agreement, will represent legal and valid interests in such Preferred Stock.]

(11) [Include if the Underwritten Securities being sold pursuant to the applicable Terms Agreement include Depositary Shares —] The applicable Deposit Agreement has been duly authorized, executed and delivered by the Company and (assuming due authorization, execution and delivery thereof by the applicable Depositary) constitutes a valid and legally binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in the proceeding in equity or at law). Each registered holder of a Depositary Receipt under the applicable Deposit Agreement will be entitled to the proportional rights, preferences and limitations of the Preferred Stock represented by the Depositary Shares evidenced by such Depositary Receipt and to such other rights as are granted to such registered holder in such Deposit Agreement.

(12) [Include if the Prospectus contains a "Capitalization" section —] The authorized, issued and outstanding shares of capital stock of the Company is as set forth in the Prospectus under the caption "Capitalization" (except for subsequent issuances thereof, if any, contemplated under the Underwriting Agreement, pursuant to reservations, agreements or employee benefit plans referred to in the Prospectus or pursuant to the exercise of convertible securities or options referred to in the Prospectus). Such shares of capital stock have been duly authorized and validly issued by the Company and are fully paid and non-assessable, and none of such shares of capital stock was issued in violation of preemptive or similar rights of any securityholder of the Company.

(13) The Underwritten Securities being sold pursuant to the applicable Terms Agreement and the [each] applicable [Indenture] [Warrant Agreement] conform, and any Underlying Securities, when issued and delivered in accordance with the terms of the related Underwritten Securities, will conform, in all material respects to the statements relating thereto contained in the Prospectus and are in substantially the form filed or incorporated by reference, as the case may be, as an exhibit to the Registration Statement.

(14) The information in the Prospectus under "Description of Debt Securities", "Description of Debt Warrants", "Description of Currency Warrants", "Description of Index Warrants", "Description of Preferred Stock", "Description of Depositary Shares", "Description of Preferred Stock Warrants", "Description of Common Stock" and "Description of Common Stock Warrants" or any caption purporting to describe any such Securities, and in the Registration Statement under Item 15, to the extent that it constitutes matters of law, summaries of legal matters, the Company's charter and by-laws or legal proceedings, or legal conclusions, has been reviewed by us and is correct in all material respects.

(15) The execution, delivery and performance of the Underwriting Agreement, the applicable Terms Agreement and the [each] applicable [Indenture] [Warrant Agreement] and any other agreement or instrument entered into or issued or to be entered into or issued by the Company in connection with the transactions contemplated in the

Registration Statement and the Prospectus and the consummation of the transactions contemplated in the Underwriting Agreement and such Terms Agreement and in the Registration Statement and the Prospectus (including the issuance and sale of the Underwritten Securities and the use of the proceeds from the sale of the Underwritten Securities as described under the caption "Use of Proceeds") and compliance by the Company with its obligations thereunder do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or a default or Repayment Event (as defined below) under or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any subsidiary of the Company pursuant to, any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or any other agreement or instrument, known to us, to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound, or to which any of the property or assets of the Company or its subsidiaries is subject, except for such conflicts, breaches, defaults, liens, events, charges or encumbrances that would not result in a Material Adverse Effect, nor will such action result in any violation of the provisions of the charter or by-laws of the Company or any Subsidiary, or any applicable law, statute, rule, regulation, judgment, order, writ or decree, known to us, of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any Subsidiary or any of their assets properties, assets or operations. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness of the Company or any of its subsidiaries (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(16) The Registration Statement has become effective under the 1933 Act. Any required filing of each prospectus relating to the Underwritten Securities (including the Prospectus) pursuant to Rule 424(b) has been made in the manner and within the time period required by Rule 424(b) (without reference to Rule 424(b)(8)); any required filing of each Issuer Free Writing Prospectus pursuant to Rule 433 has been made in the manner and within the time period required by Rule 433(d); and to the best of our knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued under the 1933 Act and no proceedings for that purpose have been initiated or are pending or threatened by the Commission. Each applicable Indenture is qualified under the 1939 Act.

(17) The Registration Statement and the Prospectus, excluding the documents incorporated by reference therein, and each amendment or supplement to the Registration Statement and Prospectus, excluding the documents incorporated by reference therein, as of their respective effective or issue dates (including without limitation each deemed effective date with respect to the Underwriters pursuant to Rule 430B(f)(2) of the 1933 Act Regulations) other than the financial statements and supporting schedules included therein or omitted therefrom and each Trustee's Statement of Eligibility on Form T-1 (the "Form T-1s"), as to which we express no opinion, complied as to form in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations.

(18) The documents incorporated by reference in the Prospectus (other than the financial statements and supporting schedules therein or omitted therefrom, as to which we express no opinion), when they became effective or were filed with the Commission, as the case may be, complied as to form in all material respects with the requirements of the 1933 Act or the 1934 Act, as applicable, and the rules and regulations of the Commission thereunder.

(19) No filing with, or authorization, approval, consent, license, order registration, qualification or decree of, any court or governmental authority or agency, domestic or foreign, is necessary or required for the performance by the Company of its obligations under the Underwriting Agreement or the applicable Terms Agreement or in connection with the transactions contemplated under the Underwriting Agreement, such Terms Agreement or the [any] applicable [Indenture] [Warrant Agreement] other than under the 1933 Act, the 1933 Act Regulations, the 1939 Act and the 1939 Act Regulations, which have been obtained, or as may be required under the 1933 Act, the 1933 Act Regulations, the 1939 Act, the 1939 Act Regulations or state securities or blue sky laws.

[Include if required in Terms Agreement] The Underwritten Securities [and any Underlying Securities], upon issuance, will be excluded or exempted under, or beyond the purview of, the Commodity Exchange Act, as amended (the "Commodity Exchange Act") and the rules and regulations of the Commodity Futures Trading Commission adopted under the Commodity Exchange Act.] We have participated in conferences with officers and representatives of the Company, representatives of the independent accountants of the Company and the Underwriters at which the contents of the Registration Statement and Prospectus and related matters were discussed and, although we are not passing upon or assuming responsibility for the accuracy, completeness or fairness of the statements contained or incorporated by reference in the Registration Statement and Prospectus and have made no independent check or verification thereof, on the basis of the foregoing, nothing has come to our attention that would lead us to believe that the Original Registration Statement or any amendment thereto (except for financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom and the Form T-1s, as to which we make no statement), at the time the Original Registration Statement or any amendment thereto (including the filing of the Company's Annual Report on Form 10-K with the Commission) became effective or at the date of the applicable Terms Agreement, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; that the Registration Statement, including the Rule 430B Information (except for financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom and the Form T-1, as to which we need make no statement), at each deemed effective date with respect to the Underwriters pursuant to Rule 430B(f)(2) of the 1933 Act Regulations, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; or that the Prospectus or any amendment or supplement thereto (except for financial statements and schedules and other financial data included or incorporated therein or omitted therefrom, as to which we make no

statement), at the time the Prospectus was issued, at the time any such amended or supplemented prospectus was issued or at the Closing Time, included or includes an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

In rendering such opinion, such counsel may rely, as to matters of fact (but not as to legal conclusions), to the extent they deem proper, on certificates of responsible officers of the Company and public officials. In addition, nothing has come to our attention that would lead us to believe that the General Disclosure Package, other than the financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom, as to which we need make no statement, as of the Applicable Time, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of circumstances under which they were made, not misleading. With respect to statements contained in the General Disclosure Package, any statement contained in any of the constituent documents shall be deemed to be modified or superseded to the extent that any information contained in subsequent constituent documents modifies or replaces such statement.

**MERRILL LYNCH & CO., INC.
Medium-Term Notes Due From
9 Months or More from Date of Issue**

DISTRIBUTION AGREEMENT

March 31, 2006

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
World Financial Center
North Tower, 10th Floor
New York, New York 10281-1310

Ladies and Gentlemen:

Merrill Lynch & Co., Inc., a Delaware corporation (the "Company"), confirms its agreement with Merrill Lynch, Pierce, Fenner & Smith Incorporated (the "Agent") with respect to the issue and sale by the Company of its Medium-Term Notes described herein (the "Notes"). The Notes are to be issued pursuant to an indenture dated as of April 1, 1983, as amended or restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A., as trustee (the "Trustee"). As of the date hereof, the Company has authorized the issuance and sale of Notes to or through the Agent pursuant to the terms of this Agreement.

This Agreement specifies terms and conditions on which Notes may be sold by the Company (i) to the Agent as principal for resale and (ii) directly to investors through the Agent as an agent of the Company in soliciting offers for the purchase of Notes.

The Company has filed with the Securities and Exchange Commission (the "Commission") an automatic shelf registration statement on Form S-3 (No. 333-_____) which provides for the registration of the Notes, under the Securities Act of 1933, as amended (the "1933 Act"), and the offering thereof from time to time in accordance with Rule 415 of the rules and regulations of the Commission under the 1933 Act (the "1933 Act Regulations"), and the Company has filed such post-effective amendments thereto as may be required prior to any acceptance by the Company of an offer for the purchase of Notes. Such registration statement became effective upon filing pursuant to Rule 462(e) of the 1933 Act Regulations (as so amended, if applicable) and the Indenture has been duly qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"). Such registration statement (as so amended, if applicable) is referred to herein as the "Registration Statement"; and the final prospectus and all applicable amendments or supplements thereto (including the final prospectus supplement(s) and pricing supplement relating to the offering of Notes), in the form first furnished to the Agent for use in connection with the offering of the Notes, is herein called the "Prospectus;" provided, however, that all references to the "Registration Statement" and the "Prospectus" shall also be deemed to include all documents incorporated therein by reference pursuant to the Securities Exchange Act of 1934, as amended (the "1934 Act"), prior to any acceptance by the Company of an offer for the purchase of Notes. A preliminary prospectus shall be deemed to refer to any

prospectus, any prospectus supplement(s) and/or pricing supplement used before the acceptance by the Company of an offer for the purchase of Notes which omitted information to be included upon pricing in a form of prospectus filed with the Commission pursuant to Rule 424(b) of the 1933 Act Regulations. The Indenture in effect as of the date of this Distribution Agreement has been duly qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"). For purposes of this Agreement, all references to the Registration Statement, Prospectus or preliminary prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").

All references in this Agreement to financial statements and schedules and other information which is "disclosed", "contained," "included" or "stated" (or other references of like import) in the Registration Statement, Prospectus or preliminary prospectus shall be deemed to mean and include all such financial statements and schedules and other information which is incorporated by reference or otherwise deemed by 1933 Act Regulations to be part of or included in the Registration Statement, Prospectus or preliminary prospectus, as the case may be; and all references in this Agreement to amendments or supplements to the Registration Statement, Prospectus or preliminary prospectus shall be deemed to include the filing of any document under the 1934 Act which is incorporated by reference in the Registration Statement, Prospectus or preliminary prospectus, as the case may be.

SECTION 1. Appointment as Agent.

(a) Appointment. Subject to the terms and conditions stated herein, the Company hereby agrees that Notes will be sold exclusively to or through the Agent. The Agent is authorized to engage the services of any other broker or dealer in connection with the offer or sale of the Notes purchased by the Agent as principal for resale to others but is not authorized to appoint sub-agents. In connection with sales by the Agent of Notes purchased by the Agent as principal to other brokers or dealers, the Agent may allow any portion of the discount it has received in connection with such purchases from the Company to such brokers or dealers. The Company agrees that, during the period the Agent is acting as the Company's agent hereunder, unless otherwise agreed, the Company will not contact or solicit potential investors to purchase the Notes and will not appoint other agents to act on its behalf, or to assist it, in the placement of the Notes.

(b) Sale of Notes. The Company shall not sell or approve the solicitation of offers for the purchase of Notes in excess of the amount which shall be authorized by the Company from time to time or in excess of the principal amount of Notes registered pursuant to the Registration Statement. The Agent will have no responsibility for maintaining records with respect to the aggregate principal amount of Notes sold, or of otherwise monitoring the availability of Notes for sale, under the Registration Statement.

(c) Purchases as Principal. The Agent shall not have any obligation to purchase Notes from the Company as principal. However, absent an agreement between the Agent and the Company for the Agent to act as an agent for the Company, the Agent shall be deemed to be acting as principal in connection with any offering of Notes by the Company. Any purchase of Notes from the Company by the Agent as principal shall be made in accordance with Section 3(a) hereof.

(d) Solicitations as Agent. If agreed upon by the Agent and the Company, the Agent, acting solely as agent for the Company and not as principal, will solicit offers for the purchase of Notes. The Agent will communicate to the Company, orally, each offer to purchase Notes solicited by such Agent on an agency basis, other than those offers rejected by the Agent. The Agent shall have the right, in its discretion reasonably exercised, to reject any offer for the purchase of Notes, in whole or in part, and any such rejection shall not be deemed a breach of the Agent's agreement contained herein. The Company may accept or reject any offer for the purchase of Notes which is communicated to it by the Agent, in whole or in part. The Agent shall make reasonable efforts to assist the Company in obtaining performance by each purchaser whose offer for the purchase of Notes has been solicited by the Agent on an agency basis and accepted by the Company. The Agent shall not have any liability to the Company in the event that any such agency purchase is not consummated for any reason. If the Company shall default on its obligation to deliver Notes to a purchaser whose offer has been solicited by the Agent on an agency basis and accepted by the Company, the Company shall (i) hold the Agent harmless against any loss, claim or damage arising from or as a result of such default by the Company and (ii) notwithstanding such default, pay to the Agent any commission to which it would be entitled in connection with such sale.

(e) Reliance. The Company and the Agent agree that any Notes purchased from the Company by the Agent as principal shall be purchased, and any Notes the placement of which the Agent arranges as agent of the Company shall be placed by the Agent, in reliance on the representations, warranties, covenants and agreements of the Company contained herein and on the terms and conditions and in the manner provided herein.

SECTION 2. Representations and Warranties.

(a) Representations and Warranties of the Company. The Company represents and warrants to the Agent as of the date hereof, as of the time of each acceptance by the Company of an offer for the purchase of Notes (whether to the Agent as principal or through the Agent as agent) (each such time being an "Applicable Time"), as of the date of each delivery of Notes (whether to the Agent as principal or through the Agent as agent) (the date of each the delivery to the Agent as principal is referred to herein as a "Settlement Date"), and as of any time that the Registration Statement or the Prospectus shall be amended or supplemented (each of the times referenced above is referred to herein as a "Representation Date"), as follows:

(i) Status as a Well-Known Seasoned Issuer. (A) At the time of filing the Registration Statement at the time it originally became effective (the "Original Registration Statement"), (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the 1933 Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the 1934 Act or form of prospectus filed pursuant to Rule 424(b)), (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) of the 1933 Act Regulations) made any offer relating to the Notes in reliance on the exemption of Rule 163 of the 1933 Act Regulations and (D) at the date hereof, the Company was and is a "well-known seasoned issuer" as defined in Rule 405 of the 1933 Act Regulations ("Rule 405"), including not having been and not being an "ineligible issuer" as defined in Rule 405. The Registration Statement is an "automatic

shelf registration statement,” as defined in Rule 405, and the Notes, since their registration on the Registration Statement, have been and remain eligible for registration by the Company on a Rule 405 “automatic shelf registration statement”. The Company has not received from the Commission any notice pursuant to Rule 401(g)(2) of the 1933 Act Regulations objecting to the use of the automatic shelf registration statement form.

(ii) Registration Statement, Prospectus and Disclosure at Time of Sale. The Original Registration Statement became effective upon filing under Rule 462(e) of the 1933 Act Regulations (“Rule 462(e)”) on March 31, 2006, and any post-effective amendment thereto also became effective upon filing under Rule 462(e). No stop order suspending the effectiveness of the Registration Statement has been issued under the 1933 Act and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with. In addition, the Indenture as of each Representation Date has been duly qualified under the 1939 Act.

Any offer that is a written communication relating to the Notes made prior to the filing of the Original Registration Statement by the Company or any person acting on its behalf (within the meaning, for this paragraph only, of Rule 163(c) of the 1933 Act Regulations) has been filed with the Commission in accordance with the exemption provided by Rule 163 of the 1933 Act Regulations (“Rule 163”) and otherwise complied with the requirements of Rule 163, including without limitation the legending requirement, to qualify such offer for the exemption from Section 5(c) of the 1933 Act provided by Rule 163.

At the respective times that the Registration Statement and each amendment thereto (including the filing of the Company’s most recent Annual Report on Form 10-K with the Commission (the “Annual Report on Form 10-K”)) became effective, at each deemed effective date with respect to the Agent pursuant to Rule 430B(f)(2) of the 1933 Act Regulations and at each Representation Date, the Registration Statement and any amendments thereto complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations and the 1939 Act and the rules and regulations of the Commission under the 1939 Act (the “1939 Act Regulations”) and did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; the Prospectus and each preliminary prospectus and prospectus filed as part of the Registration Statement as originally filed or as part of any amendment thereto, or filed pursuant to Rule 424 under the 1933 Act, complied when so filed in all material respects with the 1933 Act Regulations; each preliminary prospectus and the Prospectus delivered to the Agent for use in connection with the offering of Notes are identical to any electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T; and at the date hereof, at the date of the Prospectus and at each Representation Date, neither the Prospectus nor any amendment or supplement thereto included or will include an untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

As of the Applicable Time with respect to the offering of any applicable tranche of Notes, neither (x) the Issuer General Use Free Writing Prospectus(es) (as defined below) issued at or prior to the Applicable Time, the Statutory Prospectus (as defined below) made available by the Company for use by the Agent as of the Applicable Time, if any, relating to the offering of the Notes, all considered together (collectively, the “General Disclosure Package”), nor (y) any individual Issuer Limited Use Free Writing Prospectus, when considered together with the General Disclosure Package, included any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

As of the time of the filing of the Final Term Sheet, if any, the General Disclosure Package, when considered together with the Final Term Sheet (as defined in Section 3(b)), will not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

As used in this subsection and elsewhere in this Agreement:

“Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433 of the 1933 Act Regulations (“Rule 433”), relating to the Notes that (i) is required to be filed with the Commission by the Company, (ii) is a “road show” that constitutes a written communication within the meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission or (iii) is exempt from filing pursuant to Rule 433(d)(5)(i) because it contains a description of the Notes or of the offering that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g).

“Issuer General Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors.

“Issuer Limited Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

“Statutory Prospectus” means (i) the prospectus relating to various securities of the Company, including the Notes, that is included in the Registration Statement and (ii) the prospectus supplement relating to the Notes and any preliminary pricing supplement relating to the Notes of a particular tranche.

Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Notes or until any earlier date that the Company notified or notifies the Agent as described in Section 4(b), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any document incorporated by reference therein and any preliminary or other prospectus deemed to be a part thereof that has not been superseded or modified.

The representations and warranties in this subsection shall not apply to statements in or omissions from the Registration Statement, the Prospectus or any Issuer Free Writing Prospectus made in reliance upon and in conformity with written information furnished to the Company by the Agent expressly for use therein.

(iii) Incorporated Documents. The documents incorporated or deemed to be incorporated by reference in the Prospectus, when they became effective or at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations or the 1934 Act and the rules and regulations of the Commission under the 1934 Act (the "1934 Act Regulations") as applicable and, when read together with the other information in the Prospectus, (a) at the time the Registration Statement became effective, (b) at the time the Prospectus was first used, (c) at the date hereof, and (d) at each Representation Date, did not and will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(iv) No Material Adverse Changes in Business. Since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, except as may otherwise be stated therein or contemplated thereby, there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business.

(b) Additional Certifications. Any certificate signed by any director or officer of the Company and delivered to the Agent or to counsel for the Agent in connection with an offering of Notes to the Agent as principal or through the Agent as agent shall be deemed a representation and warranty by the Company to the Agent as to the matters covered thereby on the date of such certificate and at each Representation Date subsequent thereto.

SECTION 3. Purchases as Principal Solicitations as Agent.

(a) Purchases as Principal. Unless otherwise agreed by the Agent and the Company, Notes purchased from the Company by the Agent as principal shall be made in accordance with terms agreed upon by the Agent and the Company (which terms, unless otherwise agreed, shall, to the extent applicable, include those terms specified in Exhibit A hereto and shall be agreed upon orally, with written confirmation prepared by the Agent and delivered to the Company). The Agent's commitment to purchase Notes as principal shall be deemed to have been made on the basis of the representations and warranties of the Company herein contained and shall be subject to the terms and conditions herein set forth. Unless the context otherwise requires, references herein to "this Agreement" shall include the applicable agreement of the Agent to purchase Notes from the Company as principal. Each purchase of Notes, unless otherwise agreed, shall be at a discount from the principal amount of each such Note equivalent to the

applicable commission set forth in Schedule A hereto. The Agent may engage the services of any other broker or dealer in connection with the resale of the Notes purchased by it as principal and may allow all or any portion of the discount received by it in connection with such purchases from the Company to such brokers and dealers. At the time of each purchase of Notes from the Company by the Agent as principal, the Agent shall specify the requirements for the officer's certificate, opinion of counsel and comfort letter pursuant to Sections 7(b), 7(c) and 7(d) hereof.

(b) Solicitations as Agent. On the basis of the representations and warranties herein contained, but subject to the terms and conditions herein set forth, when agreed by the Company and the Agent, the Agent, as agent of the Company, will use its reasonable efforts to solicit offers to purchase Notes upon the terms and conditions set forth herein and in the Prospectus. All Notes sold through the Agent as agent will be sold at 100% of their principal amount unless otherwise agreed to by the Company and the Agent.

The Company reserves the right, in its sole discretion, to suspend solicitation of offers for the purchase of Notes through the Agent, as agent of the Company, commencing at any time for any period of time or permanently. As soon as practicable after receipt of instructions from the Company, the Agent will suspend solicitation of offers for the purchase of Notes from the Company until such time as the Company has advised the Agent that such solicitation may be resumed.

The Company agrees to pay the Agent, as consideration for acting as agent of the Company in soliciting offers to purchase Notes, a commission, in the form of a discount, equal to the applicable percentage of the principal amount of each Note sold by the Company as a result of any such solicitation made by the Agent, as set forth in Schedule A hereto, unless otherwise agreed.

(c) Administrative Procedures. The purchase price, interest rate or formula, maturity date and other terms of the Notes specified in Exhibit A hereto (as applicable) shall be agreed upon between the Company and the Agent and specified in a pricing supplement to the Prospectus (each, a "Pricing Supplement") to be prepared by the Company in connection with each sale of Notes. Except as otherwise specified in the applicable Pricing Supplement, the Notes will be issued in denominations of U.S. \$1,000 or any larger amount that is an integral multiple of U.S. \$1,000. Administrative procedures with respect to the issuance and sale of the Notes (the "Procedures") shall be agreed upon from time to time among the Company, the Agent and the Trustee. The Agent and the Company agree to perform, and the Company agrees to cause the Trustee to agree to perform, their respective duties and obligations specifically provided to be performed by them in the Procedures.

SECTION 4. Covenants of the Company.

The Company covenants with the Agent as follows:

(a) Notice of Certain Events; Payment of Filing Fees. The Company will notify the Agent as soon as reasonably possible (i) of the effectiveness of any post-effective amendment to the Registration Statement or new registration statement relating to the Notes, (ii) of the receipt of any comments from the Commission with respect to the Registration Statement or the

Prospectus, (iii) of any request by the Commission for any amendment to the Registration Statement or the filing of a new registration statement or any amendment or supplement to the Prospectus or any document incorporated by reference therein or otherwise deemed to be a part thereof or for additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or such new registration statement or the initiation of any proceedings for that purpose or of any examination pursuant to Section 8(e) of the 1933 Act concerning the Registration Statement and (v) if the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Notes. The Company will make reasonable efforts to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof at the earliest possible moment.

The Company shall pay the required Commission filing fees relating to the Notes within the time required by Rule 456(b)(1) (i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of the 1933 Act Regulations (including, if applicable, by updating the “Calculation of Registration Fee” table in accordance with Rule 456(b)(1)(i) either in a post-effective amendment to the Registration Statement or on the cover page of a prospectus filed pursuant to Rule 424(b)).

(b) Filing or Use of Amendments, Exchange Act Document and Final Term Sheets. The Company will give the Agent advance notice of its intention to file or prepare any additional registration statement with respect to the registration of additional Notes, any amendment to the Registration Statement or any new registration statement relating to the Notes or any amendment or supplement to any preliminary prospectus (including any prospectus included in the Registration Statement or amendment thereto at the time it became effective) or to the Prospectus (other than an amendment or supplement thereto providing solely for the determination of the variable terms of the Notes or relating solely to the offering of securities other than the Notes), whether pursuant to the 1933 Act, the 1934 Act or otherwise, and the Company will furnish to the Agent copies of any such document a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file any such document to which the Agent or counsel for the Agent shall object. The Company will give the Agent notice of any filings made pursuant to the 1934 Act or 1934 Act Regulations within 48 hours prior to the Applicable Time; the Company will give the Agent notice of its intention to make any such filing from the Applicable Time to the Settlement Time and will furnish the Agent with copies of any such documents a reasonable amount of time prior to such proposed filing, as the case may be, and will not file or use any such document to which the Agent or counsel for the Agent shall object. The Company may prepare a final term sheet (the “Final Term Sheet”) reflecting the final terms of the Notes, in form and substance satisfactory to the Agent, and may file such Final Term Sheet as an “issuer free writing prospectus” pursuant to Rule 433; provided that the Company shall furnish the Agent with copies of any such Final Term Sheet a reasonable amount of time prior to such proposed filing and will not use or file any such document to which the Agent or counsel to the Agent shall object.

(c) Copies of the Registration Statement and the Prospectus. The Company will deliver to the Agent as many signed and conformed copies of the Original Registration Statement and of each amendment thereto (including exhibits filed therewith or incorporated by reference therein and documents incorporated by reference in the Prospectus or otherwise deemed to be a part thereof) as the Agent may reasonably request. The Company has furnished or will furnish to

the Agent upon request as many copies of the Prospectus (as amended or supplemented) as the Agent shall reasonably request so long as the Agent is required to deliver a Prospectus in connection with sales or solicitations of offers to purchase the Notes.

(d) Preparation of Pricing Supplements. The Company will prepare, with respect to any Notes to be sold through or to the Agent pursuant to this Agreement, a Pricing Supplement with respect to such Notes in a form previously approved by the Agent and will file such Pricing Supplement pursuant to Rule 424 under the 1933 Act.

(e) Revisions of Prospectus — Material Changes. Except as otherwise provided in this Section, if at any time during the term of this Agreement any event shall occur or condition exist as a result of which it is necessary, in the reasonable opinion of counsel for the Agent or counsel for the Company, to further amend or supplement the Prospectus in order that the Prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time the Prospectus is delivered to a purchaser, or if it shall be necessary, in the reasonable opinion of either such counsel, to amend or supplement the Registration Statement or to file a new registration statement or amend or supplement the Prospectus in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, immediate notice shall be given, and confirmed in writing, to the Agent to cease the solicitation of offers to purchase the Notes in the Agent's capacity as agent and to cease sales of any Notes the Agent may then own as principal, and the Company will promptly amend the Registration Statement and the Prospectus, whether by filing a new registration statement or documents pursuant to the 1934 Act, the 1933 Act or otherwise, as may be necessary to correct such untrue statement or omission or to make the Registration Statement and Prospectus comply with such requirements. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement (or any other registration statement relating to the Notes) or the Statutory Prospectus or any preliminary prospectus or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at that subsequent time, not misleading, the Company will promptly notify the Agent and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(f) Prospectus Revisions — Periodic Financial Information. Except as otherwise provided in this Section, on or prior to the date on which there shall be released to the general public interim financial statement information related to the Company with respect to each of the first three quarters of any fiscal year or preliminary financial statement information with respect to any fiscal year, the Company shall furnish such information to the Agent, confirmed in writing, and shall cause the Prospectus to be amended or supplemented to include or incorporate by reference financial information with respect thereto and corresponding information for the comparable period of the preceding fiscal year, as well as such other information and explanations as shall be necessary for an understanding thereof or as shall be required by the 1933 Act or the 1933 Act Regulations.

(g) Prospectus Revisions — Audited Financial Information Except as otherwise provided in this Section, on or prior to the date on which there shall be released to the general public financial information included in or derived from the audited financial statements of the Company for the preceding fiscal year, the Company shall cause the Registration Statement and the Prospectus to be amended, whether by the filing of documents pursuant to the 1934 Act, the 1933 Act or otherwise, to include or incorporate by reference such audited financial statements and the report or reports, and consent or consents to such inclusion or incorporation by reference, of the independent accountants with respect thereto, as well as such other information and explanations as shall be necessary for an understanding of such financial statements or as shall be required by the 1933 Act or the 1933 Act Regulations.

(h) Earnings Statements. The Company will make generally available to its security holders as soon as practicable, an earnings statement for the purposes of, and to provide the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(i) Blue Sky Qualifications. The Company will use reasonable efforts to qualify the Notes for offering and sale under the applicable securities laws of such states (“Blue Sky” laws) and other jurisdictions of the United States as the Agent may request, and will maintain such qualifications in effect for as long as may be required for the distribution of the Notes; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation in any jurisdiction in which it is not so qualified. The Company will file such statements and reports as may be required by the laws of each jurisdiction in which the Notes have been qualified as above provided. The Company will promptly advise the Agent of the receipt by the Company of any notification with respect to the suspension of the qualification of the Notes for sale in any such state or jurisdiction or the initiating or threatening of any proceeding for such purpose.

(j) 1934 Act Filings. The Company, during the period when the Prospectus is required to be delivered under the 1933 Act, will file promptly all documents required to be filed with the Commission pursuant to the 1934 Act within the time periods prescribed by the 1934 Act and the 1934 Act Regulations.

(k) Stand-Off Agreement. If agreed by the Agent and the Company in connection with a purchase by the Agent of Notes as principal, between the date of the agreement to purchase such Notes and the Settlement Date with respect to such purchase, the Company will not, without the Agent’s prior written consent, offer or sell, or enter into any agreement to sell, any debt securities of the Company (other than the Notes that are to be sold pursuant to such agreement and commercial paper in the ordinary course of business).

(l) Suspension of Certain Obligations. The Company shall not be required to comply with the provisions of subsection (e), (f) or (g) of this Section during any period from the time (i) the Agent shall have suspended solicitation of purchases of the Notes in its capacity as agent pursuant to a request from the Company and (ii) the Agent shall not then hold any Notes purchased as principal pursuant hereto, until the time the Company shall determine that solicitation of purchases of the Notes should be resumed or the Agent shall subsequently purchase Notes from the Company as principal.

(m) Issuer Free Writing Prospectuses. The Company represents and agrees that, unless it obtains the prior consent of the Agent and the Agent represents and agrees that, unless it obtains the prior consent of the Company, it has not made and will not make any offer relating to the Notes that would constitute an “issuer free writing prospectus,” as defined in Rule 433, or that would otherwise constitute a “free writing prospectus,” as defined in Rule 405, required to be filed with the Commission; provided, however, that prior to the preparation of any Final Term Sheet in accordance with Section 4(b), the Agent is authorized to use the information with respect to the final terms of the Notes in communications conveying information relating to the offering to investors. Any such free writing prospectus consented to by the Company and the Agent is hereinafter referred to as a “Permitted Free Writing Prospectus.” The Company represents that it has treated or agrees that it will treat each Permitted Free Writing Prospectus as an “issuer free writing prospectus,” as defined in Rule 433, and has complied and will comply with the requirements of Rule 433 applicable to any Permitted Free Writing Prospectus, including timely filing with the Commission where required, legending and record keeping.

SECTION 5. Conditions of Agent’s Obligations.

The obligations of the Agent to purchase Notes from the Company as principal, the obligations of the Agent to solicit offers for the purchase of Notes as an agent of the Company and the obligations of any purchasers of Notes sold through the Agent as agent of the Company, will be subject to the accuracy of the representations and warranties on the part of the Company herein contained or contained in any certificate of an officer of the Company or any of its subsidiaries delivered pursuant to the provisions hereof, to the performance and observance by the Company of its covenants and other obligations hereunder, and to the following additional conditions precedent:

(a) Effectiveness of Registration Statement. The Registration Statement has become effective under the 1933 Act and no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act and no proceedings for that purpose shall have been instituted or shall be pending or threatened by the Commission, and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of counsel to the Agent.

(b) Legal Opinion. Prior to or on the date hereof, the Agent shall have received the legal opinion of counsel for the Company, in form and substance as of a recent date satisfactory to the Agent, to the effect that:

(i) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware.

(ii) The Company has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement.

(iii) To the best of their knowledge and information, the Company is duly qualified as a foreign corporation to transact business and is in good standing in each jurisdiction in which such qualification is required and in which failure of the Company to be so qualified and in good standing would have a material adverse effect upon the Company and its subsidiaries considered as a single enterprise.

(iv) Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”) has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, has corporate power and authority to own, lease and operate its properties and conduct its business as described in the Registration Statement, and, to the best of such counsel’s knowledge, is duly qualified as a foreign corporation to transact business and is in good standing in the State of New York; MLPF&S is a Controlled Subsidiary of the Company, as such term is defined in the Indenture; all of the issued and outstanding capital stock of MLPF&S has been duly authorized and validly issued, is fully paid and non-assessable, and all of such capital stock owned by the Company, to the best of their knowledge, is owned by the Company, free and clear of any mortgage, pledge, lien, encumbrance, claim or equity.

(v) This Agreement has been duly and validly authorized, executed and delivered by the Company.

(vi) The Indenture has been duly and validly authorized, executed and delivered by the Company and (assuming the Indenture has been duly authorized, executed and delivered by the Trustee) constitutes the legal, valid and binding agreement of the Company, enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting enforcement of creditors’ rights generally, or by general equity principles, and except further as enforcement thereof may be limited by (A) requirements that a claim with respect to any Notes under the Indenture denominated other than in U.S. dollars (or a foreign currency or foreign currency unit judgment in respect of such claim) be converted into United States dollars at a rate of exchange prevailing on a date determined pursuant to applicable law or (B) governmental authority to limit, delay or prohibit the making of payments in foreign currency or currency units or payments outside the United States.

(vii) The Notes, in the forms certified by the Company as of the date of the opinion are in the forms contemplated by the Indenture, have been duly and validly authorized by all necessary corporate action and, when executed and authenticated as specified in the Indenture and delivered against payment pursuant to this Agreement, will be valid and binding obligations of the Company, enforceable in accordance with their terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting enforcement of creditors’ rights generally or by general equity principles, and except further as enforcement thereof may be limited by (A) requirements that a claim with respect to any Notes denominated other than in U.S. dollars (or a foreign currency or foreign currency unit judgment in respect of such claim) be converted into United States dollars at a rate of exchange prevailing on a date determined pursuant to applicable law or (B) governmental authority to limit, delay or prohibit the making of payments in foreign currency or currency units or payments outside the United States, and each holder of Notes will be entitled to the benefits of the Indenture.

(viii) The Indenture and the Notes conform in all material respects to the descriptions thereof in the Prospectus.

(ix) The Indenture is qualified under the 1939 Act.

(x) The Registration Statement is effective under the 1933 Act and, to the best of their knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued under the 1933 Act or proceedings therefor initiated or threatened by the Commission.

(xi) The Registration Statement, at the time it became effective (other than the financial statements included therein, as to which no opinion need be rendered) complied as to form in all material respects with the requirements of the 1933 Act, the 1939 Act and the regulations under each of those Acts.

(xii) No consent, approval, authorization, or order of any court or governmental authority or agency is required in connection with the sale of the Notes, except such as have been obtained under the 1933 Act and state securities laws; and, to the best of their knowledge and information, the execution and delivery of this Agreement and the Indenture and the consummation of the transactions contemplated herein and therein will not conflict with or constitute a breach of, or default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any subsidiary pursuant to, any contract, indenture, mortgage, loan agreement, note, lease or other instrument to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, nor will such action result in any violation of the provisions of the charter or by-laws of the Company, or any law, administrative regulation or administrative or court decree.

(xiii) Each document filed pursuant to the 1934 Act and incorporated by reference in the Prospectus complied when filed as to form in all material respects with the 1934 Act and the 1934 Act Regulations thereunder.

(xiv) The Notes, in the form(s) certified by the Company as of the date of the opinion, when issued, authenticated and delivered pursuant to the provisions of this Agreement and the Indenture, will be excluded or exempted from the provisions of the Commodity Exchange Act, assuming the accuracy of any certifications of factual matters furnished by the Agent or the Company in connection with the issuance thereof.

In giving their opinion, counsel for the Company shall additionally state that nothing has come to their attention that would lead them to believe that the Original Registration Statement, at the time it became effective or, if an amendment to the Registration Statement or an Annual Report on Form 10-K has been filed by the Company with the Commission subsequent to the effectiveness of the Registration Statement, then at the time of the most recent such filing, or at the date of the opinion, contained or contains an untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; that the Registration Statement, including the Rule 430B

Information (except for financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom and the Form T-1, as to which no statement need be made), at each deemed effective date with respect to the Agent pursuant to Rule 430B(f)(2) of the 1933 Act Regulations, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; or that the Prospectus, as amended or supplemented, or (if such opinion is being delivered in connection with the purchase of Notes by the Agent as principal pursuant to Section 7(c) hereof) at the date of any agreement by the Agent to purchase Notes as principal and at the Settlement Date with respect thereto, as the case may be, contained or contains an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) Officer's Certificate. There shall not have been, since the respective dates as of which information is given in the Prospectus or the General Disclosure Package, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, and, upon the request of the Agent, prior to or on the date hereof the Agent shall have received a certificate of the President, a Vice President, the Treasurer, an Assistant Treasurer or the Controller of the Company, in form and substance substantially similar to the form of certificate described in Appendix I attached hereto and satisfactory to the Agent, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties of the Company herein contained are true and correct with the same force and effect as though expressly made at and as of the date of such certificate, (iii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the date of such certificate, and (iv) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted, are pending or, to the best of such officer's knowledge, are threatened by the Commission.

(d) Accountants' Comfort Letters. Prior to or on the date hereof, the Agent shall have received a letter from Deloitte & Touche LLP ("D&T") or such other independent public accountant of the Company, in form and substance as of a recent date satisfactory to the Agent, containing statements and information of the type ordinarily included in accountants' "comfort letters" to agents or underwriters with respect to the financial statements and certain financial information contained in the Registration Statement and the Prospectus (each, a "Comfort Letter").

(e) Other Documents. Prior to or on the date hereof, and on each Settlement Date, counsel to the Agent shall have been furnished with such documents and opinions as such counsel may reasonably require for the purpose of enabling such counsel to pass upon the issuance and sale of Notes as herein contemplated and related proceedings, or in order to evidence the accuracy and completeness of any of the representations and warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of Notes as herein contemplated shall be satisfactory in form and substance to the Agent and to counsel to the Agent.

SECTION 6. Delivery of and Payment for Notes Sold through the Agent as Agent

Delivery of Notes sold through the Agent as agent of the Company shall be made by the Company to the Agent for the account of any purchaser only against payment therefor in immediately available funds. In the event that a purchaser shall fail either to accept delivery of or to make payment for a Note on the date fixed for settlement, the Agent shall promptly notify the Company and deliver the Note to the Company, and, if the Agent has theretofore paid the Company for such Note, the Company will promptly return such funds to the Agent. If such failure has occurred for any reason other than default by the Agent in the performance of its obligations hereunder, the Company will reimburse the Agent on an equitable basis for its loss of the use of the funds for the period such funds were credited to the Company's account.

SECTION 7. Additional Covenants of the Company.

The Company further covenants and agrees with the Agent that:

(a) Reaffirmation of Representations and Warranties. Each acceptance by the Company of an offer for the purchase of Notes (whether to the Agent as principal or through the Agent as agent), and each delivery of Notes to the Agent (whether to the Agent as principal or through the Agent as agent), shall be deemed to be an affirmation that the representations and warranties of the Company contained in this Agreement and in any certificate theretofore delivered to the Agent pursuant hereto are true and correct at the time of such acceptance or sale, as the case may be, and an undertaking that such representations and warranties will be true and correct at the time of delivery to the purchaser or its agent, or to the Agent, of the Note or Notes relating to such acceptance or sale, as the case may be, as though made at and as of each such time (and it is understood that such representations and warranties shall relate to the Registration Statement and Prospectus as amended and supplemented to each such time).

(b) Subsequent Delivery of Certificates. Each time that (i) the Registration Statement or the Prospectus shall be amended or supplemented, (ii) there is filed with the Commission any document incorporated by reference into the Prospectus, (iii) (if required in connection with the purchase of Notes by the Agent as principal) the Company sells Notes to the Agent as principal or (iv) if the Company issues and sells Notes in a form not previously certified to the Agent by the Company, upon the request of the Agent the Company shall furnish or cause to be furnished to the Agent a certificate dated the date of filing with the Commission of such supplement or document, the date of effectiveness of such amendment, or the date of such sale, as the case may be, in form satisfactory to the Agent to the effect that the statements contained in the certificate referred to in Section 5(c) hereof which were last furnished to the Agent are true and correct at the time of such amendment, supplement, filing or sale, as the case may be, as though made at and as of such time (except that such statements shall be deemed to relate to the Registration Statement and the Prospectus as amended and supplemented to such time) or, in lieu of such certificate, a certificate of the same tenor as the certificate referred to in said Section 5(c), modified as necessary to relate to the Registration Statement and the Prospectus as amended and supplemented to the time of delivery of such certificate.

(c) Subsequent Delivery of Legal Opinions. Each time that (i) the Registration Statement or the Prospectus shall be amended or supplemented, (ii) there is filed with the

Commission any document incorporated by reference into the Prospectus, (iii) (if required in connection with the purchase of Notes by the Agent as principal) the Company sells Notes to the Agent as principal or (iv) if the Company issues and sells Notes in a form not previously certified to the Agent by the Company, upon the request of the Agent the Company shall furnish or cause to be furnished to the Agent and to counsel to the Agent the written opinion of counsel for the Company satisfactory to the Agent dated the date of filing with the Commission of such supplement or document, the date of effectiveness of such amendment, or the date of such sale, as the case may be, in form and substance satisfactory to the Agent, of the same tenor as the opinion referred to in Section 5(b) hereof, but modified, as necessary, to relate to the Registration Statement and the Prospectus as amended and supplemented to the time of delivery of such opinion; or, in lieu of such opinion, counsel last furnishing such opinion to the Agent shall furnish the Agent with a letter to the effect that the Agent may rely on such last opinion to the same extent as though it was dated the date of such letter authorizing reliance (except that statements in such last opinion shall be deemed to relate to the Registration Statement and the Prospectus as amended and supplemented to the time of delivery of such letter authorizing reliance).

(d) Subsequent Delivery of Comfort Letters. Each time that the Registration Statement or the Prospectus shall be amended or supplemented to include additional financial information or there is filed with the Commission any document incorporated by reference into the Prospectus which contains additional financial information, the Company shall cause D&T or such other independent public accountant of the Company to furnish the Agent a letter, dated the date of effectiveness of such amendment, supplement or document with the Commission in form satisfactory to the Agent, of the same tenor as the Comfort Letter contemplated in Section 5(d) hereof but modified to relate to the Registration Statement and Prospectus, as amended and supplemented to the date of such letter, with such changes as may be necessary to reflect changes in the financial statements and other information derived from the accounting records of the Company; or (if required in connection with the purchase of Notes by the Agent as principal) the Company sells Notes to the Agent as principal, the Company shall (i) cause D&T or such other independent public accountant of the Company to furnish the Agent a letter contemplated in Section 5(d) hereof, or (ii) deliver a copy of a Comfort Letter in the form contemplated in Section 5(d) hereof, but dated prior to the date of such sale, provided that such date shall not be prior to the date of the most recent amendment or supplement to the Registration Statement or the Prospectus which included additional financial information or the date of the most recent filing with the Commission of any document incorporated by reference into the Prospectus which contains additional financial information, and, upon the request of the Agent, a certificate of representations dated as of the Settlement Date with respect to certain financial and accounting matters of the Company (such certificate being in a form substantially similar to that which is required for the delivery of a Comfort Letter by that firm) executed by an official of the Company familiar with such financial and accounting matters.

SECTION 8. Indemnification.

(a) Indemnification of the Agent. The Company agrees to indemnify and hold harmless the Agent and each person, if any, who controls the Agent within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, or arising out of an untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, provided that (subject to Section 8(d) hereof) any such settlement is effected with the written consent of the Company; and

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by the Agent), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under subparagraph (i) or (ii) above;

provided, however, that this indemnity does not apply to any loss, liability, claim, damage or expense to the extent arising out of an untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by the Agent expressly for use in the Registration Statement (or any amendment thereto) or any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto).

(b) Indemnification of Company, Directors and Officers. The Agent agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act against any and all loss, liability, claim, damage and expense described in the indemnity contained in Section 8(a) hereof, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto) or any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information furnished to the Company by the Agent expressly for use therein.

(c) Actions Against Parties; Notification. Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an

indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 8(a) hereof, counsel to the indemnified parties shall be selected by the Agent and, in the case of parties indemnified pursuant to Section 8(b) hereof, counsel to the indemnified shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances.

No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 8 or 9 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) Settlement without Consent if Failure to Reimburse. If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 8(a)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

SECTION 9. Contribution.

In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 8 hereof is for any reason held to be unavailable to or insufficient to hold harmless the indemnified parties although applicable in accordance with its terms, the Company and the Agent shall contribute to the aggregate losses, liabilities, claims, damages and expenses of the nature contemplated by said indemnity agreement incurred by the Company and the Agent, as incurred, in such proportions that the Agent is responsible for that portion represented by the percentage that the total commissions and underwriting discounts received by the Agent to the date of such liability bears to the total sales price from the sale of Notes sold to or through the Agent to the date of such liability, and the Company is responsible for the balance; provided, however, that no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section, each person, if any, who controls the Agent within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Agent, and each director of the Company, each officer of the Company who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company.

SECTION 10. Payment of Expenses.

Unless otherwise agreed between the Company and the Agent, the Company will pay all expenses incident to the performance of its obligations under this Agreement, including:

(a) The preparation, filing, printing and delivery of the Registration Statement as originally filed and all amendments thereto and any preliminary prospectus, any Permitted Free Writing Prospectus, the Prospectus and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Agent to investors;

(b) The preparation, printing and delivery of this Agreement and the Indenture;

(c) The preparation, issuance and delivery of the Notes, including any fees and expenses relating to the eligibility and issuance of Notes in book-entry form and the cost of obtaining CUSIP or other identification numbers for the Notes;

(d) The fees and disbursements of the Company's accountants, counsel and other advisors or agents (including any calculation agent or exchange rate agent) and of the Trustee and its counsel;

(e) The reasonable fees and disbursements of counsel to the Agent incurred in connection with the establishment of the Program and incurred from time to time in connection with the transactions contemplated hereby;

(f) The fees charged by nationally recognized statistical rating organizations for the rating of the Program and the Notes;

(g) The fees and expenses incurred in connection with any listing of Notes on a securities exchange;

(h) The qualification of the Notes under state securities laws in accordance with the provisions of Section 4(i) hereof, including the filing fees incident to, and the reasonable fees and disbursements to counsel to the Agent in connection with, the preparation of any Blue Sky Survey and any Legal Investment Survey.

(i) The filing fees incident to, and the reasonable fees and disbursements of counsel to the Agent in connection with, the review, if any, by the National Association of Securities Dealers, Inc. (the "NASD"); and

(j) Any advertising and other out-of-pocket expenses of the Agent incurred with the approval of the Company.

SECTION 11. Representations, Warranties and Agreements to Survive Delivery.

All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company submitted pursuant hereto or thereto shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the Agent or any controlling person of the Agent, or by or on behalf of the Company, and shall survive each delivery of and payment for the Notes.

SECTION 12. Termination.

(a) Termination of this Agreement. This Agreement (excluding any agreement hereunder by the Agent to purchase Notes from the Company as principal) may be terminated for any reason, at any time by either the Company or the Agent upon the giving of 30 days' prior written notice of such termination to the other party hereto.

(b) Termination of Agreement to Purchase Notes as Principal. The Agent may terminate any agreement hereunder by the Agent to purchase Notes as principal, immediately upon notice to the Company, at any time prior to the Settlement Date relating thereto (i) if there has been, since the date of such agreement or since the respective dates as of which information is given in the Registration Statement, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, or (ii) if there shall have occurred any material adverse change in the financial markets in the United States or any outbreak or escalation of hostilities or other national or international calamity or crisis the effect of which is such as to make it, in the judgment of the Agent, impracticable or inadvisable to market the Notes or enforce contracts for the sale of the Notes, or (iii) if trading in any securities of the Company has been suspended by the Commission or a national securities exchange, or if trading generally on the American Stock Exchange or the New York Stock Exchange or the Nasdaq Global Market System has been suspended or limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices for securities have been required, by said exchanges, the Nasdaq Global Market System or by order of the Commission, the NASD or any other governmental authority, or a banking moratorium shall have been declared by either Federal or New York authorities or if a banking moratorium shall have been declared by the relevant authorities in the country or countries of origin of any foreign currency or currencies in which the Notes are denominated or payable or a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States, or (iv) if the rating assigned by any nationally recognized securities rating agency to any debt securities of the Company as of the date of any applicable principal purchase shall have been lowered since that date or if any such rating agency shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any debt securities of the Company, or (v) if there shall have come to the Agent's attention any facts that would cause the Agent to believe that the Prospectus, at the time it was required to be delivered to a purchaser of Notes, included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at the time of such delivery, not misleading.

(c) General. In the event of any such termination, neither party will have any liability to the other party hereto, except that (i) the Agent shall be entitled to any commissions earned in accordance with the third paragraph of Section 3(b) hereof, (ii) if at the time of termination (a) the Agent shall own any Notes purchased by it from the Company as principal with the intention of reselling them or (b) an offer to purchase any of the Notes has been accepted by the Company but the time of delivery to the purchaser or his agent of the Note or Notes relating thereto has not occurred, the covenants set forth in Sections 4 and 7 hereof shall remain in effect until such Notes are so resold or delivered, as the case may be, and (iii) the covenant set forth in Section 4(h) hereof, the provisions of Section 10 hereof, the indemnity and contribution agreements set forth in Sections 8 and 9 hereof, and the provisions of Sections 11, 14 and 15 hereof shall remain in effect.

SECTION 13. Notices.

Unless otherwise provided herein, all notices required under the terms and provisions hereof shall be in writing, either delivered by hand, by mail or by telecopier, and any such notice shall be effective when received at the address specified below.

If to the Company:

Merrill Lynch & Co., Inc.
4 World Financial Center
New York, New York 10080
Attention: Treasury
Telecopy No.: (212) 738-5687

With a copy to:

Merrill Lynch & Co., Inc.
222 Broadway, 17th Floor
New York, New York 10038
Attention: Corporate Secretary
Fax: (212) 670-4703

If to the Agent:

Merrill Lynch, Pierce, Fenner & Smith
Incorporated
World Financial Center
North Tower - 10th Floor
New York, New York 10281-1310
Attention: MTN Product Management
Fax: (212) 449-2234

or at such other address as such party may designate from time to time by notice duly given in accordance with the terms of this Section 13.

SECTION 14. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that (a) the purchase and sale of the Notes pursuant to this Agreement, including the determination of the public offering price of the Notes and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the Agent, on the other hand, (b) in connection with the offering contemplated hereby and the process leading to such transaction the Agent is and has been acting solely as a principal and is not the agent or fiduciary of the Company, or its stockholders, creditors, employees or any other party, (c) the Agent has not assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether the Agent has advised or is currently advising the Company on other matters) and the Agent has no obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (d) the Agent and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, and (e) the Agent has not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

SECTION 15. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Agent, or any of them, with respect to the subject matter hereof.

SECTION 16. Parties.

This Agreement shall inure to the benefit of and be binding upon the Agent and the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the parties hereto and their respective successors and the controlling persons, officers and directors referred to in Sections 8 and 9 hereof and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the parties hereto and their respective successors and said controlling persons, officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Notes shall be deemed to be a successor by reason merely of such purchase.

SECTION 17. GOVERNING LAW; FORUM.

THIS AGREEMENT AND ALL THE RIGHTS AND OBLIGATIONS OF THE PARTIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES. ANY SUIT, ACTION OR PROCEEDING BROUGHT BY THE COMPANY AGAINST THE AGENT IN CONNECTION WITH OR ARISING UNDER THIS AGREEMENT SHALL BE BROUGHT SOLELY IN THE STATE OR FEDERAL COURT OF APPROPRIATE JURISDICTION LOCATED IN THE BOROUGH OF MANHATTAN, THE CITY OF NEW YORK.

SECTION 18. Effect of Headings.

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 19. Counterparts.

This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts hereof shall constitute a single instrument.

If the foregoing is in accordance with the Agent's understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this Agreement along with all counterparts will become a binding agreement between the Agent and the Company in accordance with its terms.

Very truly yours,

MERRILL LYNCH & CO., INC.

By: /s/ John Laws

Name: John Laws

Title: Assistant Treasurer

CONFIRMED AND ACCEPTED,
as of the date first above written:

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: /s/ Scott G. Primrose

Name: Scott G. Primrose

Title: Authorized Signatory

Managing Director

Global Debt Capital Markets

The following terms, if applicable, shall be agreed to by the Agent and the Company in connection with each sale of Notes:

Principal Amount: \$ _____
(or principal amount of foreign currency)

Interest Rate:

If Fixed Rate Note, Interest Rate:

If Floating Rate Note:

Interest Rate Basis:
Initial Interest Rate:
Initial Interest Reset Date:
Spread or Spread Multiplier, if any:
Interest Rate Reset Date(s):
Interest Payment Date(s):
Index Maturity:
Maximum Interest Rate, if any:
Minimum Interest Rate, if any:
Interest Rate Reset Period:
Interest Payment Period:
Calculation Agent:

If Redeemable:

Initial Redemption Date:
Initial Redemption Percentage:
Annual Redemption Percentage Reduction:

If Repayable:

Optional Repayment Date(s):
Date of Maturity:
Purchase Price: _____ %
Settlement Date and Time:
Currency of Denomination:
Denominations (if currency is other than U.S. dollar):
Currency of Payment:
Additional Terms:

Also, in connection with the purchase of Notes by the Agent as principal, agreement as to whether the following will be required:

Officer's Certificate pursuant to Section 7(b) of the Distribution Agreement.
Legal Opinion pursuant to Section 7(c) of the Distribution Agreement.
Comfort Letter pursuant to Section 7(d) of the Distribution Agreement.
Stand-off Agreement pursuant to Section 4(k) of the Distribution Agreement.

SCHEDULE A

Unless otherwise set forth in the applicable Pricing Supplement, as compensation for the services of the Agent hereunder, the Company shall pay the Agent, on a discount basis, a commission for the sale of each Note equal to the principal amount of such Note multiplied by the appropriate percentage set forth below:

<u>MATURITY RANGES</u>	<u>PERCENT OF PRINCIPAL AMOUNT</u>
From 9 months to less than 1 year	.050%
From 1 year to less than 18 months	.075
From 18 months to less than 2 years	.125
From 2 years to less than 3 years	.175
From 3 years to less than 4 years	.250
From 4 years to less than 5 years	.300
From 5 years to less than 6 years	.350
From 6 years to less than 7 years	.375
From 7 years to less than 8 years	.400
From 8 years to less than 9 years	.425
From 9 years to less than 10 years	.450
From 10 years to less than 15 years	.475
From 15 years to less than 20 years	.550
From 20 years to 30 years	.600
Beyond 30 years	*

* To be negotiated by the Company and the Agent at the time of sale.

APPENDIX I

MERRILL LYNCH & CO., INC.

Officer's Certificate

I, [name], the [title] of Merrill Lynch & Co., Inc., a Delaware corporation (the "Company"), pursuant to Section 7(b) of the Distribution Agreement dated March 31, 2006 (the "Distribution Agreement"), between the Company and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, hereby certify that, to the best of my knowledge, after reasonable investigation:

(i) Since March 31, 2006, there has been no material adverse change in the condition, financial or otherwise, of the Company and its subsidiaries considered as one enterprise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business other than as contemplated or set forth in the prospectus (the "Prospectus") contained in the registration statement (File No. 333-) relating to the Company's Medium-Term Notes, Series C (the "Registration Statement");

(ii) The representations and warranties of the Company in Section 2 of the Distribution Agreement are true and correct with the same force and effect as though expressly made as of the date hereof;

(iii) The Company has performed or complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the date hereof; and

(iv) No stop order suspending the effectiveness of the Registration Statement has been issued and no proceeding for that purpose has been initiated or threatened by the Securities and Exchange Commission.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of the Company.

Dated: _____

[name]
[title]

MERRILL LYNCH & CO., INC.

TO

THE CHASE MANHATTAN BANK,
as Trustee

TWELFTH SUPPLEMENTAL INDENTURE

Dated as of September 1, 1998

Supplemental to Indenture
Dated as of April 1, 1983
and as Amended and Restated as of April 1, 1987

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This Twelfth Supplemental Indenture, dated as of September 1, 1998 (the "Supplemental Indenture"), by and between Merrill Lynch & Co., Inc., a corporation organized and existing under the laws of the State of Delaware, having its principal office at World Financial Center, New York, New York 10281 (the "Company"), and The Chase Manhattan Bank, formerly known as Chemical Bank (successor by merger to Manufacturers Hanover Trust Company), a corporation duly organized and existing under the laws of the State of New York and having its Corporate Trust Office at 450 West 33rd Street, New York, New York 10001, as trustee (the "Trustee").

WHEREAS, the Company has heretofore executed and delivered its Indenture, dated as of April 1, 1983 and restated as of April 1, 1987 (as amended and supplemented to the date hereof, the "Principal Indenture"), to the Trustee to provide for the issuance from time to time of its unsecured and unsubordinated debentures, notes or other evidences of senior indebtedness (the "Securities"), unlimited as to principal amount or aggregate issue price, as the case may be, and

WHEREAS, the Principal Indenture, as amended by the Trust Indenture Reform Act of 1990, and this Supplemental Indenture are hereinafter collectively referred to as the "Indenture"; and

WHEREAS, the Company proposes to allow for terms of the Securities which will permit or require the Company to pay and discharge the Securities when due by delivering to the Holders thereof other securities (whether or not issued by, or the obligations of, the Company) or a combination of cash, other securities and/or other property, as provided herein; and

WHEREAS, Section 901 of the Principal Indenture provides that, without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental to the Principal Indenture, in form satisfactory to the Trustee, to make any provisions with respect to matters or questions arising under the Principal Indenture which shall not be inconsistent with the provisions of the Principal Indenture and which shall not adversely affect the interests of the Holders of Securities of any series or any related coupons in any material respect; and

WHEREAS, the Company has duly authorized the execution and delivery of this Supplemental Indenture, and all things necessary to make this Supplemental Indenture a valid agreement of the Company, in accordance with its terms, have been done;

NOW, THEREFORE, the Company and the Trustee, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby covenant and agree, for the equal and proportionate benefit of all Holders, as follows:

ARTICLE I.

DEFINITIONS

Section 1.01 Definitions. For all purposes of the Principal Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Article I have the meanings assigned to them in this Article I. Capitalized terms used in the Principal Indenture and this Supplemental Indenture but not defined herein are used as they are defined in the Principal Indenture.

“Maturity” when used with respect to any Security means the date on which the Maturity Consideration or an installment of such Maturity Consideration of such Security becomes due and payable or deliverable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, notice of redemption, request for redemption or otherwise.

“Maturity Consideration” means the securities (whether or not issued by, or the obligation of, the Company), the amount of cash (including payment of principal and premium, if any), or a combination of cash, securities and/or other property, in either case payable or deliverable upon payment and discharge of the Securities of a series when due or upon redemption as established in or pursuant to, from time to time, a Board Resolution, and set forth in an Officers’ Certificate or established in one or more supplemental indentures.

“Paying Agent” means any Person authorized by the Company to pay or deliver the Maturity Consideration or interest on any Securities on behalf of the Company.

“Place of Payment” when used with respect to the Securities of any series means the place or places where the Maturity Consideration and interest on the Securities of that series are payable or deliverable as provided pursuant to Section 301.

“Stated Maturity” when used with respect to any Security or any installment of the Maturity Consideration or interest thereon means the date specified in such Security or a coupon representing such installment of interest as the fixed date on which the Maturity Consideration of such Security or such installment of Maturity Consideration or interest is due and payable or deliverable.

“Supplemental Indenture” has the meaning specified in the first paragraph of this instrument.

ARTICLE II.

**AMENDMENT OF CERTAIN PROVISIONS
OF THE PRINCIPAL INDENTURE**

Section 2.01 Amendments. The Principal Indenture is hereby amended with respect to all series of Securities issued on or after the date hereof as follows:

(a) By deleting the first paragraph of Section 308 of the Principal Indenture in its entirety and inserting in its stead the following:

“Prior to due presentment of a Registered Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Registered Security is registered as the owner of such Registered Security for the purpose of receiving delivery or payment of the Maturity Consideration in respect of, and (subject to Sections 305 and 307) interest on, and Additional Amounts with respect to, such Registered Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.”

(b) By amending Section 401 of the Principal Indenture by deleting clause (2) in its entirety and inserting in its stead the following:

“(2) the Company has paid or delivered or caused to be paid or delivered all other amounts or consideration payable or deliverable hereunder by the Company; and”

(c) By deleting Section 402 of the Principal Indenture in its entirety and inserting in its stead the following:

“SECTION 402. Application of Trust Consideration. Subject to the provisions of the last paragraph of Section 1003, all money and other consideration deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Securities, the coupons and this indenture, to the payment or delivery, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the Maturity Consideration, and any interest and Additional Amounts for whose payment or delivery such money or other consideration has been deposited with the Trustee, but such money or other consideration need not be segregated from other funds or other property except to the extent required by law.”

(d) By deleting clause (2) of Section 501 of the Principal Indenture in its entirety and inserting in its stead the following:

“(2) default in the delivery or payment of the Maturity Consideration in respect of any Security of that series when it becomes due or payable or deliverable; or”;
and

(e) By deleting Section 502 of the Principal Indenture in its entirety and inserting in its stead the following:

“SECTION 502. Acceleration of Maturity; Rescission and Annulment. If an Event of Default with respect to Securities of any series at the time Outstanding occurs and is continuing, then and in every such case the Trustee or the Holders of not less than 25% in principal amount or, if such Securities are not payable at Maturity for a fixed principal amount, 25% of the aggregate issue price of the Outstanding Securities of that series may declare the principal of all the Securities of such series, or such other amount or property, as may be provided for in the Securities of that series, to be due and payable immediately by a notice in writing to the Company (and to the Trustee if given by the Holders), and upon any such declaration such principal or such amount or property shall become immediately due and payable.

At any time after such a declaration of acceleration with respect to Securities of any series has been made and before a judgment or decree for payment of the Maturity Consideration due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in principal amount or, if such Securities are not payable at Maturity for a fixed principal amount, the aggregate issue price of the Outstanding Securities of that series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if

(1) the Company has deposited with or paid the Trustee

(A) the Maturity Consideration relating to any Securities of that series which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates borne by or provided for in such Securities,

(B) all overdue installments of interest on and any Additional Amounts payable in respect of all Securities of that series,

(C) to the extent that payment of such interest is lawful, interest upon overdue installments of interest and Additional Amounts at the rate or rates borne by or provided for in such Securities, and

(D) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel,

and

(2) all Events of Default with respect to Securities of that series, other than the non-delivery or non-payment of the Maturity Consideration with respect to such series due solely by reason of such declaration of acceleration, have been cured or waived as provided in Section 513.

No such rescission shall affect any subsequent default or impair any right consequent thereon.”

(f) By deleting the first paragraph of Section 503 of the Principal Indenture in its entirety and inserting in its stead the following:

“The Company covenants that if,

(1) default is made in the payment of any installment of interest on or any Additional Amounts payable in respect of any Securities when such interest or such Additional Amounts shall have become due and payable and such default continues for a period of 30 days, or

(2) default is made in the delivery or payment of the Maturity Consideration relating to any Security when due,

the Company will, upon demand of the Trustee, deliver or pay to it, for the benefit of the Holders of such Securities and coupons, the whole amount and/or other consideration then due and payable or deliverable on such Securities and coupons for Maturity Consideration and interest and Additional Amounts, if any, with interest upon the overdue Maturity Consideration and, to the extent that payment of such interest shall be legally enforceable, upon overdue installments of interest or any Additional Amounts, at the rate or rates borne by or provided for in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Company fails to deliver or to pay such amounts and/or other consideration forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of such amounts and/or other consideration so due and undelivered or unpaid, and may prosecute such proceeding to judgment or final decree, and may enforce the same against the Company or any other obligor upon such Securities and collect the moneys and/or other consideration adjudged or decreed to be deliverable or payable in the manner provided by law out of the property of the Company or any other obligor upon such Securities, wherever situated.”

(g) By deleting Section 506 of the Principal Indenture in its entirety and inserting in its stead the following:

“SECTION 506. Application of Money and Other Consideration Collected. Any money or other consideration collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money or other consideration on account of the Maturity Consideration, interest or any Additional Amounts, upon presentation of the relevant Securities or coupons, or both, as the case may be and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 607;

SECOND: To the payment of any amounts then due and unpaid on the Securities and coupons for Maturity Consideration and interest and any Additional Amounts payable in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the aggregate amounts due and payable on such Securities and coupons for Maturity Consideration and interest and any Additional Amounts, respectively; and

THIRD: The balance, if any, to the Person or Persons entitled thereto.”

(h) By deleting Section 507 (2) and (5) of the Principal Indenture in their entirety and inserting in their stead the following:

“(2) The Holders of not less than 25% in principal amount or, if such Securities are not payable at Maturity for a fixed principal amount, the aggregate issue price of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;”

“(5) No direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount or, if such Securities are not payable at Maturity for a fixed principal amount, aggregate issue price of the Outstanding Securities of that series;”

(i) By deleting Section 508 of the Principal Indenture in its entirety and inserting in its stead the following:

“SECTION 508. Unconditional Right of Holders to Receive the Maturity Consideration and Interest. Notwithstanding any other provision in this Indenture, the Holder of any Security or coupon shall have the right, which is absolute and unconditional, to receive delivery or payment of the Maturity Consideration relating to, and (subject to Sections 305 and 307) interest on and any Additional Amounts payable in respect of, such Security or payment of such coupon on the respective Stated Maturity or Maturities expressed in such Security or coupon (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such delivery or payment, and such right shall not be impaired without the consent of such Holder.”

(j) By deleting the first clause of the first sentence of Section 513 of the Principal Indenture in its entirety and inserting in its stead the following:

“(1) in the delivery or payment of the Maturity Consideration or interest on or Additional Amounts payable in respect of any Securities of such series, or”

(k) By deleting Section 801 of the Principal Indenture in its entirety and inserting in its stead the following:

“SECTION 801. Consolidations and Mergers of the Company and Sales, Leases and Conveyances Permitted Subject to Certain Conditions. The Company may consolidate with, or sell, lease or convey all or substantially all of its assets to, or merge with or into any other corporation, provided that in any such case, (i) either the Company shall be the continuing corporation, or the successor corporation shall be a corporation organized and existing under the laws of the United States of America or a State thereof and such successor corporation shall expressly assume the due and punctual delivery or payment of the Maturity Consideration in respect of, any interest on, and any Additional Amounts payable pursuant to Section 1004 with respect to, all the Securities, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed by the Company by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such corporation, and (ii) the Company or such successor corporation, as the case may be, shall not, immediately after such merger or consolidation, or such sale, lease or conveyance, be in default in the performance of any such covenant or condition.”

(l) By deleting the first sentence of Section 902 of the Principal Indenture in its entirety and inserting in its stead the following:

“With the consent of the Holders of not less than 66 2/3% of the principal amount or, in the case of Securities which are not payable at Maturity for a fixed principal amount, the aggregate issue price of the Outstanding Securities of each series affected by such supplemental indenture, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby,

(1) change the Stated Maturity of the Maturity Consideration of, or any installment of interest or Additional Amounts on, any Security, or reduce the principal amount thereof or reduce the amount or change the type of Maturity Consideration or reduce the rate of interest thereon or any Additional Amounts payable in respect thereof, or change the obligation of the Company to pay Additional Amounts pursuant to Section 1004 (except as contemplated by 801(i) and permitted by Section 901(1)), or reduce the amount of Maturity Consideration of an Original Issue Discount Security that would be due and deliverable or payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 502, or, change any Place of Payment where, or the coin or currency in which, any Maturity Consideration, interest or Additional Amounts on any Security are deliverable or payable, or change the provisions with respect

to redemption, or impair the right to institute suit for the enforcement of delivery or payment on or with respect to any Securities on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or

(2) reduce the percentage in principal amount or aggregate issue price, as the case may be, of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture, or reduce the requirements of Section 1404 for quorum or voting, or

(3) modify any of the provisions of this Section, or Section 513, or Section 1007, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby.”

(m) By deleting Section 1001 of the Principal Indenture in its entirety and inserting in its stead the following:

“Section 1001. Delivery or Payment of Maturity Consideration and Interest. The Company covenants and agrees for the benefit of the Holders of each series of Securities that it will duly and punctually deliver or pay the Maturity Consideration and interest on and any Additional Amounts payable in respect of the Securities of that series in accordance with the terms of such series of Securities, any coupons appertaining thereto and this Indenture. Any interest due on and any Additional Amounts payable in respect of Bearer Securities on or before Maturity, other than Additional Amounts, if any, payable as provided in Section 1004 in respect of principal of (or premium, if any, on) such a Security, shall be payable only upon presentation and surrender of the several coupons for such interest installments as are evidenced thereby as they severally mature.”

(n) By deleting Section 1003 of the Principal Indenture in its entirety and inserting in its stead the following:

“SECTION 1003. Money or Other Consideration for Security Payments to Be Held in Trust. If the Company shall at any time act as its own Paying Agent with respect to any series of Securities, it will, on or before each due date of the Maturity Consideration or interest on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto consideration in an amount sufficient to deliver or pay the Maturity Consideration or a sum sufficient to pay the interest so becoming due until such consideration shall be delivered or paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents with respect to any series of Securities, it will, on or prior to each due date of the Maturity Consideration or interest on any Securities of that series, deposit with a Paying Agent consideration in an amount sufficient to deliver or pay the Maturity Consideration or a sum sufficient to pay the interest so becoming due, such consideration to be held as provided by the Trust Indenture Act, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent for any series of Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will (i) comply with the provisions of the Trust Indenture Act applicable to it as Paying Agent, (ii) give the Trustee notice of any default by the Company (or any other obligor upon the Securities of that series) in the making of any delivery or payment of Maturity Consideration or interest on the Securities of that series; and (iii) during the continuance of any such default, upon the written request of the Trustee, forthwith deliver or pay to the Trustee all consideration so held in trust by such Paying Agent.

The Company may at any time, for any purpose, deliver or pay, or by Company Order direct any Paying Agent to deliver or pay, to the Trustee all consideration held in trust by the Company or such Paying Agent, such consideration to be held by the Trustee upon the same trusts as those upon which such consideration was held by the Company or such Paying Agent; and, upon such delivery or payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such consideration.

Except as otherwise provided in the form of Securities of any particular series pursuant to the provisions of this Indenture, any consideration deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the interest on or delivery or payment upon discharge of any Securities of any series and remaining unclaimed for two years after such consideration has become due and deliverable or payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security or any coupon appertaining thereto shall thereafter, as an unsecured general creditor, look only to the Company for delivery or payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust consideration, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in an Authorized Newspaper in each Place of Payment or to be mailed to Holders of the Registered Securities, or both, notice that such consideration remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication or mailing, any unclaimed balance of such consideration then remaining will be delivered or repaid to the Company.”

(o) By amending Article Fifteen to include the following new section:

“SECTION 1502. Maturity Consideration. If the Securities of any series provide for the payment or delivery of any Maturity Consideration other than money, the Company will pay or deliver, as the case may be, to the Holder of any such Security, the Maturity Consideration as provided therein. Whenever in this Indenture there is mentioned the payment of money in respect of the principal of (or premium, if any) any Security of any series, such mention shall be deemed to include the payment or delivery of consideration other than money to the extent that such payment or delivery is permitted or required by the terms of the Securities of any series. Express mention of the payment or delivery of Maturity Consideration in any provision herein shall not be construed as excluding Maturity Consideration other than money where such express mention is not made.

If any of the Securities of any series are not payable at Maturity for a fixed principal amount, all references herein to the principal amount of such Securities shall be deemed to include mention of the aggregate issue price of such Securities, as the context requires. Express reference to the issue price or aggregate issue price of any Securities of any series in any provision herein shall not be construed as excluding such references where such express reference is not made.”

ARTICLE III.

MISCELLANEOUS

Section 3.01 Effect of Supplemental Indenture. The Principal Indenture, as supplemented and amended by this Supplemental Indenture and all other indentures supplemental thereto, is in all respects ratified and confirmed, and the Principal Indenture, this Supplemental Indenture and all indentures supplemental thereto shall be read, taken and construed as one and the same instrument.

Section 3.02 Conflict with Trust Indenture Act. If any provision hereof limits, qualifies or conflicts with another provision hereof which is required or deemed to be included in this Supplemental Indenture by any of the provisions of the Trust Indenture Act, such required or deemed included provision shall control.

Section 3.03 Successors and Assigns. All covenants and agreements in this Supplemental Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

Section 3.04 Separability Clause. In case any provision in this Supplemental Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions (or of the other series of Securities) shall not in any way be affected or impaired thereby.

Section 3.05 Benefits of Supplemental Indenture. Nothing in this Supplemental Indenture, express or implied, shall give to any Person, other than the parties hereto and their

successors hereunder and the Holders of Securities issued after the date hereof, any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

Section 3.06 Governing Law. THIS SUPPLEMENTAL INDENTURE SHALL BE DEEMED TO BE A CONTRACT MADE UNDER THE LAWS OF THE STATE OF NEW YORK AND THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

Section 3.07 Execution in Counterparts. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 3.08 Responsibility for Recitals. The recitals contained herein shall be taken as statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of the Principal Indenture or this Supplemental Indenture.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

MERRILL LYNCH & CO., INC.

By: /s/ Michael J. Castellano
Name: Michael J. Castellano
Title: Senior Vice President and Controller

THE CHASE MANHATTAN BANK,
as Trustee

By: /s/ Andrew M. Deck
Name: Andrew M. Deck
Title: Vice President

MERRILL LYNCH & CO., INC.

and

ChaseMellon Shareholder Services, L.L.C.

Rights Agent

Amended and Restated

Rights Agreement

Dated as of December 2, 1997

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**AMENDED AND RESTATED
RIGHTS AGREEMENT**

AMENDED AND RESTATED RIGHTS AGREEMENT, dated as of December 2, 1997, between Merrill Lynch & Co., Inc., a Delaware corporation (the "Company"), and ChaseMellon Shareholder Services, L.L.C., a New Jersey limited liability company (the "Rights Agent").

WHEREAS, on December 16, 1987 (the "Rights Dividend Declaration Date"), the Board of Directors of the Company authorized and declared a distribution of one Right (each a "Right") for each share of common stock, par value \$1.33 1/3 per share, of the Company (the "Company Common Stock") outstanding at the Close of Business (as defined below) on January 8, 1988 (the "Record Date"), and issued one Right (as such number may hereinafter be adjusted pursuant hereto) for each share of Company Common Stock issued between the Record Date (whether originally issued or delivered from the Company's treasury) and, except as otherwise provided in Section 22, the Distribution Date (as defined below), each Right initially representing the right to purchase upon the terms and subject to the conditions hereinafter set forth one Unit of Preferred Stock (as defined below);

WHEREAS, the Board of Directors has authorized amending the Rights Agreement, dated as of December 16, 1987, between the Company and Manufacturers Hanover Trust Company, a New York corporation, which amendment will, among other things, extending the Final Expiration Date (as defined below); and

WHEREAS, the Company desires to set forth certain terms and conditions governing the Rights;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereby agree as follows:

SECTION 1. Certain Definitions. For purposes of this Agreement, the following terms have the meanings indicated:

(a) "Acquiring Person" shall mean any Person who or which, alone or together with all Affiliates and Associates of such Person, shall be the Beneficial Owner of 15% or more of the shares of Company Common Stock then outstanding, but shall not include (x) the Company, any Subsidiary of the Company, any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such plan acting in such capacity or (y) any such Person who has become and is such a Beneficial Owner solely because (A) of a change in the aggregate number of shares of the Company Common Stock since the last date on which such Person acquired Beneficial Ownership of any shares of the Company Common Stock and who has not acquired Beneficial Ownership of any additional shares since the date on which such person became such a Beneficial Owner or (B) it acquired such Beneficial Ownership in the good faith belief that such acquisition

would not (1) cause such Beneficial Ownership to exceed 15% of the shares of the Company Common Stock then outstanding and such Person relied in good faith in computing the percentage of its Beneficial Ownership on publicly filed reports or documents of the Company which are inaccurate or out-of-date or (2) otherwise cause a Distribution Date or the adjustment provided for in Section 11(a)(ii) to occur. Notwithstanding clause (y)(B) of the preceding sentence, if any Person that is not an Acquiring Person due to such clause (y)(B) does not reduce its percentage of Beneficial Ownership of the Company Common Stock to 15% or less by the Close of Business on the fifth Business Day after notice from the Company (the date of notice being the first day) that such person's Beneficial Ownership of the Company Common Stock so exceeds 15%, such Person shall, at the end of such five Business Day period, become an Acquiring Person (and such clause (y)(B) shall no longer apply to such Person). For purposes of this definition, the determination whether any Person acted in "good faith" shall be conclusively determined by the Board of Directors of the Company, acting by a vote of those directors of the Company whose approval would be required to redeem the rights under Section 23.

(b) "Adjustment Shares" has the meaning set forth in Section 11(a)(ii).

(c) "Adjustment Spread" has the meaning set forth in Section 34(a)(ii).

(d) "Affiliate" and "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 under the Exchange Act Regulations as in effect on the date of this Agreement.

(e) A Person shall be deemed the "Beneficial Owner" of, and shall be deemed to "beneficially own", and shall be deemed to have "Beneficial Ownership" of, any securities:

(i) of which such Person or any of such Person's Affiliates or Associates is considered to be a "beneficial owner" under Rule 13d-3 of the Exchange Act Regulations as in effect on the date of this Agreement; provided, however, that a Person shall not be deemed the "Beneficial Owner" of, or to "beneficially own", or have a "Beneficial Ownership" of, any securities under this subparagraph (i) as a result of an agreement, arrangement or understanding to vote such securities if such agreement, arrangement or understanding (A) arises solely from a revocable proxy given in response to a proxy or consent solicitation made pursuant to, and in accordance with, the applicable provisions of the Exchange Act and the Exchange Act Regulations, and (B) is not reportable by such Person on Schedule 13D under the Exchange Act (or any comparable or successor report);

(ii) which are beneficially owned, directly or indirectly, by any other Person (or any Affiliate or Associate of such other Person) with which such Person (or any of such Person's Affiliates or Associates) has any agreement, arrangement or understanding (whether or not in writing), for the purpose of acquiring, holding, voting (except pursuant to a revocable proxy as described in the proviso to subparagraph (i) of this paragraph (e)) or disposing of such securities; or

(iii) which such Person or any of such Person's Affiliates or Associates, directly or indirectly, has the right to acquire (whether such right is exercisable immediately or only after the passage of time or upon the satisfaction of conditions) pursuant to any agreement, arrangement or understanding (whether or not in writing) or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise;

provided, however, that under this paragraph (e) a Person shall not be deemed the "Beneficial Owner" of, or to "beneficially own", or to have "Beneficial Ownership" of, (A) securities tendered pursuant to a tender or exchange offer made in accordance with Exchange Act Regulations by such Person or any of such Person's Affiliates or Associates until such tendered securities are accepted for purchase or exchange, (B) securities that may be issued upon exercise of Rights at any time prior to the occurrence of a Triggering Event, or (C) securities that may be issued upon exercise of Rights from and after the occurrence of a Triggering Event, which Rights were acquired by such Person or any of such Person's Affiliates or Associates prior to the Distribution Date or pursuant to Section 3(a) or Section 22 or pursuant to Section 11(i) in connection with an adjustment made with respect to any such Rights.

(f) "Business Day" shall mean any day other than a Saturday, Sunday or a day on which banking institutions in New York City are authorized or obligated by law or executive order to close.

(g) "Close of Business" on any given date shall mean 5:00 P.M., New York City time, on such date; provided, however, that if such date is not a Business Day it shall mean 5:00 P.M., New York City time, on the next succeeding Business Day.

(h) "Common Stock" of any Person other than the Company shall mean the capital stock of such Person with the greatest voting power, or, if such Person shall have no capital stock, the equity securities or other equity interest having power to control or direct the management of such Person.

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- (i) “Company” has the meaning set forth in the recital of parties to this Agreement.
 - (j) “Company Common Stock” has the meaning set forth in the preliminary statements to this Agreement.
 - (k) “Current Value” has the meaning set forth in Section 11(a)(iii).
 - (l) “Depository Agent” has the meaning set forth in Section 7(c).
 - (m) “Distribution Date” has the meaning set forth in Section 3(a).
 - (n) “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.
 - (o) “Exchange Act Regulations” shall mean the General Rules and Regulations under the Exchange Act.
 - (p) “Expiration Date” has the meaning set forth in Section 7(a).
 - (q) “Final Expiration Date” has the meaning set forth in Section 7(a).
 - (r) “Person” shall mean any individual, partnership, limited liability company, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group deemed to be a person under Section 14(d)(2) of the Exchange Act.
 - (s) “Preferred Stock” shall mean the Series A Junior Preferred Stock, par value \$1.00 per share, of the Company having the voting powers, designation, preferences and relative, participating, optional or other special rights and qualifications, limitations and restrictions described in the Certificate of Designation, Preferences and Rights set forth as Exhibit C hereto.
 - (t) “preferred stock equivalents” has the meaning specified in Section 11(a)(iii).
 - (u) “Principal Party” has the meaning set forth in Section 13(b).
 - (v) “Purchase Price” has the meaning set forth in Section 7(b).
 - (w) “Record Date” has the meaning set forth in the preliminary statements to this Agreement.

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- (x) “Redemption Price” has the meaning set forth in Section 23(c).
 - (y) “Registered Common Stock” has the meaning set forth in Section 13(b)(ii).
 - (z) “Registration Date” has the meaning set forth in Section 9(c).
 - (aa) “Registration Statement” has the meaning set forth in Section 9(c).
 - (bb) “Right” has the meaning set forth in the preliminary statements to this Agreement.
 - (cc) “Rights Agent” has the meaning set forth in the recital of parties to this Agreement.
 - (dd) “Rights Certificate” has the meaning set forth in Section 3(a).
 - (ee) “Rights Dividend Declaration Date” has the meaning set forth in the preliminary statements to this Agreement.
 - (ff) “Section 11(a)(ii) Event” shall mean any event described in Section 11(a)(ii)(A), (B) or (C).
 - (gg) “Section 11(a)(iii) Trigger Date” has the meaning set forth in Section 11(a)(iii).
 - (hh) “Section 13 Event” shall mean any event described in clause (x), (y) or (z) of Section 13(a).
 - (ii) “Section 34(a)(i) Exchange Ratio” has the meaning set forth in Section 34(a)(i).
 - (jj) “Section 34(a)(ii) Exchange Ratio” has the meaning set forth in Section 34(a)(ii).
 - (kk) “Securities Act” shall mean the Securities Act of 1933, as amended.
 - (ll) “Spread” has the meaning set forth in Section 11(a)(iii).
 - (mm) “Stock Acquisition Date” shall mean the first date of public announcement (including, without limitation, the filing of any report pursuant to

Section 13(d) of the Exchange Act) by the Company or an Acquiring Person that an Acquiring Person has become such.

(nn) “Subsidiary” shall mean, with reference to any Person, any other Person of which an amount of voting securities or equity interests sufficient to elect at least a majority of the directors or equivalent governing body of such other Person is beneficially owned, directly or indirectly, by such Person, or otherwise controlled by such first-mentioned Person.

(oo) “Summary of Rights” has the meaning set forth in Section 3(b).

(pp) “Trading Day” has the meaning set forth in Section 11(d)(i).

(qq) “Triggering Event” shall mean any Section 11(a)(ii) Event or any Section 13 Event.

(rr) “Unit” has the meaning set forth in Section 7(b).

SECTION 2. Appointment of Rights Agent. The Company hereby appoints the Rights Agent to act as agent for the Company in accordance with the terms and conditions hereof, and the Rights Agent hereby accepts such appointment. With the consent of the Rights Agent, the Company may from time to time appoint such Co-Rights Agents as it may deem necessary or desirable.

SECTION 3. Issue of Rights Certificates. (a) Until the earlier of (i) the Close of Business on the tenth day after the Stock Acquisition Date, and (ii) the Close of Business on the tenth Business Day (or such later date as may be determined by action of the Company’s Board of Directors prior to such time as any Person becomes an Acquiring Person, and of which the Company will give the Rights Agent prompt written notice) after the date that a tender or exchange offer by any Person (other than the Company, any Subsidiary of the Company, any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such plan acting in such capacity) is first published or sent or given within the meaning of Rule 14d-4(a) of the Exchange Act Regulations or any successor rule, if upon consummation thereof such Person would be the Beneficial Owner of 15% or more of the shares of Company Common Stock then outstanding (the earlier of (i) and (ii) above being the “Distribution Date”), (x) the Rights will be evidenced (subject to the provisions of paragraph (b) of this Section 3) by the certificates for shares of Company Common Stock registered in the names of the holders of shares of Company Common Stock as of and subsequent to the Record Date (which certificates for shares of Company Common Stock shall be deemed also to be certificates for Rights) and not by separate certificates, and (y) the Rights will be transferable only in connection with the transfer of the underlying shares of Company Common Stock (including a transfer to the

Company). As soon as practicable after the Distribution Date, the Rights Agent will send by first-class, insured, postage prepaid mail, to each record holder of shares of Company Common Stock as of the Close of Business on the Distribution Date, at the address of such holder shown on the records of the Company, one or more rights certificates, in substantially the form of Exhibit A hereto (the "Rights Certificates"), evidencing one Right for each share of Company Common Stock so held, subject to adjustment as provided herein. In the event that an adjustment in the number of Rights per share of Company Common Stock has been made pursuant to Section 11, at the time of distribution of the Rights Certificates, the Company may make the necessary and appropriate rounding adjustments (in accordance with Section 14(a)) so that Rights Certificates representing only whole numbers of Rights are distributed and cash is paid in lieu of any fractional Rights. As of and after the Distribution Date, the Rights will be evidenced solely by such Rights Certificates.

(b) As promptly as practicable following the Record Date, the Company will send a copy of a Summary of Rights to Purchase Preferred Stock, in a form which may be appended to certificates that represent shares of Company Common Stock, in substantially the form attached hereto as Exhibit B (the "Summary of Rights"), by first-class, postage prepaid mail, to each record holder of shares of Company Common Stock as of the Close of Business on the Record Date, at the address of such holder shown on the records of the Company.

(c) Rights shall, without any further action, be issued in respect of all shares of Company Common Stock which are issued (including any shares of Company Common Stock held in treasury) after the Record Date but prior to the earlier of the Distribution Date and the Expiration Date. Certificates representing such shares of Company Common Stock issued after the Record Date shall bear the following legend:

This certificate also evidences and entitles the holder hereof to certain Rights as set forth in the Rights Agreement between Merrill Lynch & Co., Inc. (the "Company") and ChaseMellon Shareholder Services, L.L.C. (the "Rights Agent") dated as of December 2, 1997 (the "Rights Agreement"), the terms of which are hereby incorporated herein by reference and a copy of which is on file at the principal office of the stock transfer administration office of the Rights Agent. Under certain circumstances, as set forth in the Rights Agreement, such Rights will be evidenced by separate certificates and will no longer be evidenced by this certificate. The Company will mail to the holder of this certificate a copy of the Rights Agreement, as in effect on the date of mailing, without charge promptly after receipt of a written request therefor. Under certain circumstances set forth in the Rights Agreement, Rights issued to, or held by, any Person who is,

was or becomes an Acquiring Person or any Affiliate or Associate thereof (as such terms are defined in the Rights Agreement), whether currently held by or on behalf of such Person or by any subsequent holder, may become null and void.

With respect to certificates representing shares of Company Common Stock (whether or not such certificates include the foregoing legend or have appended to them the Summary of Rights), until the earlier of (i) the Distribution Date and (ii) the Expiration Date, the Rights associated with the shares of Company Common Stock represented by such certificates shall be evidenced by such certificates alone and registered holders of the shares of Company Common Stock shall also be the registered holders of the associated Rights, and the transfer of any of such certificates shall also constitute the transfer of the Rights associated with the shares of Company Common Stock represented by such certificates.

SECTION 4. Form of Rights Certificates. (a) The Rights Certificates (and the forms of election to purchase, assignment and certificate to be printed on the reverse thereof) shall each be substantially in the form set forth in Exhibit A hereto and may have such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any applicable law or any rule or regulation thereunder or with any rule or regulation of any stock exchange on which the Rights may from time to time be listed or to conform to usage. Subject to the provisions of Sections 11 and 22, the Rights Certificates, whenever distributed, shall be dated as of the Record Date and on their face shall entitle the holders thereof to purchase such number of Units of Preferred Stock as shall be set forth therein at the price set forth therein, but the amount and type of securities, cash or other assets that may be acquired upon the exercise of each Right and the Purchase Price thereof shall be subject to adjustment as provided herein.

(b) Any Rights Certificate issued pursuant hereto that represents Rights beneficially owned by: (i) an Acquiring Person or any Associate or Affiliate of an Acquiring Person, (ii) a transferee of an Acquiring Person (or of any such Associate or Affiliate) which becomes a transferee after the Acquiring Person becomes such, or (iii) a transferee of an Acquiring Person (or of any such Associate or Affiliate) which becomes a transferee prior to or concurrently with the Acquiring Person becoming such and which receives such Rights pursuant to either (A) a transfer (whether or not for consideration) from the Acquiring Person (or any such Associate or Affiliate) to holders of equity interests in such Acquiring Person (or such Associate or Affiliate) or to any Person with whom such Acquiring Person (or such Associate or Affiliate) has any continuing agreement, arrangement or understanding regarding either the transferred Rights, shares of Company Common Stock or the Company or (B) a transfer which a majority of the Board of Directors has determined to be part of a plan, arrangement or understanding which has as a primary purpose or effect the avoidance

of Section 7(e) hereof shall, upon the written direction of a majority of the Board of Directors, contain (to the extent feasible) the following legend:

The Rights represented by this Rights Certificate are or were beneficially owned by a Person who was or became an Acquiring Person or an Affiliate or Associate of an Acquiring Person (as such terms are defined in the Rights Agreement). Accordingly, this Rights Certificate and the Rights represented hereby may become null and void in the circumstances specified in Section 7(e) of such Agreement.

SECTION 5. Countersignature and Registration. (a) Rights Certificates shall be executed on behalf of the Company by its Chairman of the Board, its President or one of its Vice Presidents, under its corporate seal reproduced thereon attested by its Secretary or one of its Assistant Secretaries. The signature of one or more of these officers on the Rights Certificates may be manual or facsimile. Rights Certificates bearing the manual or facsimile signatures of the individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the countersignature of such Rights Certificates-or did not hold such offices at the date of such Rights Certificates. No Rights Certificate shall be entitled to any benefit under this Agreement or be valid for any purpose unless there appears on such Rights Certificate a countersignature duly executed by the Rights Agent by manual signature of an authorized signatory, and such countersignature upon any Rights Certificate shall be conclusive evidence, and the only evidence, that such Rights Certificate has been duly countersigned as required hereunder.

(b) Following the Distribution Date, the Rights Agent will keep or cause to be kept, at its office designated for surrender of Rights Certificates upon exercise or transfer, books for registration and transfer of the Rights Certificates issued hereunder. Such books shall show the name and address of each holder of the Rights Certificates, the number of Rights evidenced on its face by each Rights Certificate and the date of each Rights Certificate.

SECTION 6. Transfer, Split Up, Combination and Exchange of Rights Certificates; Mutilated, Destroyed, Lost or Stolen Rights Certificates. (a) Subject to the provisions of Sections 4(b), 7(e) and 14, at any time after the Close of Business on the Distribution Date, and at or prior to the Close of Business on the Expiration Date, any Rights Certificate or Certificates may be transferred, split up, combined or exchanged for another Rights Certificate or Certificates, entitling the registered holder to purchase a like number of Units of Preferred Stock (or, following a Triggering Event, other securities, cash or other assets, as the case may be) as the Rights Certificate or Certificates surrendered then entitled such holder to purchase. Any registered holder desiring to transfer, split up,

combine or exchange any Rights Certificate or Certificates shall make such request in writing delivered to the Rights Agent, and shall surrender the Rights Certificate or Certificates to be transferred, split up, combined or exchanged at the office of the Rights Agent designated for such purpose. Neither the Rights Agent nor the Company shall be obligated to take any action whatsoever with respect to the transfer of any such surrendered Rights Certificate until the registered holder shall have completed and executed the certificate set forth in the form of assignment on the reverse side of such Rights Certificate and shall have provided such additional evidence of the identity of the Beneficial Owner (or former Beneficial Owner) of the Rights represented by such Rights Certificate or Affiliates or Associates thereof as the Company shall reasonably request; whereupon the Rights Agent shall, subject to the provisions of Sections 4(b), 7(e) and 14, countersign and deliver to the Person entitled thereto a Rights Certificate or Rights Certificates, as the case may be, as so requested. The Company may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer, split up, combination or exchange of Rights Certificates.

(b) If a Rights Certificate shall be mutilated, destroyed, lost or stolen, upon request by the registered holder of the Rights represented thereby and upon payment to the Company and the Rights Agent of all reasonable expenses incident thereto, there shall be issued, in exchange for and upon cancellation of the mutilated Rights Certificate, or in substitution for the lost, stolen or destroyed Rights Certificate, a new Rights Certificate, in substantially the form of the prior Rights Certificate, of like tenor and representing the equivalent number of Rights, but, in the case of loss, theft or destruction, only upon receipt of evidence satisfactory to the Company and the Rights Agent of such loss, theft or destruction of such Rights Certificate and, if requested by the Company or the Rights Agent, indemnity also satisfactory to it.

SECTION 7. Exercise of Rights; Purchase Price; Expiration Date of Rights. (a) Prior to the earlier of (i) the Close of Business on the tenth anniversary hereof (the "Final Expiration Date") and (ii) the time at which the Rights are redeemed as provided in Section 23 (the earlier of (i) and (ii) being the "Expiration Date"), the registered holder of any Rights Certificate may, subject to the provisions of Sections 7(e) and 9(c), exercise the Rights evidenced thereby in whole or in part at any time after the Distribution Date upon surrender of the Rights Certificate, with the form of election to purchase and the certificate on the reverse side thereof duly executed, to the Rights Agent at the office of the Rights Agent designated for such purpose, together with payment of the aggregate Purchase Price (as hereinafter defined) for the number of Units of Preferred Stock (or, following a Triggering Event, other securities, cash or other assets, as the case may be) for which such surrendered Rights are then exercisable.

(b) The purchase price for each one one-hundredth of a share (each such one one-hundredth of a share being a "Unit") of Preferred Stock upon exercise of Rights

shall be \$300, subject to adjustment from time to time as provided in Sections 11 and 13(a) (such purchase price, as so adjusted, being the "Purchase Price"), and shall be payable in accordance with paragraph (c) below.

(c) As promptly as practicable following the occurrence of the Distribution Date, the Company shall deposit with a corporation in good standing organized under the laws of the United States or any state of the United States, which is authorized under such laws to exercise corporate trust or stock transfer powers and is subject to supervision or examination by federal or state authority (which corporation may be a Subsidiary of the Company) (such institution being the "Depository Agent") certificates representing the shares of Preferred Stock that may be acquired upon exercise of the Rights and shall cause such Depository Agent to enter into an agreement pursuant to which the Depository Agent shall issue receipts representing interests in the shares of Preferred Stock so deposited. Upon receipt of a Rights Certificate representing exercisable Rights, with the form of election to purchase and the certificate duly executed, accompanied by payment, with respect to each Right so exercised, of the Purchase Price for the Units of Preferred Stock (or, following a Triggering Event, other securities, cash or other assets, as the case may be) to be purchased thereby as set forth below and an amount equal to any applicable transfer tax or evidence satisfactory to the Company of payment of such tax, the Rights Agent shall, subject to Section 20(k), thereupon promptly (i) requisition from the Depository Agent depository receipts representing such number of Units of Preferred Stock as are to be purchased and the Company will direct the Depository Agent to comply with such request, (ii) requisition from the Company the amount of cash, if any, to be paid in lieu of fractional shares in accordance with Section 14, (iii) after receipt of such depository receipts, cause the same to be delivered to or upon the order of the registered holder of such Rights Certificate, registered in such name or names as may be designated by such holder, and (iv) after receipt thereof, deliver such cash, if any, to or upon the order of the registered holder of such Rights Certificate. In the event that the Company is obligated to issue Company Common Stock, other securities of the Company, pay cash and/or distribute other property pursuant to Section 11(a), the Company will make all arrangements necessary so that such Company Common Stock, other securities, cash and/or other property are available for distribution by the Rights Agent, if and when appropriate. The payment of the Purchase Price (as such amount may be reduced pursuant to Section 11(a)(iii)) may be made in cash or by certified or bank check or bank draft payable to the order of the Company, or by wire transfer of immediately available funds to the account of the Company (provided that notice of such wire transfer shall be given by the holder of the related Right to the Rights Agent).

(d) In the event that the registered holder of any Rights Certificate shall exercise less than all the Rights evidenced thereby, a new Rights Certificate evidencing the Rights remaining unexercised shall be issued by the Rights Agent and delivered to, or upon the order of, the registered holder of such Rights Certificate, registered in such name or names as may be designated by such holder, subject to the provisions of Section 14.

(e) Notwithstanding anything in this Agreement to the contrary, from and after the first occurrence of any Section 11(a)(ii) Event or Section 13 Event, any Rights beneficially owned by (i) an Acquiring Person or an Associate or Affiliate of an Acquiring Person, (ii) a transferee of an Acquiring Person (or of any such Associate or Affiliate) which becomes a transferee after the Acquiring Person becomes such, or (iii) a transferee of an Acquiring Person (or of any such Associate or Affiliate) which becomes a transferee prior to or concurrently with the Acquiring Person becoming such and which receives such Rights pursuant to either (A) a transfer (whether or not for consideration) from the Acquiring Person (or any such Associate or Affiliate) to holders of equity interests in such Acquiring Person (or any such Associate or Affiliate) or to any Person with whom such Acquiring Person (or such Associate or Affiliate) has any continuing agreement, arrangement or understanding regarding the transferred Rights, shares of Company Common Stock or the Company or (B) a transfer which a majority of the Board of Directors has determined to be part of a plan, arrangement or understanding which has as a primary purpose or effect the avoidance of this Section 7(e), shall be null and void without any further action, and no holder of such Rights shall have any rights whatsoever with respect to such Rights, whether under any provision of this Agreement or otherwise. The Company shall use all reasonable efforts to ensure that the provisions of this Section 7(e) and Section 4(b) are complied with, but shall have no liability to any holder of Rights or any other Person as a result of its failure to make any determination under this Section 7(e) or Section 4(b) with respect to an Acquiring Person or its Affiliates, Associates or transferees.

(f) Notwithstanding anything in this Agreement or any Rights Certificate to the contrary, neither the Rights Agent nor the Company shall be obligated to undertake any action with respect to a registered holder upon the occurrence of any purported exercise by such registered holder unless such registered holder shall have (i) completed and executed the certificate following the form of election to purchase set forth on the reverse side of the Rights Certificate surrendered for such exercise, and (ii) provided such additional evidence of the identity of the Beneficial Owner (or former Beneficial Owner) of the Rights represented by such Rights Certificate or Affiliates or Associates thereof as the Company shall reasonably request.

SECTION 8. Cancellation and Destruction of Rights Certificates. All Rights Certificates surrendered for the purpose of exercise, transfer, split up, combination or exchange shall, if surrendered to the Company or any of its agents, be delivered to the Rights Agent for cancellation or in cancelled form, or, if surrendered to the Rights Agent, shall be cancelled by it, and no Rights Certificates shall be issued in lieu thereof except as expressly permitted by this Agreement. The Company shall deliver to the Rights Agent for cancellation and retirement, and the Rights Agent shall so cancel and retire, any Rights Certificates acquired by the Company otherwise than upon the exercise thereof. The Rights Agent shall deliver all cancelled Rights Certificates to the Company, or shall, at the written

request of the Company, destroy such cancelled Rights Certificates, and in such case shall deliver a certificate of destruction thereof to the Company.

SECTION 9. Reservation and Availability of Capital Stock. (a) The Company shall at all times prior to the Expiration Date cause to be reserved and kept available out of its authorized and unissued shares of Preferred Stock, the number of shares of Preferred Stock that, as provided in this Agreement, including, without limitation, Section 11(a)(iii) hereof, will be sufficient to permit the exercise in full of all outstanding Rights. Upon the occurrence of any events resulting in an increase in the aggregate number of shares of Preferred Stock (or other equity securities of the Company) issuable upon exercise of all outstanding Rights above the number then reserved, the Company shall make appropriate increases in the number of shares so reserved.

(b) So long as the shares of Preferred Stock to be issued and delivered upon the exercise of the Rights may be listed on any national securities exchange, the Company shall during the period from the Distribution Date through the Expiration Date use its best efforts to cause all securities reserved for such issuance to be listed on such exchange upon official notice of issuance upon such exercise.

(c) The Company shall use its best efforts (i) as soon as practicable following the occurrence of a Section 11(a)(ii) Event and a determination by the Company in accordance with Section 11(a)(iii) of the consideration to be delivered by the Company upon exercise of the Rights or, if so required by law, as soon as practicable following the Distribution Date (such date being the "Registration Date"), to file a registration statement on an appropriate form under the Securities Act with respect to the securities that may be acquired upon exercise of the Rights (the "Registration Statement"), (ii) to cause the Registration Statement to become effective as soon as practicable after such filing, (iii) to cause the Registration Statement to continue to be effective (and to include a prospectus complying with the requirements of the Securities Act) until the earlier of (A) the date as of which the Rights are no longer exercisable for the securities covered by the Registration Statement, and (B) the Expiration Date and (iv) to take as soon as practicable following the Registration Date such action as may be required to ensure that any acquisition of securities upon exercise of the Rights complies with any applicable state securities or "blue sky" laws.

(d) The Company shall take such action as may be necessary to ensure that all shares of Preferred Stock (and, following the occurrence of a Triggering Event, any other securities that may be delivered upon exercise of Rights) shall be, at the time of delivery of the certificates or depositary receipts for such securities, duly and validly authorized and issued and fully paid and non-assessable.

(e) The Company shall pay any documentary, stamp or transfer tax imposed in connection with the issuance or delivery of the Rights Certificates or upon the

exercise of Rights; provided, however, the Company shall not be required to pay any such tax imposed in connection with the issuance or delivery of Units of Preferred Stock, or any certificates or depositary receipts for such Units of Preferred Stock (or, following the occurrence of a Triggering Event, any other securities, cash or assets, as the case may be) to any person other than the registered holder of the Rights Certificates evidencing the Rights surrendered for exercise. The Company shall not be required to issue or deliver any certificates or depositary receipts for Units of Preferred Stock (or, following the occurrence of a Triggering Event, any other securities, cash or assets, as the case may be) to, or in a name other than that of, the registered holder of the Rights Certificate upon the exercise of any Rights represented thereby until any such tax shall have been paid (any such tax being payable by the holder of such Rights Certificate at the time of surrender) or until it has been established to the Company's satisfaction that no such tax is due.

SECTION 10. Preferred Stock Record Date. Each Person in whose name any certificate for Units of Preferred Stock (or, following the occurrence of a Triggering Event, other securities) is issued upon the exercise of Rights shall for all purposes be deemed to have become the holder of record of the Units of Preferred Stock (or, following the occurrence of a Triggering Event, other securities) represented thereby on, and such certificate shall be dated, the date upon which the Rights Certificate evidencing such Rights was duly surrendered and payment of the Purchase Price (and any applicable transfer taxes) was made; provided, however, that if the date of such surrender and payment is a date upon which the Preferred Stock (or, following the occurrence of a Triggering Event, other securities) transfer books of the Company are closed, such Person shall be deemed to have become the record holder of such securities on, and such certificate shall be dated, the next succeeding Business Day on which the Preferred Stock (or, following the occurrence of a Triggering Event, other securities) transfer books of the Company are open; and provided further, however, that if delivery of Units of Preferred Stock is delayed pursuant to Section 9(c), such Persons shall be deemed to have become the record holders of such Units of Preferred Stock only when such Units first become deliverable. Prior to the exercise of the Rights evidenced thereby, the holder of a Rights Certificate shall not be entitled to any rights of a stockholder of the Company with respect to securities for which the Rights shall be exercisable, including, without limitation, the right to vote, to receive dividends or other distributions or to exercise any preemptive rights, and shall not be entitled to receive any notice of any proceedings of the Company, except as provided herein.

SECTION 11. Adjustment of Purchase Price, Number and Kind of Shares or Number of Rights. The Purchase Price, the number and kind of securities covered by each Right and the number of Rights outstanding are subject to adjustment from time to time as provided in this Section 11.

(a) (i) In the event that the Company shall at any time after the date of this Agreement (A) declare a dividend on the Company Common Stock payable in

shares of Company Common Stock, (B) subdivide the outstanding Company Common Stock, (C) combine the outstanding Company Common Stock into a smaller number of shares or (D) issue any shares of its capital stock in a reclassification of the Company Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), except as otherwise provided in this Section 11(a), the number of shares of Company Common Stock or capital stock, as the case may be, issuable on such date upon exercise of the Rights, shall be proportionately adjusted so that the holder of any Right exercised after such time shall be entitled to receive, upon payment of the Purchase Price then in effect, the aggregate number and kind of shares of Company Common Stock or capital stock, as the case may be, which, if such Right had been exercised immediately prior to such date, such holder would have owned upon such exercise and been entitled to receive by virtue of such dividend, subdivision, combination or reclassification. If an event occurs which would require an adjustment under both this Section 11(a)(i) and Section 11(a)(ii), the adjustment provided for in this Section 11(a)(i) shall be in addition to, and shall be made prior to, any adjustment required pursuant to Section 11(a)(ii).

(ii) In the event that:

(A) any Acquiring Person or any Associate or Affiliate of any Acquiring Person, at any time after the date of this Agreement, directly or indirectly, shall (1) merge into the Company or otherwise combine with the Company and the Company shall be the continuing or surviving corporation of such merger or combination and Company Common Stock shall remain outstanding and unchanged, (2) in one transaction or a series of transactions, transfer any assets to the Company or to any of its Subsidiaries in exchange (in whole or in part) for shares of Company Common Stock, for other equity securities of the Company or any such Subsidiary, or for securities exercisable for or convertible into shares of equity securities of the Company or any of its Subsidiaries (whether Company Common Stock or otherwise) or otherwise obtain from the Company or any of its Subsidiaries, with or without consideration, any additional shares of such equity securities or securities exercisable for or convertible into such equity securities (other than pursuant to a pro rata distribution to all holders of Company Common Stock), (3) sell, purchase, lease, exchange, mortgage, pledge, transfer or otherwise acquire or dispose of, in one transaction or a series of transactions, to, from or with the Company or any of its Subsidiaries or any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such plan acting in such capacity, assets (including securities) on terms and conditions less favorable to the Company or such Subsidiary or plan than those that could have been obtained in arm's-length negotiations with an

unaffiliated third party, other than pursuant to a transaction set forth in Section 13(a), (4) sell, purchase, lease, exchange, mortgage, pledge, transfer or otherwise acquire or dispose of in one transaction or a series of transactions, to, from or with the Company or any of the Company's Subsidiaries or any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such plan acting in such capacity (other than transactions, if any, consistent with those engaged in, as of the date hereof, by the Company and such Acquiring Person or such Associate or Affiliate), assets (including securities) having an aggregate fair market value of more than \$50,000,000, other than pursuant to a transaction set forth in Section 13(a), (5) sell, purchase, lease, exchange, mortgage, pledge, transfer or otherwise acquire or dispose of in one transaction or a series of transactions, to, from or with the Company or any of its Subsidiaries or any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such plan acting in such capacity, any material trademark or material service mark, other than pursuant to a transaction set forth in Section 13(a), (6) receive (or any designee, agent or representative of such Acquiring Person or any Affiliate or Associate of such Acquiring Person shall receive) any compensation from the Company or any of its Subsidiaries other than compensation for full-time employment as a regular employee at rates in accordance with the Company's (or its Subsidiaries') past practices, or (7) receive the benefit, directly or indirectly (except proportionately as a holder of Company Common Stock or as required by law or governmental regulation), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantage provided by the Company or any of its Subsidiaries or any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such plan acting in such capacity;

(B) any Person shall become an Acquiring Person, unless the event causing such Person to become an Acquiring Person is pursuant to any transaction set forth in Section 13(a); or

(C) during such time as there is an Acquiring Person, there shall be any reclassification of securities (including any reverse stock split), or recapitalization of the Company, or any merger or consolidation of the Company with any of its Subsidiaries or any other transaction or series of transactions involving the Company or any of its Subsidiaries, other than a transaction or transactions to which the provisions of Section 13(a) apply (whether or not with or into or otherwise involving an Acquiring Person) which has the effect, directly or indirectly, of increasing by more than 1% the proportionate share of the outstanding shares of any class of equity securities

of the Company or any of its Subsidiaries that is directly or indirectly beneficially owned by any Acquiring Person or any Associate or Affiliate of any Acquiring Person;

then, immediately upon the date of the occurrence of an event described in Section 11(a)(ii) (a "Section 11(a)(ii) Event"), proper provision shall be made so that each holder of a Right (except as provided below and in Section 7(e)) shall thereafter have the right to receive, upon exercise thereof at the then current Purchase Price in accordance with the terms of this Agreement, in lieu of the number of Units of Preferred Stock for which a Right was exercisable immediately prior to the first occurrence of a Section 11(a)(ii) Event, such number of Units of Preferred Stock as shall equal the result obtained by (x) multiplying the then current Purchase Price by the then number of Units of Preferred Stock for which a Right was exercisable immediately prior to the first occurrence of a Section 11(a)(ii) Event (such product thereafter being, for all purposes of this Agreement other than Section 13, the "Purchase Price"), and (y) dividing that product by 50% of the then current market price (determined pursuant to Section 11(d)) per Unit of Preferred Stock on the date of such first occurrence (such Units of Preferred Stock being the "Adjustment Shares").

(iii) In the event that the number of shares of Preferred Stock which are authorized by the Company's Restated Certificate of Incorporation but not outstanding or reserved for issuance for purposes other than upon exercise of the Rights is not sufficient to permit the exercise in full of the Rights in accordance with the foregoing subparagraph (ii) of this Section 11(a), the Company, by the vote of a majority of the Board of Directors, shall: (A) determine the excess of (1) the value of the Adjustment Shares issuable upon the exercise of a Right (the "Current Value") over (2) the Purchase Price (such excess being the "Spread"), and (B) with respect to each Right, make adequate provision to substitute for such Adjustment Shares, upon payment of the applicable Purchase Price, (1) cash, (2) a reduction in the Purchase Price, (3) Company Common Stock or other equity securities of the Company (including, without limitation, shares, or units of shares, of preferred stock (such other shares being "preferred stock equivalents")), (4) debt securities of the Company, (5) other assets, or (6) any combination of the foregoing, having an aggregate value equal to the Current Value, where such aggregate value has been determined by a majority of the Board of Directors, after receiving advice from a nationally recognized investment banking firm; provided, however, that if the Company shall not have made adequate provision to deliver value pursuant to clause (B) above within thirty days following the later of (x) the first occurrence of a Section 11(a)(ii) Event and (y) the date on which the Company's right of redemption pursuant to Section 23(a) expires (the later of (x) and (y) being referred to herein as the "Section 11(a)(iii) Trigger Date"), then the Company shall be obligated to deliver,

upon the surrender for exercise of a Right and without requiring payment of the Purchase Price, Units of Preferred Stock (to the extent available) and then, if necessary, cash, which Units of Preferred Stock and/or cash shall have an aggregate value equal to the Spread. To the extent that the Company determines that some action need be taken pursuant to the first sentence of this Section 11(a)(iii), the Company shall provide, subject to Section 7(e), that such action shall apply uniformly to all outstanding Rights. For purposes of this Section 11(a)(iii), the value of a Unit of Preferred Stock shall be the current market price (as determined pursuant to Section 11(d)) per Unit of Preferred Stock on the Section 11(a)(iii) Trigger Date and the value of any preferred stock equivalent shall be deemed to have the same value as the Preferred Stock on such date.

(b) In the event the Company shall fix a record date for the issuance of rights, options or warrants to all holders of Company Common Stock entitling them to subscribe for or purchase (for a period expiring within forty-five calendar days after such record date) shares of Company Common Stock or securities convertible into Company Common Stock at a price per share of Company Common Stock (or having a conversion price per share, if a security convertible into Company Common Stock) less than the current market price (as determined pursuant to Section 11(d)) per share of Company Common Stock on such record date, the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such record date by a fraction, the numerator of which shall be the sum of the number of shares of Company Common Stock outstanding on such record date plus the number of shares of Company Common Stock which the aggregate offering price of the total number of shares of Company Common Stock so to be offered (and/or the aggregate initial conversion price of the convertible securities so to be offered) would purchase at such current market price, and the denominator of which shall be the number of shares of Company Common Stock outstanding on such record date plus the number of additional shares of Company Common Stock to be offered for subscription or purchase (or into which the convertible securities so to be offered are initially convertible). In the event such subscription price may be paid by delivery of consideration part or all of which may be in a form other than cash, the value of such consideration shall be as determined in good faith by a majority of the Board of Directors, whose determination shall be described in a statement filed with the Rights Agent and shall be binding on the Rights Agent and the holders of the Rights. Shares of Company Common Stock owned by or held for the account of the Company or any Subsidiary shall not be deemed outstanding for the purpose of any such computation. Such adjustment shall be made successively whenever such a record date is fixed, and in the event that such rights or warrants are not so issued, the Purchase Price shall be adjusted to be the Purchase Price which would then be in effect if such record date had not been fixed.

(c) In the event that the Company shall fix a record date for a distribution to all holders of shares of Company Common Stock (including any such distribution made in

connection with a consolidation or merger in which the Company is the continuing corporation) of evidences of indebtedness, cash (other than a regular quarterly cash dividend out of the earnings or retained earnings of the Company), assets (other than a dividend payable in shares of Company Common Stock, but including any dividend payable in stock other than Company Common Stock) or subscription rights or warrants (excluding those referred to in Section 11(b), the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such record date by a fraction, the numerator of which shall be the current market price (as determined pursuant to Section 11(d)) per share of Company Common Stock on such record date less the fair market value (as determined in good faith by a majority of the Board of Directors, whose determination shall be described in a statement filed with the Rights Agent and shall be binding on the Rights Agent and the holder of the Rights) of the portion of the cash, assets or evidences of indebtedness so to be distributed or of such subscription rights or warrants distributable in respect of a share of Company Common Stock and the denominator of which shall be such current market price (as determined pursuant to Section 11(d)) per share of Company Common Stock. Such adjustments shall be made successively whenever such a record date is fixed, and in the event that such distribution is not so made, the Purchase Price shall be adjusted to be the Purchase Price which would have been in effect if such record date had not been fixed.

(d) (i) For the purpose of any computation hereunder, the “current market price” per share of Company Common Stock or Common Stock on any date shall be deemed to be the average of the daily closing prices per share of such shares for the ten consecutive Trading Days immediately prior to such date; provided, however, if prior to the expiration of such requisite ten Trading Day period the issuer announces either (A) a dividend or distribution on such shares payable in such shares or securities convertible into such shares (other than the Rights), or (B) any subdivision, combination or reclassification of such shares, then, following the ex-dividend date for such dividend or the record date for such subdivision, as the case may be, the “current market price” shall be properly adjusted to take into account such event. The closing price for each day shall be, if the shares are listed and admitted to trading on a national securities exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such shares are listed or admitted to trading or, if such shares are not listed or admitted to trading on any national securities exchange, the last quoted price or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the NASDAQ National Market System or such other system then in use, or, if on any such date such shares are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such shares selected by a majority of the Board of Directors. If on any such date no market maker is making a market in such shares, the fair value of such shares on such date as determined in good faith by a majority of the Board of Directors shall be used. If such shares are not publicly held or not so listed or traded,

“current market price” per share shall mean the fair value per share as determined in good faith by a majority of the Board of Directors, whose determination shall be described in a statement filed with the Rights Agent and shall be conclusive for all purposes. The term “Trading Day” shall mean, if such shares are listed or admitted to trading on any national securities exchange, a day on which the principal national securities exchange on which such shares are listed or admitted to trading is open for the transaction of business or, if such shares are not so listed or admitted, a Business Day.

(ii) For the purpose of any computation hereunder, the “current market price” per share of Preferred Stock shall be determined in the same manner as set forth above for Company Common Stock in clause (i) of this Section 11(d) (other than the fourth sentence thereof). If the current market price per share of Preferred Stock cannot be determined in the manner provided above or if the Preferred Stock is not publicly held or listed or traded in a manner described in clause (i) of this Section 11(d), the “current market price” per share of Preferred Stock shall be conclusively deemed to be an amount equal to 100 (as such amount may be appropriately adjusted for such events as stock splits, stock dividends and recapitalizations with respect to Company Common Stock occurring after the date of this Agreement) multiplied by the current market price per share of Company Common Stock. If neither Company Common Stock nor Preferred Stock is publicly held or so listed or traded, “current market price” per share of the Preferred Stock shall mean the fair value per share as determined in good faith by a majority of the Board of Directors, whose determination shall be described in a statement filed with the Rights Agent and shall be binding on the Rights Agent and the holders of the Rights. For all purposes of this Agreement, the “current market price” of a Unit of Preferred Stock shall be equal to the “current market price” of one share of Preferred Stock divided by 100.

(e) Anything herein to the contrary notwithstanding, no adjustment in the Purchase Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Purchase Price; provided, however, that any adjustments which by reason of this Section 11(e) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 11 shall be made to the nearest cent or to the nearest ten-thousandth of a share of Company Common Stock or Common Stock or other share or one-millionth of a share of Preferred Stock, as the case may be. Notwithstanding the first sentence of this Section 11(e), any adjustment required by this Section 11 shall be made no later than the earlier of (i) three years from the date of the transaction which mandates such adjustment and (ii) the Expiration Date.

(f) If as a result of an adjustment made pursuant to Section 11(a)(ii) or 13(a), the holder of any Right thereafter exercised shall become entitled to receive any shares of capital stock other than Preferred Stock, thereafter the number of such other shares so receivable upon exercise of any Right and the Purchase Price thereof shall be subject to

adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Preferred Stock contained in Sections 11(a), (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m), and the provisions of Sections 7, 9, 10, 13 and 14 with respect to the Preferred Stock shall apply on like terms to any such other shares.

(g) All Rights originally issued by the Company subsequent to any adjustment made to the Purchase Price hereunder shall evidence the right to purchase, at the adjusted Purchase Price, the number of Units of Preferred Stock (or other securities or amount of cash or combination thereof) that may be acquired from time to time hereunder upon exercise of the Rights, all subject to further adjustment as provided herein.

(h) Unless the Company shall have exercised its election as provided in Section 11(i), upon each adjustment of the Purchase Price as a result of the calculations made in Sections 11(b) and (c), each Right outstanding immediately prior to the making of such adjustment shall thereafter evidence the right to purchase, at the adjusted Purchase Price, that number of Units of Preferred Stock (calculated to the nearest one-millionth of a Unit) obtained by (i) multiplying (x) the number of Units of Preferred Stock covered by a Right immediately prior to this adjustment by (y) the Purchase Price in effect immediately prior to such adjustment of the Purchase Price and (ii) dividing the product so obtained by the Purchase Price in effect immediately after such adjustment of the Purchase Price.

(i) The Company may elect on or after the date of any adjustment of the Purchase Price to adjust the number of Rights, in lieu of any adjustment in the number of Units of Preferred Stock that may be acquired upon the exercise of a Right. Each of the Rights outstanding after the adjustment in the number of Rights shall be exercisable for the number of Units of Preferred Stock for which a Right was exercisable immediately prior to such adjustment. Each Right held of record prior to such adjustment of the number of Rights shall become that number of Rights (calculated to the nearest ten-thousandth) obtained by dividing the Purchase Price in effect immediately prior to adjustment of the Purchase Price by the Purchase Price in effect immediately after adjustment of the Purchase Price. The Company shall make a public announcement of its election to adjust the number of Rights, indicating the record date for the adjustment, and, if known at the time, the amount of the adjustment to be made. This record date may be the date on which the Purchase Price is adjusted or any day thereafter, but, if the Rights Certificates have been issued, shall be at least ten days later than the date of such public announcement. If Rights Certificates have been issued, upon each adjustment of the number of Rights pursuant to this Section 11(i), the Company shall, as promptly as practicable, cause to be distributed to holders of record of Rights Certificates on such record date Rights Certificates evidencing, subject to Section 14, the additional Rights to which such holders shall be entitled as a result of such adjustment, or, at the option of the Company, shall cause to be distributed to such holders of record in substitution and replacement for the Rights Certificates held by such holders prior to the date of adjustment, and upon surrender thereof, if required by the Company, new Rights

Certificates evidencing all the Rights to which such holders shall be entitled after such adjustment. Rights Certificates to be so distributed shall be issued, executed and countersigned in the manner provided for herein (and may bear, at the option of the Company, the adjusted Purchase Price) and shall be registered in the names of the holders of record of Rights Certificates on the record date specified in the public announcement.

(j) Irrespective of any adjustment or change in the Purchase Price or the number of Units of Preferred Stock issuable upon the exercise of the Rights, the Rights Certificates theretofore and thereafter issued may continue to express the Purchase Price per Unit and the number of Units of Preferred Stock which were expressed in the Initial Rights Certificates issued hereunder without prejudice to any such adjustment or change.

(k) Before taking any action that would cause an adjustment reducing the Purchase Price below the then par value of the number of Units of Preferred Stock issuable upon exercise of the Rights, the Company shall take any corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue such fully paid and non-assessable number of Units of Preferred Stock at such adjusted Purchase Price.

(l) In any case in which this Section 11 shall require that an adjustment in the Purchase Price be made effective as of a record date for a specified event, the Company may elect to defer until the occurrence of such event the issuance to the holder of any Right exercised after such record date of that number of Units of Preferred Stock and shares of other capital stock or securities of the Company, if any, issuable upon such exercise over and above the number of Units of Preferred Stock and shares of other capital stock or securities of the Company, if any, issuable upon such exercise on the basis of the Purchase Price in effect prior to such adjustment; provided, however, that the Company shall deliver to such holder a due bill or other appropriate instrument evidencing such holder's right to receive such additional shares (fractional or otherwise) or securities upon the occurrence of the event requiring such adjustment.

(m) Anything in this Section 11 to the contrary notwithstanding, the Company shall be entitled to make such reductions in the Purchase Price, in addition to those adjustments expressly required by this Section 11, as and to the extent that in their good faith judgment a majority of the Board of Directors shall determine to be advisable in order that any (i) consolidation or subdivision of the Preferred Stock, (ii) issuance wholly for cash of any shares of Preferred Stock at less than the current market price, (iii) issuance wholly for cash of shares of Preferred Stock or securities which by their terms are convertible into or exchangeable for shares of Preferred Stock, (iv) stock dividends or (v) issuance of rights, options or warrants referred to in this Section 11, hereafter made by the Company to holders of its Preferred Stock, shall not be taxable to such holders or shall reduce the taxes payable by such holders.

(n) The Company shall not, at any time after the Distribution Date, (i) consolidate with any other Person (other than a Subsidiary of the Company in a transaction which complies with Section 11(o)), (ii) merge with or into any other Person (other than a Subsidiary of the Company in a transaction which complies with Section 11(o)) or (iii) sell or transfer (or permit any Subsidiary to sell or transfer), in one transaction, or a series of transactions, assets or earning power aggregating more than 50% of the assets or earning power of the Company and its Subsidiaries (taken as a whole) to any other Person or Persons (other than the Company and/or any of its Subsidiaries in one or more transactions each of which complies with Section 11(o)), if (x) at the time of or immediately after such consolidation, merger or sale there are any rights, warrants or other instruments or securities outstanding or agreements in effect which would substantially diminish or otherwise eliminate the benefits intended to be afforded by the Rights or (y) prior to, simultaneously with or immediately after such consolidation, merger or sale, the Person which constitutes, or would constitute, the "Principal Party" for purposes of Section 13(a) shall have distributed or otherwise transferred to its stockholders or other persons holding an equity interest in such Person Rights previously owned by such Person or any of its Affiliates and Associates; provided, however, this Section 11(n) shall not affect the ability of any Subsidiary of the Company to consolidate with, merge with or into, or sell or transfer assets or earning power to, any other Subsidiary of the Company.

(o) After the Distribution Date, the Company shall not, except as permitted by Section 23 or Section 26, take (or permit any Subsidiary to take) any action if at the time such action is taken it is reasonably foreseeable that such action will diminish substantially or otherwise eliminate the benefits intended to be afforded by the Rights.

SECTION 12. Certificate of Adjusted Purchase Price or Number of Shares. Whenever an adjustment is made as provided in Section 11 or 13, the Company shall (a) promptly prepare a certificate setting forth such adjustment and a brief statement of the facts accounting for such adjustment, (b) promptly file with the Rights Agent, and with each transfer agent for the Preferred Stock and the Company Common Stock, a copy of such certificate, and (c) mail a brief summary thereof to each holder of a Rights Certificate (or, if prior to the Distribution Date, to each holder of a certificate representing shares of Company Common Stock) in accordance with Section 25. The Rights Agent shall be fully protected in relying on any such certificate and on any adjustment therein contained and shall not be deemed to have knowledge of any such adjustment unless and until it shall have received such certificate.

SECTION 13. Consolidation, Merger or Sale or Transfer of Assets or Earning Power. (a) In the event that, following the Stock Acquisition Date, directly or indirectly, either (x) the Company shall consolidate with, or merge with and into, any other Person (other than a Subsidiary of the Company in a transaction which complies with Section 11(o)), and the Company shall not be the continuing or surviving corporation of such

consolidation or merger, (y) any Person (other than a Subsidiary of the Company in a transaction which complies with Section 11(o)) shall consolidate with, or merge with or into, the Company, and the Company shall be the continuing or surviving corporation of such consolidation or merger and, in connection with such consolidation or merger, all or part of the outstanding shares of Company Common Stock shall be converted into or exchanged for stock or other securities of any other Person or cash or any other property, or (z) the Company shall sell or otherwise transfer (or one or more of its Subsidiaries shall sell or otherwise transfer) to any Person or Persons (other than the Company or any of its Subsidiaries in one or more transactions each of which complies with Section 11(o)), in one or more transactions, assets or earning power aggregating more than 50% of the assets or earning power of the Company and its Subsidiaries (taken as a whole) (any such event described in clause (x), (y) or (z) being a "Section 13 Event"), then, and in each such case, proper provision shall be made so that: (i) each holder of a Right, except as provided in Section 7(e), shall thereafter have the right to receive, upon the exercise thereof at the then current Purchase Price, such number of validly authorized and issued, fully paid and non-assessable shares of Common Stock of the Principal Party, which shares shall not be subject to any liens, encumbrances, rights of first refusal, transfer restrictions or other adverse claims, as shall be equal to the result obtained by (1) multiplying the then current Purchase Price by the number of Units of Preferred Stock for which a Right is exercisable immediately prior to the first occurrence of a Section 13 Event (or, if a Section 11(a)(ii) Event has occurred prior to the first occurrence of a Section 13 Event, multiplying the number of such Units for which a Right would be exercisable hereunder but for the occurrence of such Section 11(a)(ii) Event by the Purchase Price which would be in effect hereunder but for such first occurrence) and (2) dividing that product (which, following the first occurrence of a Section 13 Event, shall be the "Purchase Price" for all purposes of this Agreement) by 50% of the current market price (determined pursuant to Section 11(d)) per share of the Common Stock of such Principal Party on the date of consummation of such Section 13 Event; (ii) such Principal Party shall, for all purposes of this Agreement, thereafter be liable for, and shall assume, by virtue of such Section 13 Event, all the obligations and duties of the Company pursuant to this Agreement; (iii) the term "Company" shall, for all purposes of this Agreement, thereafter be deemed to refer to such Principal Party, it being specifically intended that the provisions of Section 11 shall apply only to such Principal Party following the first occurrence of a Section 13 Event; (iv) such Principal Party shall take such steps (including, but not limited to, the reservation of a sufficient number of shares of its Common Stock) in connection with the consummation of any such transaction as may be necessary to ensure that the provisions of this Agreement shall thereafter be applicable to its shares of Common Stock thereafter deliverable upon the exercise of the Rights; and (v) the provisions of Section 11(a)(ii) shall be of no further effect following the first occurrence of any Section 13 Event.

(b) "Principal Party" shall mean:

(i) in the case of any transaction described in clause (x) or (y) of the first sentence of Section 13(a), (A) the Person that is the issuer of any securities into which shares of Company Common Stock are converted in such merger or consolidation, or, if there is more than one such issuer, the issuer of Common Stock that has the highest aggregate current market price (determined pursuant to Section 11(d)) and (B) if no securities are so issued, the Person that is the other party to such merger or consolidation, or, if there is more than one such Person, the Person the Common Stock of which has the highest aggregate current market price (determined pursuant to Section 11(d)); and

(ii) in the case of any transaction described in clause (z) of the first sentence of Section 13(a), the Person that is the party receiving the largest portion of the assets or earning power transferred pursuant to such transaction or transactions, or, if each Person that is a party to such transaction or transactions receives the same portion of the assets or earning power transferred pursuant to such transaction or transactions or if the Person receiving the largest portion of the assets or earning power cannot be determined, whichever Person the Common Stock of which has the highest aggregate current market price (determined pursuant to Section 11(d));

provided, however, that in any such case, (1) if the Common Stock of such Person is not at such time and has not been continuously over the preceding twelve-month period registered under Section 12 of the Exchange Act ("Registered Common Stock"), or such Person is not a corporation, and such Person is a direct or indirect Subsidiary of another Person that has Registered Common Stock outstanding, "Principal Party" shall refer to such other Person; (2) if the Common Stock of such Person is not Registered Common Stock or such Person is not a corporation, and such Person is a direct or indirect Subsidiary of another Person but is not a direct or indirect Subsidiary of another Person which has Registered Common Stock outstanding, "Principal Party" shall refer to the ultimate parent entity of such first-mentioned Person; (3) if the Common Stock of such Person is not Registered Common Stock or such Person is not a corporation, and such Person is directly or indirectly controlled by more than one Person, and one or more of such other Persons has Registered Common Stock outstanding, "Principal Party" shall refer to whichever of such other Persons is the issuer of the Registered Common Stock having the highest aggregate current market price (determined pursuant to Section 11(d)); and (4) if the Common Stock of such Person is not Registered Common Stock or such Person is not a corporation, and such Person is directly or indirectly controlled by more than one Person, and none of such other Persons have Registered Common Stock outstanding, "Principal Party" shall refer to whichever ultimate parent entity is the corporation having the greatest stockholders' equity or, if no such ultimate parent entity is a corporation, shall refer to whichever ultimate parent entity is the entity having the greatest net assets.

(c) The Company shall not consummate any such consolidation, merger, sale or transfer unless the Principal Party shall have a sufficient number of authorized shares of its Common Stock which have not been issued or reserved for issuance to permit the exercise in full of the Rights in accordance with this Section 13, and unless prior thereto the Company and such Principal Party shall have executed and delivered to the Rights Agent a supplemental agreement providing for the terms set forth in paragraphs (a) and (b) of this Section 13 and further providing that the Principal Party will:

(i) (A) file on an appropriate form, as soon as practicable following the execution of such agreement, a registration statement under the Securities Act with respect to the Common Stock that may be acquired upon exercise of the Rights, (B) cause such registration statement to remain effective (and to include a prospectus complying with the requirements of the Securities Act) until the Expiration Date, and (C) as soon as practicable following the execution of such agreement, take such action as may be required to ensure that any acquisition of such Common Stock upon the exercise of the Rights complies with any applicable state securities or "blue sky" laws; and

(ii) deliver to holders of the Rights historical financial statements for the Principal Party and each of its Affiliates which comply in all respects with the requirements for registration on Form 10 under the Exchange Act.

(d) In the event that the Principal Party which is to be a party to a transaction referred to in this Section 13 has a provision in any of its authorized securities or in its Certificate of Incorporation or By-laws or other instrument governing its corporate affairs, which provision would have the effect of (i) causing such Principal Party to issue, in connection with, or as a consequence of, the consummation of a transaction referred to in this Section 13, shares of Common Stock of such Principal Party at less than the then current market price per share (determined pursuant to Section 11(d)) or securities exercisable for, or convertible into, Common Stock of such Principal Party at less than such then current market price (other than to holders of Rights pursuant to this Section 13) or (ii) providing for any special payment, tax or similar provisions in connection with the issuance of the Common Stock of such Principal Party pursuant to the provisions of Section 13; then, in such event, the Company shall not consummate any such transaction unless prior thereto the Company and such Principal Party shall have executed and delivered to the Rights Agent a supplemental agreement providing that the provision in question of such Principal Party shall have been cancelled, waived or amended, or that the authorized securities shall be redeemed, so that the applicable provision will have no effect in connection with, or as a consequence of, the consummation of the proposed transaction.

(e) The provisions of this Section 13 shall similarly apply to successive mergers or consolidations or sales or other transfers. In the event that a Section 13 Event

shall occur at any time after the occurrence of a Section 11(a)(ii) Event, the Rights which have not theretofore been exercised shall thereafter become exercisable in the manner described in Section 13(a).

SECTION 14. Fractional Rights and Fractional Shares. (a) The Company shall not be required to issue fractions of Rights or to distribute Rights Certificates which evidence fractional Rights. In lieu of such fractional Rights, there shall be paid to the Persons to which such fractional Rights would otherwise be issuable, an amount in cash equal to such fraction of the market value of a whole Right. For purposes of this Section 14(a), the market value of a whole Right shall be the closing price of the Rights for the Trading Day immediately prior to the date on which such fractional Rights would have been otherwise issuable. The closing price of the Rights for any day shall be, if the Rights are listed or admitted to trading on a national securities exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the Rights are listed or admitted to trading or, if the Rights are not listed or admitted to trading on any national securities exchange, the last quoted price or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the NASDAQ National Market System or such other system then in use or, if on any such date the Rights are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Rights selected by a majority of the Board of Directors. If on any such date no such market maker is making a market in the Rights, the fair value of the Rights on such date as determined in good faith by a majority of the Board of Directors shall be used and such determination shall be described in a statement filed with the Rights Agent and shall be conclusive for all purposes.

(b) The Company shall not be required to issue fractions of shares of Preferred Stock (other than fractions which are integral multiples of one one-hundredth of a share of Preferred Stock) upon exercise of the Rights or to distribute certificates which evidence such fractional shares of Preferred Stock (other than fractions which are integral multiples of one one-hundredth of a share of Preferred Stock). In lieu of such fractional shares of Preferred Stock that are not integral multiples of one one-hundredth of a share, the Company may pay to the registered holders of Rights Certificates at the time such Rights are exercised as herein provided an amount in cash equal to the same fraction of the then current market value of a share of Preferred Stock on the day of exercise, determined in accordance with Section 11(d).

(c) The holder of a Right, by the acceptance of such Right, expressly waives his right to receive any fractional Rights or any fractional shares upon exercise of a Right, except as permitted by this Section 14.

SECTION 15. Rights of Action. All rights of action in respect of this Agreement, other than rights of action vested in the Rights Agent pursuant to Section 18, are vested in the respective registered holders of the Rights Certificates (and, prior to the Distribution Date, the registered holders of certificates representing shares of Company Common Stock); and any registered holder of a Rights Certificate (or, prior to the Distribution Date, of a certificate representing shares of Company Common Stock), without the consent of the Rights Agent or of the holder of any other Rights Certificate (or, prior to the Distribution Date, of a certificate representing shares of Company Common Stock), may, in such registered holder's own behalf and for such registered holder's own benefit, enforce, and may institute and maintain any suit, action or proceeding against the Company or any other Person to enforce, or otherwise act in respect of, such registered holder's right to exercise the Rights evidenced by such Rights Certificate in the manner provided in such Rights Certificate and in this Agreement. Without limiting the foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and shall be entitled to specific performance of the obligations hereunder and injunctive relief against actual or threatened violations of the obligations hereunder of any Person subject to this Agreement.

SECTION 16. Agreement of Rights Holders. Every holder of a Right, by accepting the same, consents and agrees with the Company and the Rights Agent and with every other holder of a Right that:

(a) prior to the Distribution Date, the Rights will be transferable only in connection with the transfer of Company Common Stock;

(b) after the Distribution Date, the Rights Certificates are transferable only on the registry books of the Rights Agent if surrendered at the office of the Rights Agent designated for such purposes, duly endorsed or accompanied by a proper instrument of transfer and with the appropriate forms and certificates duly executed;

(c) subject to Section 6(a) and Section 7(f), the Company and the Rights Agent may deem and treat the person in whose name a Rights Certificate (or, prior to the Distribution Date, the associated Company Common Stock certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on the Rights Certificates or the associated Company Common Stock certificate made by anyone other than the Company or the Rights Agent) for all purposes whatsoever, and neither the Company nor the Rights Agent, subject to the last sentence of Section 7(e), shall be affected by any notice to the contrary; and

(d) notwithstanding anything in this Agreement to the contrary, neither the Company nor the Rights Agent shall have any liability to any holder of a Right or any other Person as a result of its inability to perform any of its obligations under this Agreement by reason of any preliminary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or by a governmental, regulatory or administrative agency or commission, or any statute, rule, regulation or executive order promulgated or enacted by any governmental authority, prohibiting or otherwise restraining performance of such obligation; provided, however, the Company must use its best efforts to have any such order, decree or ruling lifted or otherwise overturned as promptly as practicable.

SECTION 17. Rights Certificate Holder Not Deemed a Stockholder. No holder, as such, of any Rights Certificate shall be entitled to vote, receive dividends or be deemed for any purpose the holder of the number of shares of Preferred Stock or any other securities of the Company which may at any time be issuable on the exercise of the Rights represented thereby, nor shall anything contained herein or in any Rights Certificate be construed to confer upon the holder of any Rights Certificate, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action, or, except as provided in Section 24, to receive notice of meetings or other actions affecting stockholders, or to receive dividends or subscription rights, or otherwise, until the Right or Rights evidenced by such Rights Certificate shall have been exercised in accordance with the provisions hereof.

SECTION 18. Concerning the Rights Agent. (a) The Company agrees to pay to the Rights Agent reasonable compensation for all services rendered by it hereunder and, from time to time, on demand of the Rights Agent, its reasonable expenses, including reasonable fees and disbursements of its counsel, incurred in connection with the execution and administration of this Agreement and the exercise and performance of its duties hereunder. The Company shall indemnify the Rights Agent for, and hold it harmless against, any loss, liability, or expense, incurred without negligence, bad faith or willful misconduct on the part of the Rights Agent, for anything done or omitted by the Rights Agent in connection with the acceptance and administration of this Agreement, including the costs and expenses of defending against any claim of liability hereunder.

(b) The Rights Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its administration of this Agreement in reliance upon any Rights Certificate or certificate for Preferred Stock or for other securities of the Company, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement or other paper or document believed by it to be genuine and to have been signed, executed and, where necessary, verified or acknowledged by the proper Person or Persons.

SECTION 19. Merger or Consolidation or Change of Name of Rights Agent. (a) Any corporation into which the Rights Agent or any successor Rights Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Rights Agent or any successor Rights Agent shall be a party, or any corporation succeeding to the corporate trust or shareholder services business of the Rights Agent or any successor Rights Agent, shall be the successor to the Rights Agent under this Agreement without the execution or filing of any document or any further act on the part of any of the parties hereto; provided, however, that such corporation would be eligible for appointment as a successor Rights Agent under the provisions of Section 21. In the event that at the time such successor Rights Agent shall succeed to the agency created by this Agreement, any of the Rights Certificates shall have been countersigned but not delivered, any such successor Rights Agent may adopt the countersignature of a predecessor Rights Agent and deliver such Rights Certificates so countersigned; and, in the event that at that time any of the Rights Certificates shall not have been countersigned, any successor Rights Agent may countersign such Rights Certificates either in the name of the predecessor or in the name of the successor Rights Agent; and in all such cases such Rights Certificates shall have the full force provided in the Rights Certificates and in this Agreement.

(b) In the event that at any time the name of the Rights Agent shall be changed and at such time any of the Rights Certificates shall have been countersigned but not delivered, the Rights Agent may adopt the countersignature under its prior name and deliver Rights Certificates so countersigned; and in the event that at that time any of the Rights Certificates shall not have been countersigned, the Rights Agent may countersign such Rights Certificates either in its prior name or in its changed name; and in all such cases such Rights Certificates shall have the full force provided in the Rights Certificates and in this Agreement.

SECTION 20. Duties of Rights Agent. The Rights Agent undertakes the duties and obligations imposed by this Agreement upon the following terms and conditions, by all of which the Company and the holders of Rights Certificates, by their acceptance thereof, shall be bound:

(a) The Rights Agent may consult with legal counsel (who may be legal counsel for the Company), and the opinion of such counsel shall be full and complete authorization and protection to the Rights Agent as to any action taken or omitted by it in good faith and in accordance with such opinion.

(b) Whenever in the performance of its duties under this Agreement the Rights Agent shall deem it necessary or desirable that any fact or matter (including, without limitation, the identity of any Acquiring Person and the determination of "current market price") be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter (unless other evidence in respect

thereof be specified herein) may be deemed to be conclusively proved and established by a certificate signed by the Chairman of the Board, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of the Company and delivered to the Rights Agent; provided, however, that, so long as any Person is an Acquiring Person hereunder, such certificate shall be signed and delivered by a majority of the Board of Directors; and such certificate shall be full authorization to the Rights Agent for any action taken or suffered in good faith by it under the provisions of this Agreement in reliance upon such certificate.

(c) The Rights Agent shall be liable hereunder only for its own negligence, bad faith or willful misconduct.

(d) The Rights Agent shall not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the Rights Certificates or be required to verify the same (except as to its countersignature on such Rights Certificates), but all such statements and recitals are and shall be deemed to have been made by the Company only.

(e) The Rights Agent shall not have any responsibility for the validity of this Agreement or the execution and delivery hereof (except the due execution and delivery hereof by the Rights Agent) or for the validity or execution of any Rights Certificate (except its countersignature thereof); nor shall it be responsible for any breach by the Company of any covenant or failure by the Company to satisfy conditions contained in this Agreement or in any Rights Certificate; nor shall it be responsible for any adjustment required under the provisions of Section 11 or 13 or for the manner, method or amount of any such adjustment or the ascertaining of the existence of facts that would require any such adjustment (except with respect to the exercise of Rights evidenced by Rights Certificates after receipt by the Rights Agent of the certificate describing any such adjustment contemplated by Section 12); nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any shares of Preferred Stock or any other securities to be issued pursuant to this Agreement or any Rights Certificate or as to whether any shares of Preferred Stock or any other securities will, when so issued, be validly authorized and issued, fully paid and non-assessable.

(f) The Company shall perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further acts, instruments and assurances as may reasonably be required by the Rights Agent for the performance by the Rights Agent of its duties under this Agreement.

(g) The Rights Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from the Chairman

of the Board, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the Company, and to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered to be taken by it in good faith in accordance with instructions of any such officer; provided, however, that so long as any Person is an Acquiring Person hereunder, the Rights Agent shall accept such instructions and advice only from a majority of the Board of Directors and shall not be liable for any action taken or suffered to be taken by it in good faith in accordance with such instructions of the majority of the Board of Directors. Any application by the Rights Agent for written instructions from the Company may, at the option of the Rights Agent, set forth in writing any action proposed to be taken or omitted by the Rights Agent under this Rights Agreement and the date on and/or after which such action shall be taken or such omission shall be effective. The Rights Agent shall not be liable for any action taken by, or omission of, the Rights Agent in accordance with a proposal included in any such application on or after the date specified in such application (which date shall not be less than five Business Days after the date any such officer of the Company actually receives such application, unless any such officer shall have consented in writing to an earlier date) unless, prior to taking any such action (or the effective date in the case of an omission), the Rights Agent shall have received written instructions in response to such application specifying the action to be taken or omitted.

(h) The Rights Agent and any stockholder, director, officer or employee of the Rights Agent may buy, sell or deal in any of the Rights or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though it were not Rights Agent under this Agreement. Nothing herein shall preclude the Rights Agent from acting in any other capacity for the Company or for any other Person.

(i) The Rights Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents.

(j) No provision of this Agreement shall require the Rights Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of its rights hereunder if the Rights Agent shall have reasonable grounds for believing that repayment of such funds or adequate indemnification against such risk or liability is not reasonably assured to it.

(k) If, with respect to any Rights Certificate surrendered to the Rights Agent for exercise or transfer, the certificate attached to the form of assignment or

form of election to purchase, as the case may be, has either not been completed, not signed or indicates an affirmative response to clause 1 and/or 2 thereof, the Rights Agent shall not take any further action with respect to such requested exercise or transfer without first consulting with the Company. If such certificate has been completed and signed and shows a negative response to clauses 1 and 2 of such certificate, unless previously instructed otherwise in writing by the Company (which instructions may impose on the Rights Agent additional ministerial responsibilities, but no discretionary responsibilities), the Rights Agent may assume without further inquiry that the Rights Certificate is not owned by a person described in Section 4(b) or Section 7(e) and shall not be charged with any knowledge to the contrary.

SECTION 21. Change of Rights Agent. The Rights Agent or any successor Rights Agent may resign and be discharged from its duties under this Agreement upon thirty days' prior notice in writing mailed to the Company, and to each transfer agent of the Preferred Stock and the Company Common Stock, by registered or certified mail, and to the holders of the Rights Certificates (or certificates for the Company Common Stock prior to the Distribution Date) by first-class mail. The Company may remove the Rights Agent or any successor Rights Agent upon thirty days' prior notice in writing, mailed to the Rights Agent or successor Rights Agent, as the case may be, and to each transfer agent of the Preferred Stock and the Company Common Stock, by registered or certified mail, and to the holders of the Rights Certificates (or certificates for the Company Common Stock prior to the Distribution Date) by first-class mail. If the Rights Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall appoint a successor to the Rights Agent. If the Company shall fail to make such appointment within a period of thirty days after giving notice of such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Rights Agent or by the holder of a Rights Certificate or, prior to the Distribution Date, the holder of a certificate for the Company Common Stock (who shall, with such notice, submit such holder's Rights Certificate or certificate for Company Common Stock, as the case may be, for inspection by the Company), then any registered holder of any Rights Certificate or, prior to the Distribution Date, the holder of a certificate for the Company Common Stock may apply to any court of competent jurisdiction for the appointment of a new Rights Agent. Any successor Rights Agent, whether appointed by the Company or by such a court, shall be (a) a corporation organized and doing business under the laws of the United States or any state of the United States in good standing and may be the Company or a Subsidiary of the Company, shall be authorized to do business as a banking institution in the State of New York, shall be authorized under such laws to exercise corporate trust or stock transfer powers, shall be subject to supervision or examination by federal or state authorities and shall have at the time of its appointment as Rights Agent a combined capital and surplus of at least \$100,000,000 or (b) an Affiliate of a corporation described in clause (a). After appointment, the successor Rights Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Rights Agent without further act or

deed; but the predecessor Rights Agent shall deliver and transfer to the successor Rights Agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Not later than the effective date of any such appointment, the Company shall file notice thereof in writing with the predecessor Rights Agent and each transfer agent of the Preferred Stock and the Company Common Stock, and mail a notice thereof in writing to the registered holders of the Rights Certificates (or certificates for the Company Common Stock prior to the Distribution Date). Failure to give any notice provided for in this Section 21, however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of the successor Rights Agent.

SECTION 22. Issuance of New Rights Certificates. Notwithstanding any of the provisions of this Agreement or the Rights to the contrary, the Company may, at its option, issue new Rights Certificates evidencing Rights in such form as may be approved by a majority of the Board of Directors to reflect any adjustment or change made in accordance with the provisions of this Agreement in the Purchase Price or the number or kind or class of shares or other securities or property that may be acquired upon exercise of the Rights. In addition, in connection with the issuance or sale of shares of Company Common Stock following the Distribution Date and prior to the Expiration Date, the Company (a) shall, with respect to shares of Company Common Stock so issued or sold pursuant to the exercise of stock options or under any employee plan or arrangement, or upon the exercise, conversion or exchange of securities hereinafter issued by the Company, and (b) may, in any other case, if deemed necessary or appropriate by the Board of Directors, issue Rights Certificates representing the appropriate number of Rights in connection with such issuance or sale; provided, however, that (i) no such Rights Certificate shall be issued if, and to the extent that, the Company shall be advised by counsel that such issuance would create a significant risk of material adverse tax consequences to the Company or the person to whom such Rights Certificate would be issued, and (ii) no such Rights Certificate shall be issued if, and to the extent that, appropriate adjustment shall otherwise have been made in lieu of the issuance thereof.

SECTION 23. Redemption and Termination. (a) Subject to Section 28, the Company may, at its option, by action of a majority of the Board of Directors, at any time prior to the earlier of (i) the Close of Business on the tenth Business Day following the Stock Acquisition Date, or (ii) the Final Expiration Date, redeem all but not less than all of the then outstanding Rights at a redemption price of \$.01 per Right, as such amount may be appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the date hereof (such redemption price being the "Redemption Price"), and the Company may, at its option, by action of a majority of the Board of Directors, pay the Redemption Price either in shares of Company Common Stock (based on the current market price, determined in accordance with Section 11(d), of the shares of Company Common Stock at the time of redemption) or cash. Subject to the foregoing, the redemption of the

Rights may be made effective at such time, on such basis and with such conditions as the Board of Directors in its sole discretion may establish.

(b) Immediately upon the action of a majority of the Board of Directors ordering the redemption of the Rights, evidence of which shall be filed with the Rights Agent, and without any further action and without any notice, the right to exercise the Rights will terminate and the only right thereafter of the holders of Rights shall be to receive the Redemption Price for each Right so held. Promptly after the action of a majority of the Board of Directors ordering the redemption of the Rights, the Company shall give notice of such redemption to the Rights Agent and the holders of the then outstanding Rights by mailing such notice to all such holders at each holder's last address as it appears upon the registry books of the Rights Agent or, prior to the Distribution Date, on the registry books of the transfer agent for Company Common Stock. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of redemption will state the method by which the payment of the Redemption Price will be made.

SECTION 24. Notice of Certain Events. (a) In the event that the Company shall propose, at any time after the Distribution Date, (i) to pay any dividend payable in stock of any class to the holders of Preferred Stock or to make any other distribution to the holders of Preferred Stock (other than a regular quarterly cash dividend out of earnings or retained earnings of the Company), (ii) to offer to the holders of Preferred Stock rights or warrants to subscribe for or to purchase any additional shares of Preferred Stock or shares of stock of any class or any other securities, rights or options, (iii) to effect any reclassification of its Preferred Stock (other than a reclassification involving only the subdivision of outstanding shares of Preferred Stock), (iv) to effect any consolidation or merger into or with any other Person (other than a Subsidiary of the Company in a transaction which complies with Section 11(o)), or to effect any sale or other transfer (or to permit one or more of its Subsidiaries to effect any sale or other transfer), in one or more transactions, of more than 50% of the assets or earning power of the Company and its Subsidiaries (taken as a whole) to any other Person or Persons (other than the Company and/or any of its Subsidiaries in one or more transactions each of which complies with Section 11(o)), or (v) to effect the liquidation, dissolution or winding up of the Company, then, in each such case, the Company shall give to each holder of a Rights Certificate (or, prior to the Distribution Date, to each holder of certificates for Company Common Stock), to the extent feasible and in accordance with Section 25, a notice of such proposed action, which shall specify the record date for the purposes of such stock dividend, distribution of rights or warrants, or the date on which such reclassification, consolidation, merger, sale, transfer, liquidation, dissolution, or winding up is to take place and the date of participation therein by the holders of the shares of Preferred Stock, if any such date is to be fixed, and such notice shall be so given in the case of any action covered by clause (i) or (ii) above at least 20 days prior to the record date for determining holders of the shares of Preferred Stock for purposes of such action, and in the

case of any such other action, at least 20 days prior to the date of the taking of such proposed action or the date of participation therein by the holders of the shares of Preferred Stock, whichever shall be the earlier; provided, however, no such notice shall be required pursuant to this Section 24 if any Subsidiary of the Company effects a consolidation or merger with or into, or effects a sale or other transfer of assets or earning power to, any other Subsidiary of the Company.

(b) In the event that any of the events set forth in Section 11(a)(ii) shall occur, then, in any such case, the Company shall as soon as practicable thereafter give to each holder of a Rights Certificate, to the extent feasible and in accordance with Section 25, a notice of the occurrence of such event, which shall specify the event and the consequences of the event to holders of Rights under Section 11(a)(ii).

SECTION 25. Notices. All notices and other communications provided for hereunder shall, unless otherwise stated herein, be in writing and mailed or sent or delivered (including by telecopier), if to the Company, at its address at:

Merrill Lynch & Co., Inc.
Merrill Lynch World Headquarters
North Tower
World Financial Center
New York, New York 10281-1201
Attention: Associate General Counsel
Corporate Law Department
Telecopier No.: 212-449-9813

and if to the Rights Agent, at its address at:

ChaseMellon Shareholder Services, L.L.C.
Stock Transfer Administration Department
450 West 33rd Street
New York, New York 10001
Attention: Kirk Alexander
Relationship Manager
Telecopier No.: 212-947-7628

Notices or demands authorized or required by this Agreement to be given or made by the Company or the Rights Agent to the holder of any Rights Certificate (or, if prior to the Distribution Date, to the holder of certificates representing shares of Company Common Stock) shall be sufficiently given or made if sent by first-class mail, postage prepaid, addressed to such holder at the address of such holder as shown on the registry books of the Rights Agent or, prior to the Distribution Date, on the registry books of the transfer agent for the Company Common Stock.

SECTION 26. Supplements and Amendments. Prior to the Distribution Date, the Company may and the Rights Agent shall, if the Company so directs, supplement or amend any provision of this Agreement without the approval of any holders of certificates representing shares of Company Common Stock. From and after the Distribution Date, the Company may and the Rights Agent shall, if the Company so directs, supplement or amend this Agreement without the approval of any holders of Rights Certificates in order (i) to cure any ambiguity, (ii) to correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions herein, (iii) to shorten or lengthen any time period hereunder or (iv) to change or supplement the provisions hereunder in any manner which the Company may deem necessary or desirable and which shall not adversely affect the interests of the holders of Rights Certificates (other than an Acquiring Person or an Affiliate or Associate of an Acquiring Person); provided, however, that this Agreement may not be supplemented or amended to lengthen, pursuant to clause (iii) of this sentence, (A) subject to Section 28, a time period relating to when the Rights may be redeemed at such time as the Rights are not then redeemable or (B) any other time period unless such lengthening is for the purpose of protecting, enhancing or clarifying the rights of, and/or the benefits to, the holders of Rights. Upon the delivery of a certificate from an appropriate officer of the Company or, so long as any Person is an Acquiring Person hereunder, from the majority of the Board of Directors which states that the proposed supplement or amendment is in compliance with the terms of this Section 26, the Rights Agent shall execute such supplement or amendment. Prior to the Distribution Date, the interests of the holders of Rights shall be deemed coincident with the interests of the holders of Company Common Stock.

SECTION 27. Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company or the Rights Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

SECTION 28. Determinations and Actions by the Board of Directors, etc. For all purposes of this Agreement, any calculation of the number of shares of Company Common Stock outstanding at any particular time, including for purposes of determining the particular percentage of such outstanding shares of Company Common Stock of which any Person is the Beneficial Owner, shall be made in accordance with the last sentence of Rule 13d-3(d)(1)(i) of the Exchange Act Regulations as in effect on the date hereof. Except as otherwise specifically provided herein, the Board of Directors of the Company shall have the exclusive power and authority to administer this Agreement and to exercise all rights and powers specifically granted to the Board of Directors of the Company or to the Company, or as may be necessary or advisable in the administration of this Agreement, including, without limitation, the right and power (i) to interpret the provisions of this Agreement, and (ii) to make all determinations deemed necessary or advisable for the administration of this Agreement. All such actions, calculations, interpretations and determinations (including, for purposes of clause (y) below, all omissions with respect to the foregoing) which are done or

made by the Board or by a majority of the Board of Directors in good faith shall (x) be final, conclusive and binding on the Company, the Rights Agent, the holders of the Rights and all other parties, and (y) not subject the Board of Directors of the Company or any member thereof to any liability to the holders of the Rights.

SECTION 29. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any Person other than the Company, the Rights Agent and the registered holders of the Rights Certificates (and, prior to the Distribution Date, registered holders of shares of Company Common Stock) any legal or equitable right, remedy or claim under this Agreement. This Agreement shall be for the sole and exclusive benefit of the Company, the Rights Agent and the registered holders of the Rights Certificates (and, prior to the Distribution Date, registered holders of shares of Company Common Stock).

SECTION 30. Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated; provided, however, that, notwithstanding anything in this Agreement to the contrary, if any such term, provision, covenant or restriction is held by such court or authority to be invalid, void or unenforceable and a majority of the Board of Directors determines in its good faith judgment that severing the invalid language from this Agreement would adversely affect the purpose or effect of this Agreement and the Rights shall not then be redeemable, the right of redemption set forth in Section 23 shall be reinstated and shall not expire until the Close of Business on the tenth Business Day following the date of such determination by a majority of the Board of Directors.

SECTION 31. Governing Law. This Agreement, each Right and each Rights Certificate issued hereunder shall be governed by, and construed in accordance with, the laws of the State of Delaware; provided, however, that Sections 18, 19, 20 and 21 shall be governed by, and construed in accordance with, the laws of the State of New York (or state of incorporation of any successor Rights Agent).

SECTION 32. Counterparts. This Agreement may be executed (including by telecopier) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument.

SECTION 33. Descriptive Headings. The headings contained in this Agreement are for descriptive purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 34. Exchange. (a) (i) The Company may, at its option, at any time after any person becomes an Acquiring Person, upon resolution adopted by a majority of the Company's Board of Directors, exchange all or part of the then outstanding and exercisable Rights (which shall not include Rights that have become void pursuant to Section 7(e)) for Units of Preferred Stock at an exchange ratio of one Unit of Preferred Stock per Right, appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the date hereof (such exchange ratio being hereinafter referred to as the "Section 34(a)(i) Exchange Ratio"). Notwithstanding the foregoing, the Company may not effect such exchange at any time after any Person (other than the Company, any Subsidiary of the Company, any employee benefit plan maintained by the Company or any of its Subsidiaries, or any trustee or fiduciary with respect to such plan acting in such capacity), together with all Affiliates and Associates of such Person, becomes the Beneficial Owner of 50% or more of the shares of Company Common Stock then outstanding.

(ii) The Company may, at its option, at any time after any person becomes an Acquiring Person, upon resolution adopted by a majority of the Company's Board of Directors, exchange all or part of the then outstanding and exercisable Rights (which shall not include Rights that have become void pursuant to Section 7(e)) for Units of Preferred Stock at an exchange ratio specified in the following sentence, as appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the date hereof. Subject to such adjustment, each Right may be exchanged for that number of Units of Preferred Stock obtained by dividing the Adjustment Spread (as defined below) by the then current market price (determined pursuant to Section 11(d)) per Unit of Preferred Stock on the earlier of (i) the date on which any Person becomes an Acquiring Person and (ii) the date on which a tender or exchange offer by any Person (other than the Company, any Subsidiary of the Company, any employee benefit plan maintained by the Company or any of its Subsidiaries or any trustee or fiduciary with respect to such plan acting in such capacity) is first published or sent or given within the meaning of Rule 14d-4(a) of the Exchange Act Regulations or any successor rule, if upon consummation thereof such Person would be the Beneficial Owner of 15% or more of the shares of Company Common Stock then outstanding (such exchange ratio being the "Section 34(a)(ii) Exchange Ratio"). The "Adjustment Spread" shall equal (x) the aggregate market price on the date of such event of the number of Adjustment Shares determined pursuant to Section 11(a)(ii), minus (y) the Purchase Price. Notwithstanding the foregoing, the Company may not effect such exchange at any time after any Person (other than the Company, any Subsidiary of the Company, any employee benefit plan maintained by the Company or any of its Subsidiaries, or any trustee or fiduciary with respect to such plan acting in such capacity), together with all Affiliates and Associates of such Person, becomes the Beneficial Owner of 50% or more of the shares of the Company Common Stock then outstanding.

(b) Immediately upon the action of a majority of the Board of Directors ordering the exchange of any Rights pursuant to Section 34(a) and without any further action

and without any notice, the right to exercise such Rights shall terminate and the only right thereafter of a holder of such Rights shall be to receive that number of Units of Preferred Stock equal to the number of such Rights held by such holder multiplied by the Section 34(a)(i) Exchange Ratio or Section 34(a)(ii) Exchange Ratio, as the case may be. The Company shall promptly give public notice of any such exchange; provided, however, that the failure to give, or any defect in, such notice shall not affect the validity of such exchange. The Company promptly shall mail a notice of any such exchange to all of the holders of such Rights at their last addresses as they appear upon the registry books of the Rights Agent. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of exchange shall state the method by which the exchange of Units of Preferred Stock for Rights will be effected and, in the event of any partial exchange, the number of Rights which will be exchanged. Any partial exchange shall be effected pro rata based on the number of Rights (other than Rights which have become void pursuant to Section 7(e)) held by each holder of Rights.

(c) In the event that the number of shares of Preferred Stock which are authorized by the Company's Certificate of Incorporation but not outstanding or reserved for issuance for purposes other than upon exercise of the Rights are not sufficient to permit any exchange of Rights as contemplated in accordance with this Section 34, the Company shall take all such action as may be necessary to authorize additional shares of Preferred Stock for issuance upon exchange of the Rights or make adequate provision to substitute (1) cash, (2) Company Common Stock or other equity securities of the Company, (3) debt securities of the Company, (4) other assets or (5) any combination of the foregoing, having an aggregate value equal to the Adjustment Spread, where such aggregate value has been determined by a majority of the Board of Directors.

(d) The Company shall not be required to issue fractions of Units of Preferred Stock or to distribute certificates which evidence fractional Units. In lieu of fractional Units, the Company may pay to the registered holders of Rights Certificates at the time such Rights are exchanged as herein provided an amount in cash equal to the same fraction of the current market price (determined pursuant to Section 11(d)) of one Unit of Preferred Stock.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on their behalf as of the date first above written.

MERRILL LYNCH & CO, INC.

By _____
Name:
Title:

CHASEMELLON SHAREHOLDER SERVICES, L.L.C.

By _____
Name:
Title:

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Accelerated Return Notes®
(the "Notes")

ORIGINAL ISSUE DATE:

STATED MATURITY:

INDEX:

INDEX PUBLISHER:

STARTING VALUE:

CAPPED VALUE: \$

CALCULATION AGENT:

Merrill Lynch, Pierce,
 Fenner & Smith Incorporated
 (unless otherwise specified)

DENOMINATIONS:

Integral multiples of \$10
 (unless otherwise specified)

SPECIFIED CURRENCY:

United States dollar
 (unless otherwise specified)

DEFAULT RATE: %

INDEX BUSINESS DAY:

OTHER PROVISIONS:

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Redemption Amount (as defined below) at the Stated Maturity.

Payment or delivery of the Redemption Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Redemption Amount. The “Redemption Amount” with respect to this Global Note shall be determined by the Calculation Agent and shall equal:

- (i) If the Ending Value (as defined below) is greater than the Starting Value:

$$\text{Principal Amount} + \left[\$30 \times \left(\frac{\text{Ending Value} - \text{Starting Value}}{\text{Starting Value}} \right) \right] ;$$

provided, however, the Redemption Amount shall not exceed the Capped Value; or

- (ii) If the Ending Value is equal to or less than the Starting Value:

$$\text{Principal Amount} \times \left(\frac{\text{Ending Value}}{\text{Starting Value}} \right)$$

The “Ending Value” shall be determined by the Calculation Agent and shall equal the average of the closing levels of the Index determined on each of the first five Calculation Days (as defined below) during the Calculation Period (as defined below). If there are fewer than five Calculation Days during the Calculation Period, then the Ending Value shall equal the average of the closing levels of the Index on those Calculation Days. If there is only one Calculation Day during the Calculation Period, then the Ending Value shall equal the closing level of the Index on that Calculation Day. If no Calculation Days occur during the Calculation Period, then the Ending Value shall equal the closing level of the Index determined on the last scheduled Index Business Day in the Calculation Period, regardless of the occurrence of a Market Disruption Event (as defined below) on that scheduled Index Business Day.

The “Calculation Period” means the period from and including the seventh scheduled Index Business Day before the Stated Maturity to and including the second scheduled Index Business Day before the Stated Maturity.

A “Calculation Day” means any Index Business Day during the Calculation Period on which a Market Disruption Event has not occurred.

All determinations made by the Calculation Agent, absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

Adjustments to the Index; Market Disruption Events

If at any time the Index Publisher makes a material change in the formula for or the method of calculating the Index or in any other way materially modifies the Index so that the Index does not, in the opinion of the Calculation Agent, fairly represent the level of the Index had those changes or modifications not been made, then, from and after that time, the Calculation Agent shall, at the close of business in New York, New York, on each date that the closing level of the Index is to be calculated, make any adjustments as, in the good faith judgment of the Calculation Agent, may be necessary in order to arrive at a calculation of a level of a stock index comparable to the Index as if those changes or modifications had not been made, and calculate the closing level with reference to the Index, as so adjusted.

“Market Disruption Event” means either of the following events as determined by the Calculation Agent:

- (A) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), in 20% or more of the stocks which then comprise the Index or any Successor Index; or
- (B) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), whether by reason of movements in price otherwise exceeding levels permitted by the applicable exchange or otherwise, in option contracts or futures contracts related to the Index, or any Successor Index.

For the purpose of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours in a trading day and/or number of days of trading shall not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the applicable exchange;
- (2) a suspension in trading in a futures or option contract on the Index, or any Successor Index, by a major securities market by reason of (a) a price change violating limits set by that securities market, (b) an imbalance of orders relating to those contracts or (c) a disparity in bid and ask quotes relating to those contracts shall constitute a suspension of or material limitation on trading in futures or option contracts related to that index;
- (3) a suspension of or material limitation on trading on the relevant exchange shall not include any time when that exchange is closed for trading under ordinary circumstances; and
- (4) for the purpose of clause (A) above, any limitations on trading during significant market fluctuations under NYSE Rule 80B, or any applicable rule or regulation enacted or promulgated by the NYSE or any other self regulatory organization or the Securities and Exchange Commission of similar scope as determined by the Calculation Agent, shall be considered “material”.

Discontinuance of the Index

If the Index Publisher discontinues publication of the Index and the Index Publisher or another entity publishes a successor or substitute index that the Calculation Agent determines, in its sole discretion, to be comparable to the Index (a “Successor Index”), then, upon the Calculation Agent’s notification of that determination to the Trustee (as defined below) and the Company, the Calculation Agent shall substitute such Successor Index as calculated by the Index Publisher or any other entity for the Index and calculate the Ending Value as described above under “Payment at Stated Maturity”. Upon any selection by the Calculation Agent of a Successor Index, the Company shall cause notice to be given to Holders of this Global Note.

In the event that the Index Publisher discontinues publication of the Index and:

- the Calculation Agent does not select a Successor Index; or
- the Successor Index is not published on any of the Calculation Days,

the Calculation Agent shall compute a substitute level for the Index in accordance with the procedures last used to calculate the Index before any discontinuance. If a Successor Index is selected or the Calculation Agent calculates a level as a substitute for the Index as described below, the Successor Index or level shall be used as a substitute for the Index for all purposes, including the purpose of determining whether a Market Disruption Event exists.

If the Index Publisher discontinues publication of the Index before the Calculation Period and the Calculation Agent determines that no Successor Index is available at that time, then on each Business Day (as defined below) until the earlier to occur of:

- the determination of the Ending Value; or
- a determination by the Calculation Agent that a Successor Index is available,

the Calculation Agent shall determine the value that would be used in computing the Redemption Amount as described in the preceding paragraph as if that day were a Calculation Day. The Calculation Agent shall cause notice of each value to be published not less often than once each month in *The Wall Street Journal* or another newspaper of general circulation and arrange for information with respect to these values to be made available by telephone.

A "Business Day" is any day that is either (i) an Index Business Day or (ii) a day on which the relevant exchanges listing the stocks of companies used to calculate a substitute level of the Index following a discontinuance, as discussed above, are open for trading.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Accelerated Return Notes which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than $66\frac{2}{3}\%$ in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their

consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Redemption Amount hereof and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations, of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder and beneficial owner by acceptance hereof hereby agree (in the absence of an administrative determination, judicial ruling or other authoritative guidance to the contrary) to characterize and treat this Global Note for all tax purposes as a pre-paid cash-settled forward contract linked to the level of the Index.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[Copy of Seal]

Merrill Lynch & Co., Inc.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Authorized Officer

By: _____
Assistant Treasurer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Leveraged Index Return Notes.[®]
(the "Notes")

INDEX:	INDEX PUBLISHER:	ORIGINAL ISSUE DATE:
STARTING VALUE:	THRESHOLD VALUE: 80% of the Starting Value (unless otherwise specified)	PARTICIPATION RATE: %
STATED MATURITY:	CALCULATION AGENT: Merrill Lynch, Pierce, Fenner & Smith Incorporated (unless otherwise specified)	DENOMINATIONS: Integral multiples of \$10 (unless otherwise specified)
SPECIFIED CURRENCY: United States dollar (unless otherwise specified)	DEFAULT RATE: %	INDEX BUSINESS DAY:
OTHER PROVISIONS:		

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Redemption Amount (as defined below) at the Stated Maturity.

Payment or delivery of the Redemption Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Redemption Amount. The “Redemption Amount” with respect to this Global Note shall be determined by the Calculation Agent and shall equal:

- (i) If the Ending Value (as defined below) is equal to or greater than the Starting Value:

$$\text{Principal Amount} + \left[\text{Principal Amount} \times \left(\frac{\text{Ending Value} - \text{Starting Value}}{\text{Starting Value}} \right) \times \text{Participation Rate} \right];$$

- (ii) If the Ending Value is less than the Starting Value but is equal to or greater than or equal to the Threshold Value, an amount equal to the Principal Amount; or
(iii) If the Ending Value is less than the Threshold Value:

$$\text{Principal Amount} \times \left(\frac{\text{Ending Value}}{\text{Starting Value}} \right) \times 125\%$$

The “Ending Value” shall be determined by the Calculation Agent and shall equal the average of the closing levels of the Index determined on each of the first five Calculation Days (as defined below) during the Calculation Period (as defined below). If there are fewer than five Calculation Days during the Calculation Period, then the Ending Value shall equal the average of the closing levels of the Index on those Calculation Days. If there is only one Calculation Day during the Calculation Period, then the Ending Value shall equal the closing level of the Index on that Calculation Day. If no Calculation Days occur during the Calculation Period, then the Ending Value shall equal the closing level of the Index determined on the last scheduled Index Business Day (as defined below) in the Calculation Period, regardless of the occurrence of a Market Disruption Event (as defined below) on that scheduled Index Business Day.

The “Calculation Period” means the period from and including the seventh scheduled Index Business Day before the Stated Maturity to and including the second scheduled Index Business Day before the Stated Maturity.

A “Calculation Day” means any Index Business Day during the Calculation Period on which a Market Disruption Event has not occurred.

All determinations made by the Calculation Agent shall, absent a determination of a manifest error, be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

Adjustments to the Index; Market Disruption Events

If at any time the Index Publisher makes a material change in the formula for or the method of calculating the Index or in any other way materially modifies the Index so that the Index does not, in the opinion of the Calculation Agent, fairly represent the level of the Index had those changes or modifications not been made, then, from and after that time, the Calculation Agent shall, at the close of business in New York, New York, on each date that the closing level of the Index is to be calculated, make any adjustments as, in the good faith judgment of the Calculation Agent, may be necessary in order to arrive at a calculation of a level of a stock index comparable to the Index as if those changes or modifications had not been made, and calculate the closing level with reference to the Index, as so adjusted.

“Market Disruption Event” means either of the following events as determined by the Calculation Agent:

- (A) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), in 20% or more of the stocks which then comprise the Index or any Successor Index; or
- (B) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the relevant exchange (without taking into account any extended or after-hours trading session), whether by reason of movements in price otherwise exceeding levels permitted by the applicable exchange or otherwise, in option contracts or futures contracts related to the Index, or any Successor Index.

For the purpose of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours in a trading day and/or number of days of trading shall not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the applicable exchange;
- (2) a suspension in trading in a futures or option contract on the Index, or any Successor Index, by a major securities market by reason of (a) a price change violating limits set by that securities market, (b) an imbalance of orders relating to those contracts or (c) a disparity in bid and ask quotes relating to those contracts shall constitute a suspension of or material limitation on trading in futures or option contracts related to that index;
- (3) a suspension of or material limitation on trading on the relevant exchange shall not include any time when that exchange is closed for trading under ordinary circumstances; and
- (4) for the purpose of clause (A) above, any limitations on trading during significant market fluctuations under NYSE Rule 80B, or any applicable rule or regulation enacted or promulgated by the NYSE or any other self regulatory organization or the Securities and Exchange Commission of similar scope as determined by the Calculation Agent, shall be considered “material”.

Discontinuance of the Index

If the Index Publisher discontinues publication of the Index and the Index Publisher or another entity publishes a successor or substitute index that the Calculation Agent determines, in its sole discretion, to be comparable to the Index (a “Successor Index”), then, upon the Calculation Agent’s notification of that determination to the Trustee (as defined below) and the Company, the Calculation Agent shall substitute such Successor Index as calculated by the Index Publisher or any other entity for the Index and calculate the Ending Value as described above under “Payment at Stated Maturity”. Upon any selection by the Calculation Agent of a Successor Index, the Company shall cause notice to be given to Holders of this Global Note.

In the event that the Index Publisher discontinues publication of the Index and:

- the Calculation Agent does not select a Successor Index; or
- the Successor Index is not published on any of the Calculation Days,

the Calculation Agent shall compute a substitute level for the Index in accordance with the procedures last used to calculate the Index before any discontinuance. If a Successor Index is selected or the Calculation Agent calculates a level as a substitute for the Index as described below, the Successor Index or level shall be used as a substitute for the Index for all purposes, including the purpose of determining whether a Market Disruption Event exists.

If the Index Publisher discontinues publication of the Index before the Calculation Period and the Calculation Agent determines that no Successor Index is available at that time, then on each Business Day (as defined below) until the earlier to occur of:

- the determination of the Ending Value; or
- a determination by the Calculation Agent that a Successor Index is available,

the Calculation Agent shall determine the value that would be used in computing the Redemption Amount as described in the preceding paragraph as if that day were a Calculation Day. The Calculation Agent shall cause notice of each value to be published not less often than once each month in *The Wall Street Journal* or another newspaper of general circulation and arrange for information with respect to these values to be made available by telephone.

A "Business Day" is any day that is either (i) an Index Business Day or (ii) a day on which the relevant exchanges listing the stocks of companies used to calculate a substitute level of the Index following a discontinuance, as discussed above, are open for trading.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Leveraged Index Return Notes[®] which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon

such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Redemption Amount and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations of like tenor and for the same Principal Amount, shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder and beneficial owner by acceptance hereof hereby agree (in the absence of an administrative determination, judicial ruling or other authoritative guidance to the contrary) to characterize and treat this Global Note for all tax purposes as a pre-paid cash-settled forward contract linked to the level of the Index.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[Copy of Seal]

Merrill Lynch & Co., Inc.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Assistant Treasurer

By: _____
Authorized Officer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Market Index Target-Term Securities®
(the "Notes")

INDEX:

INDEX PUBLISHER:

ORIGINAL ISSUE DATE:

STATED MATURITY:

STARTING VALUE:

PARTICIPATION RATE:

CALCULATION AGENT:

DENOMINATIONS:

SPECIFIED CURRENCY:

Merrill Lynch, Pierce,
 Fenner & Smith Incorporated
 (unless otherwise specified)

Integral multiples of \$10
 (unless otherwise specified)

United States dollar
 (unless otherwise specified)

DEFAULT RATE: %

INDEX BUSINESS DAY:

OTHER PROVISIONS:

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Principal Amount plus the Supplemental Redemption Amount (as defined below) at the Stated Maturity.

Payment or delivery of the Principal Amount and the Supplemental Redemption Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Principal Amount plus the Supplemental Redemption Amount. The “Supplemental Redemption Amount” with respect to this Global Note shall be determined by the Calculation Agent and shall equal:

$$\text{Principal Amount} \times \left(\frac{\text{Ending Value} - \text{Starting Value}}{\text{Starting Value}} \right) \times \text{Participation Rate} ;$$

provided, however, that in no event shall the Supplemental Redemption Amount be less than zero.

The “Ending Value” shall be determined by the Calculation Agent and shall equal the average of the closing levels of the Index, determined on each of the first five Calculation Days during the Calculation Period (as defined below). If there are fewer than five Calculation Days during the Calculation Period, then the Ending Value shall equal the average of the closing levels of the Index on those Calculation Days. If there is only one Calculation Day during the Calculation Period, then the Ending Value shall equal the closing level of the Index on that Calculation Day. If no Calculation Days occur during the Calculation Period, then the Ending Value shall equal the closing level of the Index determined on the last scheduled Index Business Day (as defined below) in the Calculation Period, regardless of the occurrence of a Market Disruption Event (as defined below) on that scheduled Index Business Day.

The “Calculation Period” means the period from and including the seventh scheduled Index Business Day before the Stated Maturity to and including the second scheduled Index Business Day before the Stated Maturity.

A “Calculation Day” means any Index Business Day during the Calculation Period on which a Market Disruption Event has not occurred.

All determinations made by the Calculation Agent absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

Adjustments to the Index; Market Disruption Events

If at any time the Index Publisher makes a material change in the formula for or the method of calculating the Index or in any other way materially modifies the Index so that the Index does not, in the opinion of the Calculation Agent, fairly represent the level of the Index had those changes or modifications not been made, then, from and after that time, the Calculation Agent shall, at the close of business in New York, New York, on each date that the closing level of the Index is to be calculated, make any adjustments as, in the good faith judgment of the Calculation Agent, may be necessary in order to arrive at a calculation of a level of a stock index comparable to the Index as if those changes or modifications had not been made, and calculate the closing level with reference to the Index, as so adjusted.

“Market Disruption Event” means either of the following events as determined by the Calculation Agent:

- (A) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), in 20% or more of the stocks which then comprise the Index or any Successor Index; or
- (B) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), whether by reason of movements

in price otherwise exceeding levels permitted by the relevant exchange or otherwise, in option contracts or futures contracts related to the Index, or any Successor Index, which are traded on any major U.S. exchange.

For the purpose of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours in a trading day and/or number of days of trading shall not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the applicable exchange;
- (2) a suspension in trading in a futures or option contract on the Index, or any Successor Index, by a major securities market by reason of (a) a price change violating limits set by that securities market, (b) an imbalance of orders relating to those contracts or (c) a disparity in bid and ask quotes relating to those contracts shall constitute a suspension of or material limitation on trading in futures or option contracts related to that index;
- (3) a suspension of or material limitation on trading on the applicable exchange shall not include any time when that exchange is closed for trading under ordinary circumstances; and
- (4) for the purpose of clause (A) above, any limitations on trading during significant market fluctuations under NYSE Rule 80B, or any applicable rule or regulation enacted or promulgated by the NYSE or any other self regulatory organization or the Securities and Exchange Commission of similar scope as determined by the Calculation Agent, shall be considered "material".

Discontinuance of the Index

If the Index Publisher discontinues publication of the Index and the Index Publisher or another entity publishes a successor or substitute index that the Calculation Agent determines, in its sole discretion, to be comparable to the Index (a "Successor Index"), then, upon the Calculation Agent's notification of that determination to the Trustee (as defined below) and the Company, the Calculation Agent shall substitute such Successor Index as calculated by the Index Publisher or any other entity for the Index and calculate the Ending Value as described above under "Payment at Stated Maturity". Upon any selection by the Calculation Agent of a Successor Index, the Company shall cause notice to be given to Holders of this Global Note.

In the event that the Index Publisher discontinues publication of the Index and:

- the Calculation Agent does not select a Successor Index; or
- the Successor Index is not published on any of the Calculation Days,

the Calculation Agent shall compute a substitute level for the Index in accordance with the procedures last used to calculate the Index before any discontinuance. If a Successor Index is selected or the Calculation Agent calculates a level as a substitute for the Index as described below, the Successor Index or level shall be used as a substitute for the Index for all purposes, including the purpose of determining whether a Market Disruption Event exists.

If the Index Publisher discontinues publication of the Index before the Calculation Period and the Calculation Agent determines that no Successor Index is available at that time, then on each Business Day (as defined below) until the earlier to occur of:

- the determination of the Ending Value; or
- a determination by the Calculation Agent that a Successor Index is available,

the Calculation Agent shall determine the value that would be used in computing the Supplemental Redemption Amount as described in the preceding paragraph as if that day were a Calculation Day. The Calculation Agent shall cause notice of each value to be published not less often than once each month in *The Wall Street Journal* or another newspaper of general circulation and arrange for information with respect to these values to be made available by telephone.

A "Business Day" is any day that is either (i) an Index Business Day or (ii) a day on which the relevant exchanges listing the stocks of companies used to calculate a substitute level of the Index following a discontinuance, as discussed above, are open for trading.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Market Index Target-Term Securities[®] which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing Notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Principal Amount plus the Supplemental Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that such payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66 ²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Principal Amount plus the Supplemental Redemption Amount hereof and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations, of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder by acceptance hereof hereby agree to treat this Global Note for all tax purposes as a debt instrument that is subject to U.S. Treasury Regulation section 1.1275-4(b) governing contingent payment debt instruments, and, where required, the Company shall file information returns with the Internal Revenue Service in accordance with this treatment, in the absence of any change or clarification in the law, by regulation or otherwise, requiring a different characterization of the Notes.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Authorized Officer

Merrill Lynch & Co., Inc.

[Copy of Seal]

By: _____
Assistant Treasurer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Profit Lock-In SUMmation SecuritiesSM
(the "Notes")

INDEX:

INDEX PUBLISHER:

PRICING DATE:

ORIGINAL ISSUE DATE:

INDEX LEVEL ON THE
PRICING DATE:

STATED MATURITY:

MONTHLY RETURN CAP: %

MONTHLY RETURN
CALCULATION DATE:

CALCULATION AGENT:
Merrill Lynch, Pierce, Fenner & Smith Incorporated
(unless otherwise specified)

DEFAULT RATE: %

DENOMINATIONS:
Integral multiples of \$1,000
(unless otherwise specified)

SPECIFIED CURRENCY:
United States dollar
(unless otherwise specified)

INDEX BUSINESS DAY:

OTHER PROVISIONS:

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Principal Amount plus the greater of the Supplemental Redemption Amount (as defined below) or the Profit Lock-In Amount (as defined below) at the Stated Maturity.

Payment or delivery of the Principal Amount and the greater of the Supplemental Redemption Amount or the Profit Lock-In Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Principal Amount plus the greater of:

(i) the Supplemental Redemption Amount

or

(ii) the Profit Lock-In Amount.

The “Supplemental Redemption Amount” equals:

$$\text{Principal Amount} \times \text{Summation Amount}$$

The “Summation Amount” equals the sum of the monthly percentage increases and decreases in the level of the Index (each a “Monthly Return”) over the term of this Global Note, subject to the Monthly Return Cap. Each Monthly Return equals:

$$\left(\frac{\text{Ending Value} - \text{Starting Value}}{\text{Starting Value}} \right)$$

subject to the Monthly Return Cap.

The “Profit Lock-In Amount” equals the greater of:

- \$0 per \$1,000 principal amount of Notes if the Summation Amount never equals or exceeds 10% at any time during the term of this Global Note;
- \$100 per \$1,000 principal amount of Notes if the Summation Amount equals or exceeds 10% at any time during the term of this Global Note;
- \$200 per each \$1,000 principal amount of Notes if the Summation Amount equals or exceeds 20% at any time during the term of this Global Note; and
- \$300 per each \$1,000 principal amount of Notes if the Summation Amount equals or exceeds 30% at any time during the term of this Global Note.

The Calculation Agent shall determine each Monthly Return on each Monthly Return Calculation Date or, if any such day is not an Index Business Day (as defined below), the next succeeding day that is an Index Business Day, except as described herein, by determining the percentage change in the closing level of the Index on such Monthly Return Calculation Date relative to the closing level of the Index on the immediately preceding Monthly Return Calculation Date, or, in the case of the first Monthly Return Calculation Date, the Pricing Date. Each such Monthly Return (subject to the Monthly Return Cap) shall be added to (or in the case of decreases, subtracted from) the Summation Amount.

The “Starting Value” shall equal the closing level of the Index on the immediately preceding Monthly Return Calculation Date. For purposes of determining the Monthly Return on the initial Monthly Return Calculation Date, the Starting Value shall equal the Index level on the Pricing Date as set forth on the face hereof.

The “Ending Value” shall equal the closing level of the Index on the Monthly Return Calculation Date for which the Monthly Return is being determined; provided, however, that when determining the Ending Value for the final Monthly Return Calculation Date, the Ending Value shall be determined by the Calculation Agent, regardless of the occurrence of a Market Disruption Event (as defined below) on that day.

All determinations made by the Calculation Agent shall be, absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

Adjustments to the Index; Market Disruption Events

If at any time the Index Publisher makes a material change in the formula for or the method of calculating the Index or in any other way materially modifies the Index so that the Index does not, in the opinion of the Calculation Agent, fairly represent the level of the Index had those changes or modifications not been made, then, from and after that time, the Calculation Agent shall, at the close of business in New York, New York, on each date that the closing level of the Index is to be calculated, make any adjustments as, in the good faith judgment of the Calculation Agent, may be necessary in order to arrive at a calculation of a level of a stock index comparable to the Index as if those changes or modifications had not been made, and calculate the closing level with reference to the Index, as so adjusted.

“Market Disruption Event” means either of the following events as determined by the Calculation Agent:

- (A) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), in 20% or more of the stocks which then comprise the Index or any Successor Index; or
- (B) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), whether by reason of movements in price otherwise exceeding levels permitted by the applicable exchange or otherwise, in option contracts or futures contracts related to the Index, or any Successor Index.

For the purpose of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours in a trading day and/or number of days of trading shall not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the applicable exchange;
- (2) a suspension in trading in a futures or option contract on the Index, or any Successor Index, by a major securities market by reason of (a) a price change violating limits set by that securities market, (b) an imbalance of orders relating to those contracts or (c) a disparity in bid and ask quotes relating to those contracts shall constitute a suspension of or material limitation on trading in futures or option contracts related to that index;
- (3) a suspension of or material limitation on trading on the relevant exchange shall not include any time when that exchange is closed for trading under ordinary circumstances; and
- (4) for the purpose of clause (A) above, any limitations on trading during significant market fluctuations under NYSE Rule 80B, or any applicable rule or regulation enacted or promulgated by the NYSE or any other self regulatory organization or the Securities and Exchange Commission of similar scope as determined by the Calculation Agent, shall be considered “material”.

Discontinuance of the Index

If the Index Publisher discontinues publication of the Index and the Index Publisher or another entity publishes a successor or substitute index that the Calculation Agent determines, in its sole discretion, to be comparable to the Index (a “Successor Index”), then, upon the Calculation Agent’s notification of that determination to the Trustee (as defined below) and the Company, the Calculation Agent shall substitute such Successor Index as

calculated by the Index Publisher or any other entity for the Index and calculate the Monthly Returns as described above under "Payment at Stated Maturity". Upon any selection by the Calculation Agent of a Successor Index, the Company shall cause notice to be given to Holders of this Global Note.

In the event that the Index Publisher discontinues publication of the Index and:

- the Calculation Agent does not select a Successor Index; or
- the Successor Index is no longer published,

the Calculation Agent shall compute a substitute level for the Index in accordance with the procedures last used to calculate the Index before any discontinuance. If a Successor Index is selected or the Calculation Agent calculates a level as a substitute for the Index as described below, the Successor Index or level shall be used as a substitute for the Index for all purposes, including the purpose of determining whether a Market Disruption Event exists.

If the Index Publisher discontinues publication of the Index before a Monthly Return Calculation Date and the Calculation Agent determines that no Successor Index is available at that time, then on each Business Day (as defined below) until the earlier to occur of:

- the determination of the Ending Value; or
- a determination by the Calculation Agent that a Successor Index is available,

the Calculation Agent shall determine the value that would be used in computing the Monthly Return as described in the preceding paragraph as if that day were a Monthly Return Calculation Day. The Calculation Agent shall cause notice of each value to be published not less often than once each month in *The Wall Street Journal* or another newspaper of general circulation and arrange for information with respect to these values to be made available by telephone.

A "Business Day" is any day that is either (i) an Index Business Day or (ii) a day on which the relevant exchanges listing the stocks of companies used to calculate a substitute level of the Index following a discontinuance, as discussed above, are open for trading.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Profit Lock-In SUMmation SecuritiesSM which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing Notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Principal Amount plus the greater of the Supplemental Redemption Amount or the Profit Lock-In Amount, calculated as though the date of acceleration were the Stated Maturity and the final Monthly Return Calculation Date of this Global Note.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that such payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66 ²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Principal Amount plus the greater of the Supplemental Redemption Amount or the Profit Lock-In Amount hereof and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations, of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder and beneficial owner by acceptance hereof hereby agree to treat this Global Note for all tax purposes as a debt instrument that is subject to U.S. Treasury Regulation section 1.1275-4(b) governing contingent payment debt instruments, and, where required, the Company shall file information returns with the Internal Revenue Service in accordance with this treatment, in the absence of any change or clarification in the law, by regulation or otherwise, requiring a different characterization of the Notes.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Authorized Officer

Merrill Lynch & Co., Inc.

[Copy of Seal]

By: _____
Assistant Treasurer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Currency Basket Notes
(the "Notes")

ORIGINAL ISSUE DATE:

STATED MATURITY:

BASKET COMPONENTS:

STARTING VALUE:

PARTICIPATION RATE: %

PROTECTION LEVEL:

CALCULATION AGENT:

DENOMINATIONS:

DEFAULT RATE: %

Merrill Lynch Capital Services, Inc.
(unless otherwise specified)

Integral multiples of \$10
(unless otherwise specified)

BASE CURRENCY:

SPECIFIED CURRENCY:

United States dollar
(unless otherwise specified)

United States dollar
(unless otherwise specified)

VALUATION TIME:

APPLICABLE REFERENCE PAGE:

For each Basket Component, its weighting, initial Exchange Rate, Multiplier and initial index points based on such initial Exchange Rates are shown below.

<u>Currency</u>	<u>Iso Code</u>	<u>Weighting</u>	<u>Initial Exchange Rate</u>	<u>Multiplier</u>	<u>Initial Index Points</u>
Base Currency	USD				

OTHER PROVISIONS:

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Redemption Amount (as defined below) at the Stated Maturity.

Payment or delivery of the Redemption Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Redemption Amount. The “Redemption Amount” with respect to this Global Note shall be denominated and payable in the Specified Currency, shall be determined by the Calculation Agent and shall equal:

- (i) If the Ending Value (as defined below) is greater than the Starting Value, the Principal Amount multiplied by a percentage equal to:
 $\text{Protection Level} + (\text{Participation Rate} \times (\text{Ending Value} - \text{Starting Value}));$ or
- (ii) If the Ending Value is equal to or less than the Starting Value, the Principal Amount multiplied by a percentage equal to the Protection Level.

The “Ending Value” shall equal the value of the Basket (as defined below) as determined by the Calculation Agent on the seventh scheduled Business Day (as defined below) before the Stated Maturity by adding 100 to the sum of the products of (1) the Multiplier of each Basket Component and (2) the then-current Exchange Rate (as defined below) for such Basket Component.

The “Basket” shall be a measure of the exchange rate movements of the Basket Components relative to the Base Currency.

The “Exchange Rates” shall be those currency exchange rates in the interbank market quoted as one unit of the relevant currency in the Base Currency as reported on the Applicable Reference Page at approximately the Valuation Time on the relevant date. If the currency exchange rates are not so quoted, then the Exchange Rates shall equal the noon buying rate in New York for cable transfers in foreign currencies as announced by the Federal Reserve Bank of New York for customs purposes (the “Noon Buying Rate”). If the Noon Buying Rate is not announced on such date, then the Exchange Rates shall be calculated on the basis of the arithmetic mean of the applicable spot quotations received by the Calculation Agent at approximately 10:00 a.m., New York City time, on the relevant date for the purchase or sale for deposits in the relevant currencies by the London offices of three leading banks engaged in the interbank market (selected in the sole discretion of the Calculation Agent) (the “Reference Banks”). If fewer than three Reference Banks provide such spot quotations, then the Exchange Rates shall be calculated on the basis of the arithmetic mean of the applicable spot quotations received by the Calculation Agent at approximately 10:00 a.m., New York City time, on the relevant date from two leading commercial banks in New York (selected in the sole discretion of the Calculation Agent), for the purchase or sale for deposits in the relevant currencies. If these spot quotations are available from only one bank, then the Calculation Agent, in its sole discretion, shall determine which quotation is available and reasonable to be used. If no such spot quotation is available, then the Exchange Rates shall be the rate the Calculation Agent, in its sole discretion, determines to be fair and reasonable under the circumstances at approximately 10:00 a.m., New York City time, on the relevant date.

A “Business Day” means any day other than a Saturday or Sunday that is neither a legal holiday nor a day on which banking institutions in The City of New York are authorized or required by law, regulation or executive order to close and such banks are open for dealing in a foreign exchange and foreign currency deposits.

All determinations made by the Calculation Agent absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Currency Basket Notes which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing Notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that such payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Redemption Amount hereof and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations, of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder by acceptance hereof hereby agree to treat this Global Note for all tax purposes as a debt instrument that is subject to U.S. Treasury Regulation section 1.1275-4(b) governing contingent payment debt instruments, and, where required, the Company shall file information returns with the Internal Revenue Service in accordance with this treatment, in the absence of any change or clarification in the law, by regulation or otherwise, requiring a different characterization of the Notes.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

JPMorgan Chase Bank, N.A., as Trustee

By: _____

Authorized Officer

Merrill Lynch & Co., Inc.

[Copy of Seal]

By: _____

Assistant Treasurer

Attest: _____

Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Principal Protected Notes
(the "Notes")

INDEX:	INDEX PUBLISHER:	ORIGINAL ISSUE DATE:
STATED MATURITY:	STARTING VALUE:	PARTICIPATION RATE: %
MINIMUM REDEMPTION AMOUNT: \$	CALCULATION AGENT: Merrill Lynch, Pierce, Fenner & Smith Incorporated (unless otherwise specified)	DENOMINATIONS: Integral multiples of \$10 (unless otherwise specified)
SPECIFIED CURRENCY: United States dollar (unless otherwise specified)	DEFAULT RATE: %	INDEX BUSINESS DAY:
OTHER PROVISIONS:		

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Minimum Redemption Amount plus the Supplemental Redemption Amount (as defined below) at the Stated Maturity.

Payment or delivery of the Minimum Redemption Amount and the Supplemental Redemption Amount, and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Minimum Redemption Amount plus the Supplemental Redemption Amount. The “Supplemental Redemption Amount” with respect to this Global Note shall be determined by the Calculation Agent and shall equal:

$$\text{Principal Amount} \times \left(\frac{\text{Ending Value} - \text{Starting Value}}{\text{Starting Value}} \right) \times \text{Participation Rate}$$

provided, however, that in no event shall the Supplemental Redemption Amount be less than zero.

The “Ending Value” shall be determined by the Calculation Agent and shall equal the average of the closing levels of the Index determined on each of the first five Calculation Days (as defined below) during the Calculation Period (as defined below). If there are fewer than five Calculation Days during the Calculation Period, then the Ending Value shall equal the average of the closing levels of the Index on those Calculation Days. If there is only one Calculation Day during the Calculation Period, then the Ending Value shall equal the closing level of the Index on that Calculation Day. If no Calculation Days occur during the Calculation Period, then the Ending Value shall equal the closing level of the Index determined on the last scheduled Index Business Day (as defined below) in the Calculation Period, regardless of the occurrence of a Market Disruption Event (as defined below) on that scheduled Index Business Day.

The “Calculation Period” means the period from and including the seventh scheduled Index Business Day before the Stated Maturity to and including the second scheduled Index Business Day before the Stated Maturity.

A “Calculation Day” means any Index Business Day during the Calculation Period on which a Market Disruption Event has not occurred.

All determinations made by the Calculation Agent, absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

Adjustments to the Index; Market Disruption Events

If at any time the Index Publisher makes a material change in the formula for or the method of calculating the Index or in any other way materially modifies the Index so that the Index does not, in the opinion of the Calculation Agent, fairly represent the level of the Index had those changes or modifications not been made, then, from and after that time, the Calculation Agent shall, at the close of business in New York, New York, on each date that the closing level of the Index is to be calculated, make any adjustments as, in the good faith judgment of the Calculation Agent, may be necessary in order to arrive at a calculation of a level of a stock index comparable to the Index as if those changes or modifications had not been made, and calculate the closing level with reference to the Index, as so adjusted.

“Market Disruption Event” means either of the following events as determined by the Calculation Agent:

- (A) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), in 20% or more of the stocks which then comprise the Index or any Successor Index; or
- (B) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without

taking into account any extended or after-hours trading session), whether by reason of movements in price otherwise exceeding levels permitted by the relevant exchange or otherwise, in option contracts or futures contracts related to the Index, or any Successor Index, which are traded on any major U.S. exchange.

For the purpose of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours in a trading day and/or number of days of trading shall not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the applicable exchange;
- (2) a suspension in trading in a futures or option contract on the Index, or any Successor Index, by a major securities market by reason of (a) a price change violating limits set by that securities market, (b) an imbalance of orders relating to those contracts or (c) a disparity in bid and ask quotes relating to those contracts shall constitute a suspension of or material limitation on trading in futures or option contracts related to that index;
- (3) a suspension of or material limitation on trading on the applicable exchange shall not include any time when that exchange is closed for trading under ordinary circumstances; and
- (4) for the purpose of clause (A) above, any limitations on trading during significant market fluctuations under NYSE Rule 80B, or any applicable rule or regulation enacted or promulgated by the NYSE or any other self regulatory organization or the Securities and Exchange Commission of similar scope as determined by the Calculation Agent, shall be considered "material".

Discontinuance of the Index

If the Index Publisher discontinues publication of the Index and the Index Publisher or another entity publishes a successor or substitute index that the Calculation Agent determines, in its sole discretion, to be comparable to the Index (a "Successor Index"), then, upon the Calculation Agent's notification of that determination to the Trustee (as defined below) and the Company, the Calculation Agent shall substitute such Successor Index as calculated by the Index Publisher or any other entity for the Index and calculate the Ending Value as described above under "Payment at Stated Maturity". Upon any selection by the Calculation Agent of a Successor Index, the Company shall cause notice to be given to Holders of this Global Note.

In the event that the Index Publisher discontinues publication of the Index and:

- the Calculation Agent does not select a Successor Index; or
- the Successor Index is not published on any of the Calculation Days,

the Calculation Agent shall compute a substitute level for the Index in accordance with the procedures last used to calculate the Index before any discontinuance. If a Successor Index is selected or the Calculation Agent calculates a level as a substitute for the Index as described below, the Successor Index or level shall be used as a substitute for the Index for all purposes, including the purpose of determining whether a Market Disruption Event exists.

If the Index Publisher discontinues publication of the Index before the Calculation Period and the Calculation Agent determines that no Successor Index is available at that time, then on each Business Day (as defined below) until the earlier to occur of:

- the determination of the Ending Value; or
- a determination by the Calculation Agent that a Successor Index is available,

the Calculation Agent shall determine the value that would be used in computing the Supplemental Redemption Amount as described in the preceding paragraph as if that day were a Calculation Day. The Calculation Agent shall cause notice of each value to be published not less often than once each month in *The Wall Street Journal* or another newspaper of general circulation and arrange for information with respect to these values to be made available by telephone.

A "Business Day" is any day that is either (i) an Index Business Day or (ii) a day on which the relevant exchanges listing the stocks of companies used to calculate a substitute level of the Index following a discontinuance, as discussed above, are open for trading.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Principal Protected Notes which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing Notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the amount described under "Payment at Stated Maturity" above, calculated as though the date of default were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that such payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66 ²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the amount described under "Payment at Stated Maturity" and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations, of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder and beneficial owner by acceptance hereof hereby agree to treat this Global Note for all tax purposes as a debt instrument that is subject to U.S. Treasury Regulation section 1.1275-4(b) governing contingent payment debt instruments, and, where required, the Company shall file information returns with the Internal Revenue Service in accordance with this treatment, in the absence of any change or clarification in the law, by regulation or otherwise, requiring a different characterization of the Notes.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[Copy of Seal]

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Authorized Officer

Merrill Lynch & Co., Inc.

By: _____
Assistant Treasurer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Strategic Return Notes®
(the "Notes")

INDEX:

INDEX PUBLISHER:

ORIGINAL ISSUE DATE:

STATED MATURITY:

STARTING VALUE:

INDEX ADJUSTMENT FACTOR: %
(per annum) applied daily

CALCULATION AMOUNT: \$

EXCHANGE MONTH:

DEFAULT RATE: %

CALCULATION AGENT:

Merrill Lynch, Pierce,
Fenner & Smith Incorporated
(unless otherwise specified)

DENOMINATIONS:

Integral multiples of \$10
(unless otherwise specified)

SPECIFIED CURRENCY:

United States dollar
(unless otherwise specified)

INDEX BUSINESS DAY:

OTHER PROVISIONS:

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Redemption Amount (as defined below) at the Stated Maturity or the Exchange Amount (as defined below) on an Exchange Date (as defined below).

Payment or delivery of the Redemption Amount or Exchange Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Redemption Amount. The “Redemption Amount” with respect to this Global Note shall be determined by the Calculation Agent and shall equal:

$$\text{Calculation Amount} \times \left(\frac{\text{Ending Value}}{\text{Starting Value}} \right)$$

For the purpose of determining the Redemption Amount, the “Ending Value” shall be determined by the Calculation Agent and shall equal the average of the closing levels of the Index, each as reduced by the Index Adjustment Factor, determined on each of the first five Calculation Days (as defined below) during the Calculation Period (as defined below). If there are fewer than five Calculation Days during the Calculation Period, then the Ending Value shall equal the average of the adjusted closing levels of the Index on those Calculation Days. If there is only one Calculation Day during the Calculation Period, then the Ending Value shall equal the adjusted closing level of the Index on that Calculation Day. If no Calculation Days occur during the Calculation Period, then the Ending Value shall equal the adjusted closing level of the Index determined on the last scheduled Index Business Day (as defined below) in the Calculation Period, regardless of the occurrence of a Market Disruption Event (as defined below) on that scheduled Index Business Day.

The “Calculation Period” means the period from and including the seventh scheduled Index Business Day before the Stated Maturity to and including the second scheduled Index Business Day before the Stated Maturity.

A “Calculation Day” means any Index Business Day during the Calculation Period on which a Market Disruption Event has not occurred.

All determinations made by the Calculation Agent shall, absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

Exchange of the Notes Prior to the Stated Maturity

This Global Note may be exchanged in whole or in part at the option of a Holder in whole Denominations for a cash payment equal to the Exchange Amount during any Business Day (as defined below) that occurs during an Exchange Notice Period by delivery of written notice from the Holder to the Trustee (as defined below) (in the form of Annex A attached hereto). To the extent that this Global Note is exchanged in part, the Principal Amount shall be reduced by the amount so exchanged and the Principal Amount then outstanding shall be as maintained in the records of the Trustee.

An “Exchange Notice Period” means the period from and including the first calendar day of the applicable Exchange Month to and including 12:00 noon in The City of New York on the fifteenth calendar day during the applicable Exchange Month. If the fifteenth calendar day of the applicable Exchange Month is not a Business Day, then the Exchange Notice Period shall be extended to 12:00 noon in The City of New York on the next succeeding Business Day.

The “Exchange Amount” shall be equal to the Redemption Amount, calculated as if the Exchange Date were the Stated Maturity; provided, however, that the Ending Value shall be equal to the closing level of the Index, on the Exchange Date.

An "Exchange Date" shall be the third Index Business Day following the end of the applicable Exchange Notice Period. If a Market Disruption Event occurs on the third Index Business Day following an Exchange Notice Period, the Exchange Date for that year shall be the next succeeding Index Business Day on which a Market Disruption Event does not occur. The Exchange Amount shall be paid three Banking Business Days (as defined below) after the Exchange Date.

A "Banking Business Day" means any day other than a Saturday or Sunday that is not a day on which banking institutions in The City of New York are authorized or required by law, regulation or executive order to close.

Adjustments to the Index; Market Disruption Events

If at any time the Index Publisher makes a material change in the formula for or the method of calculating the Index or in any other way materially modifies the Index so that the Index does not, in the opinion of the Calculation Agent, fairly represent the level of the Index had those changes or modifications not been made, then, from and after that time, the Calculation Agent shall, at the close of business in New York, New York, on each date that the closing level of the Index is to be calculated, make any adjustments as, in the good faith judgment of the Calculation Agent, may be necessary in order to arrive at a calculation of a level of a stock index comparable to the Index as if those changes or modifications had not been made, and calculate the closing level with reference to the Index, as so adjusted.

"Market Disruption Event" means either of the following events as determined by the Calculation Agent:

- (A) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), in 20% or more of the stocks which then comprise the Index or any Successor Index; or
- (B) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), whether by reason of movements in price otherwise exceeding levels permitted by the applicable exchange or otherwise, in option contracts or futures contracts related to the Index, or any Successor Index.

For the purpose of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours in a trading day and/or number of days of trading shall not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the applicable exchange;
- (2) a suspension in trading in a futures or option contract on the Index, or any Successor Index, by a major securities market by reason of (a) a price change violating limits set by that securities market, (b) an imbalance of orders relating to those contracts or (c) a disparity in bid and ask quotes relating to those contracts shall constitute a suspension of or material limitation on trading in futures or option contracts related to that index;
- (3) a suspension of or material limitation on trading on the relevant exchange shall not include any time when that exchange is closed for trading under ordinary circumstances; and
- (4) for the purpose of clause (A) above, any limitations on trading during significant market fluctuations under NYSE Rule 80B, or any applicable rule or regulation enacted or promulgated by the NYSE or any other self regulatory organization or the Securities and Exchange Commission of similar scope as determined by the Calculation Agent, shall be considered "material".

Discontinuance of the Index

If the Index Publisher discontinues publication of the Index and the Index Publisher or another entity publishes a successor or substitute index that the Calculation Agent determines, in its sole discretion, to be comparable to the Index (a "Successor Index"), then, upon the Calculation Agent's notification of that determination

to the Trustee (as defined below) and the Company, the Calculation Agent shall substitute such Successor Index as calculated by the Index Publisher or any other entity for the Index and calculate the Ending Value as described above under "Payment at Stated Maturity". Upon any selection by the Calculation Agent of a Successor Index, the Company shall cause notice to be given to Holders of this Global Note.

In the event that the Index Publisher discontinues publication of the Index and:

- the Calculation Agent does not select a Successor Index; or
- the Successor Index is not published on any of the Calculation Days,

the Calculation Agent shall compute a substitute level for the Index in accordance with the procedures last used to calculate the Index before any discontinuance. If a Successor Index is selected or the Calculation Agent calculates a level as a substitute for the Index as described below, the Successor Index or level shall be used as a substitute for the Index for all purposes, including the purpose of determining whether a Market Disruption Event exists.

If the Index Publisher discontinues publication of the Index before the Calculation Period and the Calculation Agent determines that no Successor Index is available at that time, then on each Business Day (as defined below) until the earlier to occur of:

- the determination of the Ending Value; or
- a determination by the Calculation Agent that a Successor Index is available,

the Calculation Agent shall determine the value that would be used in computing the Redemption Amount as described in the preceding paragraph as if that day were a Calculation Day. The Calculation Agent shall cause notice of each value to be published not less often than once each month in *The Wall Street Journal* or another newspaper of general circulation and arrange for information with respect to these values to be made available by telephone.

A "Business Day" is any day that is either (i) an Index Business Day or (ii) a day on which the relevant exchanges listing the stocks of companies used to calculate a substitute level of the Index following a discontinuance, as discussed above, are open for trading.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Strategic Return Notes[®] which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing the Notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized

denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon exchange or acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that such payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66 ²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Redemption Amount or Exchange Amount hereof and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations, of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder and beneficial owner by acceptance hereof hereby agree (in the absence of an administrative determination, judicial ruling or other authoritative guidance to the contrary) to characterize and treat this Global Note for all tax purposes as a pre-paid cash-settled forward contract linked to the level of the Index.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Authorized Officer

Merrill Lynch & Co., Inc.

[Copy of Seal]

By: _____
Assistant Treasurer

Attest: _____
Secretary

FORM OF
OFFICIAL NOTICE OF EXERCISE

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Strategic Return Notes®
Linked to the [INDEX] due [STATED MATURITY]

Dated:

Merrill Lynch & Co., Inc.
95 Green St.
8th Floor
Jersey City, New Jersey 07302
Fax No.: (201) 671-3672
(Attn: Treasury)

Merrill Lynch, Pierce, Fenner & Smith
Incorporated,
as Calculation Agent
4 World Financial Center
25th Floor
New York, New York 10080
Fax No.: (212) 449-1897

JPMorgan Chase Bank, N.A.
4 New York Plaza
15th Floor
New York, New York 10004
Fax No.: (212) 623-6274
(Attn: Institutional Trust Services)

Dear Sir or Madam:

The undersigned holder of the Medium-Term Notes, Series C, Strategic Return Notes® Linked to the [INDEX] which are due [STATED MATURITY] of Merrill Lynch & Co., Inc. (the "Notes") hereby irrevocably elects to exercise with respect to the \$ _____ principal amount of Notes indicated below, as of the date hereof, provided that such day is within the applicable Exchange Notice Period and subject to the restrictions as set forth under "Exchange of the Notes Prior to the Maturity Date" as described in the Pricing Supplement dated [DATE] to the Prospectus Supplement and Prospectus dated [DATE]. Capitalized terms not defined herein have the meanings given to such terms in the Pricing Supplement. Please date and acknowledge receipt of this notice in the place provided below on the date of receipt, and fax a copy to the fax number indicated, whereupon the Exchange Amount shall be delivered in cash, in accordance with the terms of the Notes described in the Pricing Supplement.

Very truly yours,

[Name of Holder]

By: _____
[Title]

[Fax No.]

\$ _____ principal amount of Notes surrendered for exercise of the right to receive the Exchange Amount

If you want the amount in cash made out in another person's name, fill in the form:

(Insert person's soc. sec. or tax ID no.)

(Print or type person's name, address and zip code)

Date: _____

Your Signature: _____

Receipt of the above Official Notice of Holder's exchange right is hereby acknowledged

MERRILL LYNCH & CO., INC.,
as Issuer

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
as Calculation Agent

By JPMORGAN CHASE BANK, N.A.
as Trustee

By: _____
Title: _____

Date and time of acknowledgment _____

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Merrill Lynch Long Short NotesSM
(the "Notes")

INDEX:

INDEX PUBLISHER:

INDEX COMPONENTS:

ORIGINAL ISSUE DATE:

STATED MATURITY:

STARTING VALUE:

INTEREST PAYMENT DATES:

RECORD DATES

INDEX BUSINESS DAY:

CALCULATION AGENT:

Merrill Lynch, Pierce,
 Fenner & Smith Incorporated
 (unless otherwise specified)

DENOMINATIONS:

Integral multiples of \$10
 (unless otherwise specified)

SPECIFIED CURRENCY:

United States dollar
 (unless otherwise specified)

DEFAULT RATE:

For each Index Component, its weighting, initial closing level, and multiplier are shown below.

<u>Index Components</u>	<u>Weighting</u>	<u>Initial Closing Level</u>	<u>Multiplier</u>
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OTHER PROVISIONS:

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Redemption Amount (as defined below) at the Stated Maturity or Early Redemption Date (as defined below), as applicable.

Payment or delivery of the Redemption Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

Unless this Global Note has previously been redeemed by the Company, at the Stated Maturity, a Holder shall receive a cash payment equal to the Redemption Amount. The “Redemption Amount” with respect to this Global Note shall be determined by the Calculation Agent and shall equal:

$$\text{Principal Amount} \times \left(\frac{\text{Ending Value}}{\text{Starting Value}} \right)$$

provided, however, that in no event will the Redemption Amount be less than zero.

For the purpose of determining the Redemption Amount, the Ending Value shall be determined by the Calculation Agent and shall equal the average of the closing levels of the Index determined on each of the first five Calculation Days (as defined below) during the Calculation Period (as defined below). If there are fewer than five Calculation Days during the Calculation Period, then the Ending Value shall equal the average of the closing levels of the Index on those Calculation Days. If there is only one Calculation Day during the Calculation Period, then the Ending Value shall equal the closing level of the Index on that Calculation Day. If no Calculation Days occur during the Calculation Period, then the Ending Value shall equal the closing level of the Index determined on the last scheduled Index Business Day in the Calculation Period, regardless of the occurrence of a Market Disruption Event (as defined below) on that scheduled Index Business Day.

The “Calculation Period” means the period from and including the seventh scheduled Index Business Day before the Stated Maturity to and including the second scheduled Index Business Day before the Stated Maturity.

A “Calculation Day” means any Index Business Day during the Calculation Period on which a Market Disruption Event has not occurred.

Early Redemption

If on any date before the first Calculation Day of the Calculation Period the closing level of the Index is equal to or less than 50, this Global Note shall be redeemed by the Company on the fifth Banking Business Day following such date (the “Early Redemption Date”). On the Early Redemption Date, a Holder shall receive a cash payment, in addition to accrued and unpaid interest, with respect to the Principal Amount of this Global Note equal to the Redemption Amount; provided, however, for the purpose of calculating the Redemption Amount to be paid on an Early Redemption Date, the Ending Value shall equal the average of the closing levels of the Index on the two scheduled Index Business Days immediately succeeding the date the closing level of the Index was equal to or less than 50, provided that if a Market Disruption Event occurs on either such date and as a result if there is only one Calculation Day, the Ending Value shall be determined on such Calculation Day, and if a Market Disruption Event occurs on both such dates, the Ending Value shall be determined using the closing level of the Index on the second scheduled Index Business Day following the date the closing level of the Index was equal to or less than 50, regardless of the occurrence of a Market Disruption Event on such scheduled Index Business Day; and provided further that in the event that the Early Redemption Date falls after a Record Date for the payment of interest on this Global Note but prior to the next succeeding scheduled Interest Payment Date, the portion of the amount payable on an Early Redemption Date equal to the accrued interest amount shall be paid to the Holders of the Notes as of that Record Date.

Adjustments to the Index Components; Market Disruption Events

If at any time an Index Publisher makes a material change in the formula for or the method of calculating its respective Index Component or in any other way materially modifies its respective Index Component so that such

Index Component does not, in the opinion of the Calculation Agent, fairly represent the level of such Index Component had those changes or modifications not been made, then, from and after that time, the Calculation Agent shall, at the close of business in New York, New York, on each date that the closing level of the Index is to be calculated, make any adjustments as, in the good faith judgment of the Calculation Agent, may be necessary in order to arrive at a calculation of a level of a stock index comparable to such Index Component as if those changes or modifications had not been made, and calculate the closing level with reference to such Index Component, as so adjusted.

“Market Disruption Event” means either of the following events as determined by the Calculation Agent:

- (A) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), in 20% or more of the stocks which then comprise an Index Component or any Successor Index; or
- (B) the suspension of or material limitation on trading for more than two hours of trading, or during the one-half hour period preceding the close of trading, on the applicable exchange (without taking into account any extended or after-hours trading session), whether by reason of movements in price otherwise exceeding levels permitted by the applicable exchange or otherwise, in option contracts or futures contracts related to an Index Component, or any Successor Index, which are traded on any major United States exchange.

For the purpose of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours in a trading day and/or number of days of trading shall not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the applicable exchange;
- (2) a suspension in trading in a futures or option contracts on an Index Component, or any Successor Index, by a major securities market by reason of (a) a price change violating limits set by that securities market, (b) an imbalance of orders relating to those contracts or (c) a disparity in bid and ask quotes relating to those contracts shall constitute a suspension of or material limitation on trading in futures or option contracts related to that stock or index;
- (3) a suspension of or material limitation on trading on the applicable exchange shall not include any time when that exchange is closed for trading under ordinary circumstances; and
- (4) for the purpose of clause (A) above, any limitations on trading during significant market fluctuations under NYSE Rule 80B, or any applicable rule or regulation enacted or promulgated by the NYSE or any other self regulatory organization or the Securities and Exchange Commission of similar scope as determined by the Calculation Agent, shall be considered “material”.

Discontinuance of the Index

If an Index Publisher discontinues publication of its respective Index Component and that Index Publisher or another entity publishes a successor or substitute index that the Calculation Agent determines, in its sole discretion, to be comparable to that Index Component (a “Successor Index”), then, upon the Calculation Agent’s notification of its determination to the Trustee (as defined below) and the Company, the Calculation Agent shall substitute the Successor Index as calculated by that Index Publisher or any other entity for such Index Component and calculate the Ending Value as described above under “Payment at Stated Maturity” or “Early Redemption”, as applicable. Upon any selection by the Calculation Agent of a Successor Index, the Company shall cause notice to be given to Holders of this Global Note.

In the event that an Index Publisher discontinues publication of its respective Index Component and:

- the Calculation Agent does not select a Successor Index; or
- the Successor Index is not published on any of the Calculation Days,

the Calculation Agent shall compute a substitute value for that Index Component in accordance with the procedures last used to calculate the Index Component before any discontinuance. If a Successor Index is selected or the

Calculation Agent calculates a level as a substitute for the Index Component as described below, the Successor Index or level shall be used as a substitute for that Index Component for all purposes, including for the purpose of determining whether a Market Disruption Event exists.

If an Index Publisher discontinues publication of an Index Component before the Calculation Period and the Calculation Agent determines that no Successor Index is available at that time, then on each Business Day until the earlier to occur of:

- the determination of the Ending Value, or
- a determination by the Calculation Agent that a Successor Index is available,

the Calculation Agent shall determine the value that would be used in computing the Redemption Amount as described in the preceding paragraph as if that day were a Calculation Day. The Calculation Agent shall cause notice of each value to be published not less often than once each month in *The Wall Street Journal* or another newspaper of general circulation, and arrange for information with respect to these values to be made available by telephone.

A "Business Day" is any day that is either (i) an Index Business Day or (ii) a day on which the relevant exchanges listing the stocks of companies used to calculate a substitute level of the Index following a discontinuance, as discussed above, are open for trading.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Merrill Lynch Long Short NotesSM which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing Notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity, and Early Redemption Date or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that such payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66 ²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Redemption Amount hereof and interest on this Global Note at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations, of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder and beneficial owner by acceptance hereof hereby agree (in the absence of an administrative determination, judicial ruling or other authoritative guidance to the contrary) to characterize and treat this Global Note for all tax purposes as a pre-paid cash-settled forward contract linked to the level of the Index.

All determinations made by the Calculation Agent, absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of the Notes.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Authorized Officer

Merrill Lynch & Co., Inc.

[Copy of Seal]

By: _____
Assistant Treasurer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R-

CUSIP No.:

PRINCIPAL AMOUNT: \$

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Zero Coupon Convertible Securities
(the "Notes")

DELIVERABLE SHARES: _____ of _____ (the
"Underlying Issuer")

EXCHANGE RATIO:

ORIGINAL ISSUE DATE:

STATED MATURITY:

CALCULATION AMOUNT: \$

DEFAULT RATE:

CALCULATION AGENT:
Merrill Lynch, Pierce,
Fenner & Smith Incorporated
(unless otherwise specified)

DENOMINATIONS:
Integral multiples of \$1,000
(unless otherwise specified)

SPECIFIED CURRENCY:
United States dollar
(unless otherwise specified)

TRADING DAY:

OTHER PROVISIONS:

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns on the Stated Maturity, if not exchanged prior to such date, for each unit of Notes, an amount in cash equal to the greater of: (1) the product of the Exchange Ratio (as defined below) and the average Closing Market Price (as defined below) of one share of the Deliverable Shares, or (2) the Calculation Amount. If a Holder properly elects to exchange the Notes, the Company hereby promises to pay on the Exchange Date (as defined below) to CEDE & CO., or its registered assigns, for each unit of Notes a number of shares of the Deliverable Shares equal to the Exchange Ratio (subject to adjustment for certain corporate events relating to the Underlying Issuer, as described below), as determined on the Exchange Notice Date (as defined below).

Payment or delivery of the amounts payable at maturity and the Deliverable Shares and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

If Holder has not elected to exchange the Notes, then at the Stated Maturity the Company shall pay, for each unit of Notes, an amount in cash equal to the greater of:

(i) the product of the Exchange Ratio and the average Closing Market Price of the Deliverable Shares on the first five Calculation Days, as defined below, during the Calculation Period, as defined below; *provided, however,* that

- if there are fewer than five Calculation Days during the Calculation Period, then the amount payable shall be calculated using the average on those Calculation Days,
- if there is only one Calculation Day during the Calculation Period, then the amount payable shall be calculated using the Closing Market Price of the Deliverable Shares on that Calculation Day, and
- if no Calculation Days occur during the Calculation Period with respect to the Deliverable Shares, then the amount payable shall be calculated using the Closing Market Price on the last scheduled Calculation Day in the Calculation Period regardless of whether a Market Disruption Event (as defined below) occurs on that date, or

(ii) the Calculation Amount.

If the Stated Maturity is not a Business Day (as defined below), the Company shall pay the cash amount due at the Stated Maturity on the first Business Day following the Stated Maturity and no additional interest will accrue to such payment date.

“Business Day” means any day other than a Saturday or a Sunday that is not a day on which banking institutions in The City of New York are authorized or obligated by law, regulation or executive order to close.

The “Calculation Period” means the period from and including the seventh scheduled Calculation Day immediately preceding the Stated Maturity to and including the second scheduled Calculation Day before the Stated Maturity.

A “Calculation Day” means any Trading Day during the Calculation Period on which a Market Disruption Event has not occurred.

All determinations made by the Calculation Agent absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

Early Exchange at Holder’s Election

A Holder may elect to exchange all or a portion of the Notes by giving notice as described below on any Business Day which is also a Trading Day during the period beginning on the Original Issue Date and ending on the eighth scheduled Business Day before the Stated Maturity. Unless written notice shall have been given to the Calculation Agent and the Trustee by 3:00 p.m., New York City time on any Trading Day, such notice will be deemed to have been given on the following Trading Day. Any date on which such notice shall have been given or deemed to have been given, is referred to as the “Exchange Notice Date”.

For each unit of the Notes for which an exchange notice shall have been duly given, the Company shall deliver to the Holder a number of shares of the Deliverable Shares equal to the Exchange Ratio (subject to adjustment for Reorganization Events, as defined below), as determined on the Exchange Notice Date.

If the Calculation Agent determines that the Deliverable Shares cannot be delivered as required under the terms of this Note, whether due to the occurrence of a Market Disruption Event or the Calculation Agent determines that delivery is otherwise not commercially reasonable, then ML&Co. will discharge its obligations in respect of the Notes by payment of a cash settlement price which will be equal to the Closing Market Price of a Deliverable Share on the original date of delivery of the Deliverable Shares.

Exchange Ratio Adjustments

No adjustments to the Exchange Ratio will be required unless the Exchange Ratio adjustment would require a change of at least 0.1% in the Exchange Ratio then in effect. The Exchange Ratio resulting from any of the adjustments specified in this section will be rounded to the nearest one thousandth with five ten-thousandths being rounded upward. The Calculation Agent will not be required to make any adjustments to the Exchange Ratio after the close of business on the eighth scheduled Business Day immediately prior to the Stated Maturity or the Exchange Date, as applicable.

No adjustments to the Exchange Ratio will be required other than those specified below. However, the Company may, at its sole discretion, cause the Calculation Agent to make additional adjustments to the Exchange Ratio to reflect changes occurring in relation to Deliverable Shares or any other security received in a reorganization event in other circumstances where the Company determines that it is appropriate to reflect those changes.

The Calculation Agent shall be solely responsible for the determination and calculation of any adjustments to the Exchange Ratio and of any related determinations and calculations with respect to any distributions of stock, other securities or other property or assets, including cash, in connection with any corporate event described in this section, and its determinations and calculations shall be conclusive absent a determination of a manifest error.

No adjustments will be made for certain other events, such as offerings of Deliverable Shares by the Underlying Company for cash or in connection with acquisitions or the occurrence of a partial tender or exchange offer for Deliverable Shares by the Underlying Company or any third party.

The Company will, within ten Business Days following the occurrence of an event that requires an adjustment to the Exchange Ratio, or if the Company is not aware of this occurrence, as soon as practicable after becoming so aware, provide written notice to the Trustee, which shall provide notice to the Holders of the Notes of the occurrence of this event and, if applicable, a statement in reasonable detail setting forth the adjusted Exchange Ratio.

Stock splits and reverse stock splits

If the Deliverable Shares are subject to a stock split or reverse stock split, then once any split has become effective, the Exchange Ratio relating to the Deliverable Shares will be adjusted to equal the product of the prior Exchange Ratio and the number of shares which a holder of one share of the Deliverable Shares before the effective date of that stock split or reverse stock split would have owned or been entitled to receive immediately following the applicable effective date.

Stock dividends

If the Deliverable Shares are subject to a (i) stock dividend, i.e., issuance of additional shares of the Deliverable Shares, that is given ratably to all holders of shares of the Deliverable Shares, or (ii) distribution of shares of the Deliverable Shares as a result of the triggering of any provision of the corporate charter of the Underlying Company, then, once the dividend has become effective and the shares are trading ex-dividend, the Exchange Ratio will be adjusted so that the new Exchange Ratio shall equal the prior Exchange Ratio plus the product of:

- the prior Exchange Ratio; and

- the number of the Deliverable Shares which a holder of one Deliverable Share before the date the dividend became effective and the Deliverable Shares traded ex-dividend would have owned or been entitled to receive immediately following that date.

Extraordinary Dividends

There will be no adjustments to the Exchange Ratio to reflect any cash dividends or cash distributions paid with respect to the Deliverable Shares other than Extraordinary Dividends (as defined below) and distributions described under the section entitled “Reorganization Events” below.

An “Extraordinary Dividend” means, with respect to a cash dividend or other distribution with respect to the Deliverable Shares, a dividend or other distribution which exceeds the immediately preceding non-Extraordinary Dividend for the Deliverable Shares (as adjusted for any subsequent corporate event requiring an adjustment as described herein, such as a stock split or reverse stock split) by an amount equal to at least 10% of the Closing Market Price of the Deliverable Shares on the Trading Day preceding the ex-dividend date with respect to the Extraordinary Dividend (the “ex-dividend date”). If an Extraordinary Dividend occurs with respect to the Deliverable Shares, the Exchange Ratio will be adjusted on the ex-dividend date with respect to the Extraordinary Dividend so that the new Exchange Ratio will equal the product of:

- the prior Exchange Ratio, and
- a fraction, the numerator of which is the Closing Market Price per share of the Deliverable Shares on the Trading Day preceding the ex-dividend date, and the denominator of which is the amount by which the Closing Market Price per Deliverable Share on the Trading Day preceding the ex-dividend date exceeds the Extraordinary Dividend Amount.

The “Extraordinary Dividend Amount” with respect to an Extraordinary Dividend for the Deliverable Shares will equal:

- in the case of cash dividends or other distributions that constitute quarterly dividends, the amount per Deliverable Share of that Extraordinary Dividend minus the amount per share of the immediately preceding non-Extraordinary Dividend for those shares of the Deliverable Shares; or
- in the case of cash dividends or other distributions that do not constitute quarterly dividends, the amount per Deliverable Share of that Extraordinary Dividend.

To the extent an Extraordinary Dividend is not paid in cash, the value of the non-cash component will be determined by the Calculation Agent, whose determination shall be conclusive. A distribution on the Deliverable Shares described in clause (a), (d) or (e) of the section entitled “Reorganization Events” below that also constitutes an Extraordinary Dividend shall only cause an adjustment pursuant to clause (a), (d) or (e) under the section entitled “Reorganization Events”. A distribution on the Deliverable Shares described in the section entitled “*Issuance of transferable rights and warrants*” that also constitutes an Extraordinary Dividend shall only cause an adjustment pursuant to that section.

“Closing Market Price” means:

If the Deliverable Shares (or any other security for which a Closing Market Price must be determined for purposes of the Notes) are listed on a national securities exchange in the United States, is a Nasdaq Global Market System (“Nasdaq GMS”) security or is included in the OTC Bulletin Board Service (“OTC Bulletin Board”) operated by the National Association of Securities Dealers, Inc. (the “NASD”), then the “Closing Market Price” for any date of determination on any Trading Day means for one share of the Deliverable Shares (or any other security for which a Closing Market Price must be determined for purposes of the Notes):

- the last reported sale price, regular way, on that day on the principal United States securities exchange registered under the Securities Exchange Act of 1934, as amended, on which that security is listed or admitted to trading (without taking into account any extended or after-hours trading session), or
- if not listed or admitted to trading on any such securities exchange or if the last reported sale price is not obtainable, the last reported sale price on the over-the-counter market as reported on the Nasdaq GMS or OTC Bulletin Board on that day (without taking into account any extended or after-hours trading session), or
- if the last reported sale price is not available for any reason, including, without limitation, the occurrence of a Market Disruption Event, as described below, the mean of the last reported bid and offer price of the principal trading session on the over-the-counter market as reported on The Nasdaq GMS or OTC Bulletin Board on that day as determined by the Calculation Agent or from as many dealers in such security, but not exceeding three, as have made the bid prices available to the Calculation Agent after 3:00 p.m., local time in the principal market, on that date (without taking into account any extended or after-hours trading session).

If the Deliverable Shares (or any other security for which a Closing Market Price must be determined for purposes of the Notes) are not listed on a national securities exchange in the United States, is not a Nasdaq GMS security or included in the OTC Bulletin Board Service operated by the NASD, then the Closing Market Price for any date of determination on any Trading Day means for one Deliverable Share (or any other security for which a Closing Market Price must be determined for purposes of the Notes) the last reported sale price on that day on the securities exchange on which that security is listed or admitted to trading with the greatest volume of trading for the calendar month preceding such Trading Day as determined by the Calculation Agent; provided that if the last reported sale price is for a transaction which occurred more than four hours prior to the close of that exchange, then the Closing Market Price shall mean the average of the last available bid and offer price on that exchange.

If the Deliverable Shares (or any other security for which a Closing Market Price must be determined for purposes of the Notes) are not listed or admitted to trading on any such securities exchange or if such last reported sale price or bid and offer are not obtainable, then the Closing Market Price shall mean the average of the last available bid and offer prices in such market of the three dealers which have the highest volume of transactions in that security in the immediately preceding calendar month as determined by the Calculation Agent based on information that is reasonably available to it.

“Market Disruption Event“ means either of the following events as determined by the Calculation Agent:

- (A) a suspension of, absence of, including the absence of an official closing price, or material limitation on, trading of the Deliverable Shares on the primary market for the Deliverable Shares for more than two hours of trading or during the one-half hour period preceding the close of trading, as determined by the Calculation Agent in its sole discretion; or the suspension or material limitation on the primary market for trading in options contracts related to the Deliverable Shares, if available, during the one-half hour period preceding the close of trading in the applicable market, in each case as determined by the Calculation Agent in its sole discretion; and
- (B) a determination by the Calculation Agent in its sole discretion that the event described in clause (A) above materially interfered with the ability of the Company, Merrill Lynch, Pierce, Fenner & Smith Incorporated or any of their affiliates to unwind all or a material portion of the hedge with respect to the Notes.

For purposes of determining whether a Market Disruption Event has occurred:

- (1) a limitation on the hours or number of days of trading will not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the relevant exchange;
- (2) a decision to permanently discontinue trading in the relevant options contracts related to the Deliverable Shares will not constitute a Market Disruption Event;

- (3) limitations pursuant to any rule or regulation enacted or promulgated by the NYSE or The Nasdaq Stock Market or other regulatory organization with jurisdiction over the NYSE or The Nasdaq Stock Market on trading during significant market fluctuations will constitute a suspension or material limitation of trading in the Deliverable Shares;
- (4) a suspension of trading in an options contract on the Deliverable Shares by the primary securities market trading in the options contracts related to the Deliverable Shares, if available, by reason of:
 - a price change exceeding limits set by the securities exchange or market;
 - an imbalance of orders relating to options contracts on the Deliverable Shares; or
 - a disparity in bid and ask quotes relating to options contracts on the Deliverable Shareswill constitute a suspension or material limitation of trading in options contracts related to the Deliverable Shares; and
- (5) a suspension of, absence of or material limitation on trading on the primary securities market on which options contracts related to the Deliverable Shares are traded will not include any time when that securities market is itself closed for trading under ordinary circumstances.

If the Exchange Property, as defined below under “Reorganization Events” below, includes securities other than the Deliverable Shares, then the above definition will be revised to include each of those securities in the same manner as the Deliverable Shares are considered in determining whether a Market Disruption Event exists.

Issuance of transferable rights or warrants

If the Underlying Company issues transferable rights or warrants to all holders of the Deliverable Shares to subscribe for or purchase the Deliverable Shares, including new or existing rights to purchase the Deliverable Shares pursuant to a shareholder’s rights plan or arrangement, then the Exchange Ratio will be adjusted on the Business Day immediately following the issuance of such transferable rights or warrants so that the new Exchange Ratio will equal the prior Exchange Ratio plus the product of:

- the prior Exchange Ratio, and
- the number of shares of the Deliverable Shares that can be purchased with the cash value of such warrants or rights distributed on a single share of the Deliverable Shares.

The number of shares that can be purchased will be based on the Closing Market Price of the Deliverable Shares on the date the new Exchange Ratio is determined. The cash value of such warrants or rights, if the warrants or rights are traded on a national securities exchange, will equal the closing price of such warrant or right, or, if the warrants or rights are not traded on a national securities exchange, will be determined by the Calculation Agent and will equal the average of the bid prices obtained from three dealers at 3:00 p.m., New York City time, on the date the new Exchange Ratio is determined, provided that if only two such bid prices are available, then the cash value of such warrants or rights will equal the average of such bids and if only one such bid is available, then the cash value of such warrants or rights will equal such bid.

Reorganization Events

If prior to the Stated Maturity of the Notes,

- (a) there occurs any reclassification or change of the Deliverable Shares, including, without limitation, as a result of the issuance of tracking stock by the Underlying Company;
- (b) the Underlying Company, or any surviving entity or subsequent surviving entity of the Underlying Company (a “Successor Entity”), has been subject to a merger, combination or consolidation and is not the surviving entity;

- (c) any statutory exchange of securities of the Underlying Company or any Successor Entity with another corporation occurs, other than pursuant to clause (b) above;
- (d) the Underlying Company is liquidated or is subject to a proceeding under any applicable bankruptcy, insolvency or other similar law;
- (e) the Underlying Company issues to all of its shareholders equity securities of an issuer other than the Underlying Company, other than in a transaction described in clauses (b), (c) or (d) above;
- (f) a tender or exchange offer or going-private transaction is consummated for all the outstanding shares of the Underlying Company; or
- (g) the Underlying Company ceases to file the financial and other information with the SEC in accordance with Section 13(a) of the Securities Exchange Act of 1934 (an event in clauses (a) through (g), a "Reorganization Event"),

then the method of determining the amount payable on each Note will be adjusted as set forth below.

"Exchange Property" will consist of the securities, cash or any other assets distributed to holders of record of the Deliverable Shares in or as a result of the Reorganization Event, and where the Deliverable Shares continue to be held by the holders of the Deliverable Shares receiving that distribution, the Deliverable Shares. The Exchange Property will either:

- A. be delivered on the Stated Maturity to Holders in an amount per unit equal to the amount of Exchange Property delivered with respect to the number of Deliverable Shares equal to the Exchange Ratio at the time of the Reorganization Event; or
- B. at the option of the Calculation Agent, be liquidated and the cash proceeds will be paid to the Holders as described below.

If the Exchange Property received in a Reorganization Event:

- consists only of cash or if the Calculation Agent exercises its option to liquidate the Exchange Property following its distribution, then, the Notes will be redeemed: (i) in the case where the Exchange Property delivered to the holders of record of the Deliverable Shares consists of cash only, on the third Business Day succeeding the day on which that cash is distributed to holders of record of the Deliverable Shares, or (ii) in the case where the Exchange Property is liquidated, on the date specified by the Company as described below, and Holders will receive, in lieu of any Deliverable Shares and in full satisfaction of the Company's obligations under the Notes, the product of (a) the amount of cash received with respect to one Deliverable Share and the then current Exchange Ratio or (b) the value of the Exchange Property liquidated with respect to one Deliverable Share and the then current Exchange Ratio, as applicable, plus in either case accrued and unpaid interest to the early redemption date, with no interest accruing on the Notes following the early redemption date. If the Calculation Agent exercises the option to liquidate the Exchange Property, the Company will give notice to the Trustee as to the election to liquidate the Exchange Property, which notice will specify the method by which the Exchange Property will be sold. The date of early redemption of the Notes will be the fifth Business Day following the last date on which the Exchange Property is sold;
- consists of more than one type of property and the Calculation Agent has not exercised its option to liquidate the Exchange Property, then Holders will receive on the Stated Maturity a pro rata share of each such type of Exchange Property; and
- includes a cash component and the Calculation Agent has not exercised its option to liquidate the Exchange Property, then Holders will not receive any interest accrued on that cash component.

In the event Exchange Property consists of securities, those securities will, in turn, be subject to the antidilution adjustments set forth herein.

In the case of a consummated tender or exchange offer or going-private transaction involving Exchange Property of a particular type, Exchange Property will be deemed to include the amount of cash or other property paid by the offeror in the tender or exchange offer with respect to that Exchange Property (in an amount determined on the basis of the rate of exchange in that tender or exchange offer or going-private transaction). In the event of a tender or exchange offer or a going-private transaction with respect to Exchange Property in which an offeree may elect to receive cash or other property, Exchange Property will be deemed to include the kind and amount of cash and other property received by offerees who elect to receive cash.

The Calculation Agent will be solely responsible for determination and calculation of the Exchange Property if a Reorganization Event occurs and the amount due upon early redemption, including the determination of the cash value of any Exchange Property, if necessary, and its determinations and calculations will be conclusive absent a determination of a manifest error.

If the Underlying Company ceases to file the financial and other information with the SEC in accordance with Section 13(a) of the Securities Exchange Act of 1934 and the Calculation Agent determines in its sole discretion that sufficiently similar information is not otherwise available to the Holders, the maturity date of the Notes will be accelerated to the fifth Business Day following the date of that determination and the amount payable to the Holders will be calculated as though the date of early repayment were the Stated Maturity of the Notes. If the Calculation Agent determines that sufficiently similar information is available to the Holders, the Reorganization Event will be deemed to have not occurred.

Alternative Dilution and Reorganization Adjustments

The Calculation Agent may elect at its discretion to not make any of the adjustments to the Exchange Ratio or to the method of determining the amount payable on each Note described above under "Exchange Ratio Adjustments" and "Reorganization Events", but may instead make adjustments in its discretion to the Exchange Ratio or the method of determining the amount payable on each Note that will reflect the adjustments to the extent practicable made by the Options Clearing Corporation on option contracts on the Deliverable Shares or any successor common stock. The Company will provide notice of any such election to the Trustee not more than two Business Days following the date that the Options Clearing Corporation publishes notice of its adjustments relating to the Deliverable Shares and will detail in such notice the actual adjustment made to the Exchange Ratio or to the method of determining the amount payable on each Note.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to the nearest cent with one-half cent being rounded upward.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Zero Coupon Convertible Securities which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has

occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon exchange or acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66 ²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Redemption Amount or Exchange Amount hereof and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder by acceptance hereof hereby agree to treat this Global Note for all tax purposes as a debt instrument that is subject to U.S. Treasury Regulation section 1.1275-4(b) governing contingent payment debt instruments, and, where required, the Company shall file information returns with the Internal Revenue Service in accordance with this treatment, in the absence of any change or clarification in the law, by regulation or otherwise, requiring a different characterization of the Notes.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Authorized Officer

Merrill Lynch & Co., Inc.

[Copy of Seal]

By: _____
Assistant Treasurer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.

CUSIP No.

PRINCIPAL AMOUNT \$

MERRILL LYNCH & CO., INC.
MEDIUM-TERM NOTE, SERIES C
Notes Linked to the Performance of the
Consumer Price Index
(the "Notes")

ORIGINAL ISSUE DATE:

INTEREST PAYMENT DATES:

INITIAL INTEREST RATE:

INTEREST RESET DATES:

STATED MATURITY:

INTEREST RESET DATES:

DEFAULT RATE:

CALCULATION AGENT:
Merrill Lynch, Capital Services, Inc.
(unless otherwise specified)

DENOMINATIONS:
Integral multiples of \$1,000
(unless otherwise specified)

LEVERAGE FACTOR:

MINIMUM INTEREST RATE:

SPECIFIED CURRENCY:
United States dollar
(unless otherwise specified)

OTHER PROVISIONS:

MERRILL LYNCH & CO., INC., a Delaware corporation (hereinafter referred to as the “Company,” which term includes any successor corporation under the Indenture hereinafter referred to), for value received, hereby promises to pay to CEDE & CO., or registered assigns, the principal amount on the Stated Maturity, and to pay interest on the principal amount hereof, at a rate per annum determined in accordance with the provisions hereof, until the principal hereof is paid or duly made available for payment in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts.

Interest on this Note will accrue from, and including, the immediately preceding Interest Payment Date to which interest has been paid or duly provided for from, (and including the Original Issue Date if no interest has been paid or duly provided for to), but excluding, the applicable Interest Payment Date or the Stated Maturity, as the case may be. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, subject to certain exceptions described herein, be paid to the person in whose name this Note (or one or more predecessor Notes) is registered (the “Holder”) at the close of business on the fifteenth calendar day (whether or not a Business Day, as defined below) immediately preceding the related Interest Payment Date (the “Record Date”); provided, however, that interest payable on the Stated Maturity will be payable to the person to whom the principal hereof and premium, if any, hereon shall be payable. Any such interest not so punctually paid or duly provided for on any Interest Payment Date other than the Stated Maturity (“Defaulted Interest”) shall forthwith cease to be payable to the Holder on the close of business on any Record Date and, instead, shall be paid to the person in whose name this Note is registered at the close of business on a special record date (the “Special Record Date”) for the payment of such Defaulted Interest to be fixed by the Trustee hereinafter referred to, notice whereof shall be given to the Holder of this Note by the Trustee not less than 10 calendar days prior to such Special Record Date or may be paid at any time in any other lawful manner, all as more fully provided for in the Indenture.

Payment of principal, premium, if any, and interest in respect of this Note due on the Stated Maturity will be made in immediately available funds upon presentation and surrender of this Note at the office or agency maintained by the Company for that purpose in the Borough of Manhattan, The City of New York. Payment of interest due on any Interest Payment Date other than the Stated Maturity will be made at the aforementioned office or agency maintained by the Company or, at the option of the Company, by check mailed to the address of the person entitled thereto as such address shall appear in the Security Register maintained by the Trustee on the Record Date; provided, however, that a Holder of U.S.\$10,000,000 or more in aggregate principal amount of Notes (whether having identical or different terms and provisions) will be entitled to receive interest payments on such Interest Payment Date by wire transfer of immediately available funds if such Holder has delivered appropriate wire transfer instructions in writing to the Trustee not less than 15 calendar days prior to such Interest Payment Date. Any such wire transfer instructions received by the Trustee shall remain in effect until revoked by such Holder.

If any Interest Payment Date or the Stated Maturity of this Note falls on a day that is not a Business Day, the required payment of principal, premium, if any, and/or interest shall be made on the next succeeding Business Day and no interest shall accrue with respect to the payment for the period from and after such Interest Payment Date or the Stated Maturity, as the case may be, to the date of such payment on the next succeeding Business Day.

As used herein, “Business Day” means any day other than a Saturday or Sunday that is not a day on which banking institutions in The City of New York are authorized or obligated by law, regulation or executive order to close

The interest rate borne by this Note shall initially be equal to the Initial Interest Rate commencing on, and including, the Original Issue Date to, but not including, the first Interest Reset Date. As of the first Interest Reset Date, the interest rate borne by this Note, as reset on each Interest Reset Date, shall be determined by reference to the Floating Interest Rate Basis, subject to the Minimum Interest Rate. Interest will be calculated by multiplying the principal amount of this Note by an interest factor which will be computed by dividing the interest rate applicable to each day by the actual number of days in the year.

As used herein, an “Interest Reset Period” shall be the period from and including the most recent Interest Reset Date to but excluding the immediately succeeding Interest Reset Date or Stated Maturity, as the case may be. If any Interest Reset Date is not a Business Day, the applicable Interest Reset Date will be postponed to the next succeeding day that is a Business Day.

Upon the request of the holder of this Note, the Calculation Agent will provide the interest rate then in effect.

The “Floating Interest Rate Basis” applicable to this Note shall be:

$$[(CPI_{(t)} - CPI_{(t-12)})/CPI_{(t-12)}] \times \text{Leverage Factor}$$

subject to the Minimum Interest Rate.

“CPI_(t)” equals the value of the Consumer Price Index (as defined below) for the third calendar month prior to but not including the month in which the applicable Interest Reset Date occurs.

“CPI_(t+12)” equals the value of the Consumer Price Index for the fifteenth calendar month prior to but not including the month in which the applicable Interest Reset Date occurs.

“Consumer Price Index” means the nonseasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor. The value of the Consumer Price Index for any given month will be the value reported on Bloomberg page CPURNSA or any successor service or successor page thereto. If such value for the Consumer Price Index is not available on Bloomberg page CPURNSA or on a successor page or successor service such value will be determined in the sole discretion of the Calculation Agent.

All determinations made by the Calculation Agent, absent a determination of a manifest error, will be conclusive for all purposes and binding on ML&Co. and beneficial owners of the Notes.

Unless the Certificate of Authentication hereon has been executed by the Trustee by manual signature, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of the Company’s Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Notes Linked to the Performance of the Consumer Price Index. The Notes are issued and to be issued under an indenture (the “Indenture”) dated as of April 1, 1983, as amended and restated, between the Company and JPMorgan Chase Bank, N.A., (herein called the “Trustee”, which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

The Notes are issuable only in registered form without coupons in denominations of \$1,000 and integral multiples thereof. As provided in the Indenture and subject to certain limitations therein set forth, the Notes are exchangeable for a like aggregate principal amount of Notes as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to the Notes, this Note shall be exchangeable for Notes in definitive form of like tenor and of an equal aggregate principal amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

This Note is not subject to any sinking fund.

In case an Event of Default (as defined in the Indenture) with respect to any Notes shall have occurred and be continuing, the amount payable to a Holder of a Note upon any acceleration permitted by the Notes, with respect to each \$1,000 principal amount of Notes, will be equal to the amount payable on the Stated Maturity, calculated as though the date of early repayment were the Stated Maturity.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of 66²/₃% in aggregate original public offering price or principal amount, as the case may be, of the Securities at any time outstanding of each series affected thereby. Holders of specified percentages in aggregate original public offering price or principal amount, as the case may be, of the Securities of each series at the time outstanding, on behalf of the Holders of all the Securities of each series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Note.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Note at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and herein, the transfer of this Note may be registered on the Security Register of the Company, upon surrender of this Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new Notes of authorized denominations and for the same aggregate principal amount, shall be issued to the designated transferee or transferees.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Note is registered as the owner hereof for all purposes, whether or not this Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Indenture and the Notes shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Note which are defined in the Indenture but not in this Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed, manually or in facsimile, and an imprint or facsimile of its corporate seal to be imprinted hereon.

Dated:

MERRILL LYNCH & CO., INC.

By: _____
Assistant Treasurer

[FACSIMILE OF SEAL]

Attest:
By: _____
Secretary

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

JPMORGAN CHASE BANK, N.A.,
as Trustee

By: _____
Authorized Officer

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto(insert Taxpayer Identification No.)_____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing_____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITORY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") TO A NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED No.: R

CUSIP No.:

PRINCIPAL AMOUNT:

MERRILL LYNCH & CO., INC.
Medium-Term Notes, Series C
Currency Notes
(the "Notes")

ORIGINAL ISSUE DATE:

STATED MATURITY:

REFERENCE CURRENCY:

STARTING VALUE:

PARTICIPATION RATE:

PROTECTION LEVEL:

MINIMUM INITIAL INVESTMENT:

CALCULATION AGENT:
 Merrill Lynch Capital Services, Inc.
 (unless otherwise specified)

DENOMINATIONS:
 Integral multiples of \$10
 (unless otherwise specified)

BASE CURRENCY:

SPECIFIED CURRENCY:

DEFAULT RATE: %

VALUATION TIME:

APPLICABLE REFERENCE PAGE:
 (or any substitute pages thereto)

CAPPED VALUE: \$

Merrill Lynch & Co., Inc., a Delaware corporation (hereinafter referred to as the “Company”, which term includes any successor corporation under the Indenture herein referred to), for value received, hereby promises to pay to CEDE & CO., or its registered assigns, the Redemption Amount (as defined below) at the Stated Maturity.

Payment or delivery of the Redemption Amount and any interest on any overdue amount thereof with respect to this Global Note shall be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

Payment at Stated Maturity

At the Stated Maturity, a Holder shall receive a cash payment equal to the Redemption Amount. The “Redemption Amount” with respect to this Global Note shall be denominated and payable in the Specified Currency, shall be determined by the Calculation Agent and shall equal:

(i) If the Ending Value (as defined below) is greater than the Starting Value, the Principal Amount multiplied by a percentage equal to the Protection Level plus:

$$\left[\text{Principal Amount} \times \text{Participation Rate} \times \frac{(\text{Ending Value} - \text{Starting Value})}{\text{Starting Value}} \right];$$

provided, however, the Redemption Amount will not exceed an amount equal to the Capped Value; or

(ii) If the Ending Value is equal to or less than the Starting Value, the Principal Amount multiplied by a percentage equal to the Protection Level.

The “Ending Value” shall equal the value of the Exchange Rate as determined by the Calculation Agent on the seventh scheduled Business Day (as defined below) before the Stated Maturity.

The “Exchange Rates” shall be those mid price currency exchange rates in the interbank market quoted as one unit of the relevant currency in the Base Currency as reported on the Applicable Reference Page at approximately the Valuation Time on the relevant dates. If the currency exchange rates are not so quoted, then the Exchange Rates shall equal the noon buying rate in New York for cable transfers in foreign currencies as announced by the Federal Reserve Bank of New York for customs purposes (the “Noon Buying Rate”). If the Noon Buying Rate is not announced on such date, then the Exchange Rates shall be calculated on the basis of the arithmetic mean of the applicable spot quotations received by the Calculation Agent at approximately 12:00 p.m., New York City time, on the relevant date for the purchase or sale for deposits in the relevant currencies by the New York offices of three leading banks engaged in the interbank market (selected in the sole discretion of the Calculation Agent) (the “Reference Banks”). If fewer than three Reference Banks provide such spot quotations, then the Exchange Rates shall be calculated on the basis of the arithmetic mean of the applicable spot quotations received by the Calculation Agent at approximately 12:00 p.m., New York City time, on the relevant date from two leading commercial banks in New York (selected in the sole discretion of the Calculation Agent), for the purchase or sale for deposits in the relevant currencies. If these spot quotations are available from only one bank, then the Calculation Agent, in its sole discretion, shall determine which quotation is available and reasonable to be used. If no such spot quotation is available, then the Exchange Rates shall be the rate the Calculation Agent, in its sole discretion, determines to be fair and reasonable under the circumstances at approximately 12:00 p.m., New York City time, on the relevant date.

A “Business Day” means any day other than a Saturday or Sunday that is neither a legal holiday nor a day on which banking institutions in The City of New York are authorized or required by law, regulation or executive order to close and such banks are open for dealing in a foreign exchange and foreign currency deposits.

All determinations made by the Calculation Agent, absent a determination of a manifest error, shall be conclusive for all purposes and binding on the Company and the Holders and beneficial owners of this Global Note.

General

All percentages resulting from any calculation on the Notes shall be rounded to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards. For example, 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655). All dollar amounts used in or resulting from any calculation shall be rounded to four decimal places with five thousandths of a cent being rounded upwards. The Starting Value and Ending Value will be rounded to eight decimal places, with five one-billionths being rounded upwards.

This Global Note is one of a duly authorized issue of the Company's Medium-Term Notes, Series C, Due Nine Months or More from Date of Issue and designated as Currency Notes which are due at the Stated Maturity. The Notes are issued and to be issued under an indenture dated as of April 1, 1983, as amended and restated (the "Indenture"), between the Company and JPMorgan Chase Bank, N.A. (herein called the "Trustee", which term includes any successor Trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights thereunder of the Company, the Trustee and the Holders of the Notes and the terms upon which the Notes are to be authenticated and delivered.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee with respect to the Notes under the Indenture, or its successor thereunder, by the manual signature of one of its authorized officers, this Global Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

The Notes are issuable only in registered form without coupons in the Denominations specified above. As provided in the Indenture and subject to certain limitations therein set forth, this Global Note is exchangeable for certificates representing Notes of like tenor and of an equal Principal Amount as requested by the Holder surrendering the same. If (x) the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by the Company within 60 days, (y) the Company executes and delivers to the Trustee a Company Order to the effect that this Global Note shall be exchangeable or (z) an Event of Default has occurred and is continuing with respect to this Global Note, this Global Note shall be exchangeable for certificates representing the Notes in definitive form of like tenor and of an equal Principal Amount, in authorized denominations. Such definitive Notes shall be registered in such name or names as the Depository shall instruct the Trustee. If definitive Notes are so delivered, the Company may make such changes to the form of this Global Note as are necessary or appropriate to allow for the issuance of such definitive Notes.

In case an Event of Default with respect to this Global Note shall have occurred and be continuing, the amount payable to a Holder of this Global Note upon any acceleration permitted by the Notes, with respect to the Principal Amount of this Global Note, shall be equal to the Redemption Amount, calculated as though the date of acceleration were the Stated Maturity.

In case of default in payment of this Global Note, whether at the Stated Maturity or upon acceleration, from and after such date this Global Note shall bear interest, payable upon demand of the Holders thereof, at the Default Rate, to the extent that such payment of interest shall be legally enforceable on the unpaid amount due and payable on such date in accordance with the terms of this Global Note to the date payment of such amount has been made or duly provided for.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than 66²/₃% in aggregate principal amount of the Securities at the time outstanding of each series affected thereby. Holders of specified percentages in aggregate principal amount of the Securities of each series at the time outstanding, on behalf of the Holders of all Securities of each series, are permitted to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Global Note shall be conclusive and binding upon such Holder and upon all future Holders of this Global Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Global Note.

No reference herein to the Indenture and no provision of this Global Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Redemption Amount hereof and interest on this Global Note, if any, at the time, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations set forth therein and on the face hereof, the transfer of this Global Note may be registered on the Security Register of the Company, upon surrender of this Global Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon one or more new certificates representing the Notes of authorized denominations of like tenor and for the same Principal Amount shall be issued to the designated transferee or transferees.

Prior to due presentment of this Global Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Global Note is registered as the owner hereof for all purposes, whether or not this Global Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The Company and each Holder by acceptance hereof hereby agree to treat this Global Note for all tax purposes as a debt instrument, and, where required, the Company shall file information returns with the Internal Revenue Service in accordance with this treatment, in the absence of any change or clarification in the law, by regulation or otherwise, requiring a different characterization of the Notes.

The Indenture and this Global Note shall be governed by and construed in accordance with the laws of the State of New York.

All terms used in this Global Note which are defined in the Indenture but not in this Global Note shall have the meanings assigned to them in the Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[Copy of Seal]

Merrill Lynch & Co., Inc.

JPMorgan Chase Bank, N.A., as Trustee

By: _____
Assistant Treasurer

By: _____
Authorized Officer

Attest: _____
Secretary

ASSIGNMENT/TRANSFER FORM

FOR VALUE RECEIVED the undersigned registered Holder hereby sell(s), assign(s) and transfer(s) unto (insert Taxpayer Identification No.) _____

(Please print or typewrite name and address including postal zip code of assignee)

the within Note and all rights thereunder, hereby irrevocably constituting and appointing _____ attorney to transfer said Note on the books of the Company with full power of substitution in the premises.

Date: _____

NOTICE: The signature of the registered Holder to this assignment must correspond with the name as written upon the face of the within instrument in every particular, without alteration or enlargement or any change whatsoever.



SIDLEY AUSTIN LLP
 787 SEVENTH AVENUE
 NEW YORK, NY 10019
 (212) 839 5300
 (212) 839 5599 FAX

BEIJING
 BRUSSELS
 CHICAGO
 DALLAS
 FRANKFURT

FOUNDED 1866

GENEVA
 HONG KONG
 LONDON
 LOS ANGELES
 NEW YORK

SAN FRANCISCO SHANGHAI
 SINGAPORE
 TOKYO
 WASHINGTON, DC

March 31, 2006

Merrill Lynch & Co., Inc.
 4 World Financial Center
 New York, New York 10080

Ladies and Gentlemen:

We have acted as your counsel and are familiar with the corporate proceedings had in connection with the proposed issuance and sale by Merrill Lynch & Co., Inc. (the "Company") of its senior debt securities (the "Senior Debt Securities"); and/or subordinated debt securities (the "Subordinated Debt Securities"; and together with the Senior Debt Securities, the "Debt Securities"), both of which may be convertible into common stock, par value \$1.33 1/3 per share, of the Company (the "Common Stock"), preferred stock, par value \$1.00 per share, of the Company (the "Preferred Stock") or Depositary Shares representing Preferred Stock (the "Depositary Shares"); and/or warrants to purchase Debt Securities (the "Debt Warrants"); and/or warrants entitling the holders thereof to receive from the Company a payment or delivery determined by reference to decreases or increases in the level of an index or portfolio based on one or more equity or debt securities, any statistical measure of economic or financial performance, or the price or value of any commodity or any other item or index or a combination thereof (the "Index Warrants"); and/or warrants to receive from the Company the cash value in United States dollars of the right to purchase or to sell specified foreign currencies or units of two or more such foreign currencies (the "Currency Warrants"); and/or shares of Preferred Stock which may be convertible into Preferred Stock or Common Stock or exchangeable for Debt Securities; and/or shares of Preferred Stock which may be represented by Depositary Shares; and/or warrants to purchase shares of Preferred Stock (the "Preferred Stock Warrants"); and/or shares of Common Stock; and/or warrants to purchase shares of Common Stock (the "Common Stock Warrants"), in each case as shall be designated by the Company at the time of offering.

We have examined such documents and records as we deemed appropriate, including the following:

- (a) a copy of the Restated Certificate of Incorporation of the Company, certified by the Secretary of State of the State of Delaware;
- (b) a copy of the Company's Registration Statement on Form S-3 relating to the Securities (as defined below) (the "Registration Statement");

- (c) a copy of the indenture with respect to the Senior Debt Securities between the Company and JPMorgan Chase Bank, N.A. (the "1983 Senior Indenture Trustee"), as trustee, dated as of April 1, 1983, as amended and restated (such indenture, as further amended from time to time, the "1983 Senior Indenture"), in the form executed by the Company and the 1983 Senior Indenture Trustee;
- (d) a copy of the indenture with respect to the Subordinated Debt Securities between the Company and JPMorgan Chase Bank, N.A. (the "Subordinated Indenture Trustee"), as trustee, dated December 17, 1996 (the "Subordinated Indenture"), in the form executed by the Company and the Subordinated Indenture Trustee;
- (e) a copy of the form of indenture with respect to Index Warrants which are to be issued with a minimum value payable upon expiration (a "Minimum Expiration Value") (including a form of global index warrant certificate) (the "Index Warrant Indenture") in the form filed or incorporated by reference as an exhibit to the Registration Statement;
- (f) a copy of the form of warrant agreement with respect to Index Warrants other than Index Warrants which are to be issued with a Minimum Expiration Value (including a form of global index warrant certificate) (the "Index Warrant Agreement") in the form filed or incorporated by reference as an exhibit to the Registration Statement;
- (g) a copy of the form of warrant agreement with respect to the Debt Warrants (including a form of global debt warrant certificate) (the "Debt Warrant Agreement") in the form filed or incorporated by reference as an exhibit to the Registration Statement;
- (h) a copy of the form of warrant agreement with respect to the Currency Warrants (including a form of global currency warrant certificate) (the "Currency Warrant Agreement") in the form filed or incorporated by reference as an exhibit to the Registration Statement;
- (i) a copy of the form of warrant agreement with respect to the Preferred Stock Warrants and the Common Stock Warrants (including a form of global warrant certificate) (the "Preferred Stock and Common Stock Warrant Agreement") in the form filed or incorporated by reference as an exhibit to the Registration Statement;
- (j) a copy of the forms of certificate of designations with respect to Preferred Stock (the "Certificate of Designations") in the forms filed or incorporated by reference as exhibits to the Registration Statement;

- (k) a copy of the form of deposit agreement with respect to the Depositary Shares (the "Deposit Agreement") in the form filed or incorporated by reference as an exhibit to the Registration Statement;
- (l) a copy of the forms of certificates representing Preferred Stock in the forms filed or incorporated by reference as exhibits to the Registration Statement; and
- (m) a specimen of the certificate representing the Common Stock in the form filed or incorporated by reference as an exhibit to the Registration Statement.

The Debt Warrants, Index Warrants, Currency Warrants, Preferred Stock Warrants and Common Stock Warrants are hereinafter collectively referred to as the "Warrants". The Warrants, Debt Securities, Preferred Stock, Depositary Shares and Common Stock are hereinafter collectively referred to as the "Securities". The "1983 Senior Indenture" shall mean such indenture, as amended by the Trust Indenture Reform Act of 1990. The 1983 Senior Indenture, Subordinated Indenture and Index Warrant Indenture, including any supplemental indenture thereto, are hereinafter collectively referred to as the "Indentures". The Debt Warrant Agreement, Currency Warrant Agreement, Index Warrant Agreement and Preferred Stock and Common Stock Warrant Agreement are hereinafter collectively referred to as the "Warrant Agreements".

Based upon the foregoing and upon such further investigation as we deem relevant in the premises, we are of the opinion:

1. The Company has been duly incorporated under the laws of the State of Delaware.
2. The 1983 Senior Indenture and the Subordinated Indenture have each been duly and validly authorized, executed and delivered by the Company and, as amended by the Trust Indenture Reform Act of 1990 in the case of the 1983 Senior Indenture, constitute valid and binding agreements of the Company, enforceable in accordance with their respective terms.
3. When appropriate corporate action has been taken to authorize the Company to execute and deliver any applicable Index Warrant Indenture, supplemental indenture or Warrant Agreement, to fix the terms of one or more issues of Securities under an Indenture or Warrant Agreement and to authorize their issue, and such Indenture or Warrant Agreement shall have been duly executed and delivered by the Company and the trustee or warrant agent, and when the Securities with terms so fixed shall have been duly authenticated or countersigned by the trustee or warrant agent, as the case may be, and duly issued under the respective Indenture or Warrant Agreement in accordance with such corporate action, such Indentures and/or Warrant Agreements and such Securities will constitute valid and binding agreements of the Company, enforceable in accordance with their terms.

4. When appropriate corporate action has been taken by the Company to fix the terms of one or more series of the Preferred Stock as contemplated in the Registration Statement, to authorize the execution and filing with the Secretary of State of the State of Delaware of a Certificate of Designations relating thereto and to authorize the issuance of shares thereof, and when such Certificate of Designations shall have been so executed and filed by the Company and Preferred Stock with the terms so fixed shall have been duly issued and delivered by the Company against payment of the consideration therefor or for Depositary Shares representing interests therein in accordance with such corporate action, such Preferred Stock will be validly issued, fully paid and non-assessable.

5. When appropriate corporate action has been taken by the Company to authorize the execution and delivery of a Deposit Agreement, and when such Deposit Agreement shall have been duly executed and delivered by the Company and the depository, such Deposit Agreement will constitute a valid and binding agreement of the Company, enforceable in accordance with its terms.

6. When appropriate corporate action has been taken by the Company to authorize the issuance and deposit of Preferred Stock with a depository pursuant to a Depositary Agreement and the issuance of Depositary Shares representing interests therein, and when such Preferred Stock shall have been duly issued and so deposited and such depository shall have duly issued and delivered depository receipts evidencing such Depositary Shares against payment of the consideration therefor in accordance with such corporate action, such Depositary Shares will represent valid interests in the Preferred Stock so deposited and shall entitle the holders thereof to the rights specified in the depository receipts evidencing the Depositary Shares and in the applicable Deposit Agreement.

7. When appropriate corporate action has been taken by the Company to authorize the issuance of shares of Common Stock, such Common Stock, when issued, delivered and paid for as contemplated in the Registration Statement, will be duly authorized, validly issued, fully paid and non-assessable.

With respect to enforcement, the above opinions are qualified to the extent that enforcement of the Indentures, Warrant Agreements, Securities and Deposit Agreement may be limited by bankruptcy, insolvency or other laws of general applicability relating to or affecting enforcement of creditors' rights or by general equity principles, and further to the extent that enforcement of any Securities denominated in other than United States dollars may be limited by requirements that a claim (or foreign currency judgment in respect of such claim) be converted into United States dollars at a rate of exchange prevailing on a date determined pursuant to applicable law. We have further assumed with respect to enforcement that, when fixed, the terms of the Securities will comply with all applicable "bucket shop" or similar state laws, or have the availability of federal preemption therefrom.

We consent to the filing of this opinion as an exhibit to the Registration Statement and to the use of our name wherever appearing in the Registration Statement and any amendment thereto. In giving such consent, we do not thereby admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act or the related rules promulgated by the SEC.

Very truly yours,

/s/ Sidley Austin LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-3 of our reports dated February 27, 2006, relating to the consolidated financial statements of Merrill Lynch & Co., Inc. ("ML&Co.") and subsidiaries, the related financial statement schedule and management's report on the effectiveness of internal control over financial reporting appearing in and incorporated by reference in the Annual Report on Form 10-K of ML&Co. for the year ended December 30, 2005 and to the reference to us under the heading "Experts" in the Prospectus, which is part of this Registration Statement.

/s/ Deloitte & Touche LLP

March 24, 2006

SECURITIES AND EXCHANGE COMMISSION
Washington, D. C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939 OF
A CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF
A TRUSTEE PURSUANT TO SECTION 305(b)(2)

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

(Exact name of trustee as specified in its charter)

(State of incorporation
if not a national bank)

13-4994650
(I.R.S. employer
identification No.)

1111 Polaris Parkway
Columbus, Ohio
(Address of principal executive offices)

43271
(Zip Code)

Pauline E. Higgins
Vice President and Assistant General Counsel
JPMorgan Chase Bank, National Association
707 Travis Street, 4th Floor North
Houston, Texas 77002
Tel: (713) 216-1436
(Name, address and telephone number of agent for service)

Merrill Lynch & Co., Inc.

(Exact name of obligor as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

13-2740599
(I.R.S. employer
identification No.)

4 World Financial Center
New York, New York
(Address of principal executive offices)

10080
(Zip Code)

Debt Securities
(Title of the indenture securities)

GENERAL

Item 1. General Information.

Furnish the following information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of the Currency, Washington, D.C.

Board of Governors of the Federal Reserve System, Washington, D.C., 20551

Federal Deposit Insurance Corporation, Washington, D.C., 20429.

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

Item 2. Affiliations with the Obligor and Guarantors.

If the obligor or any guarantor is an affiliate of the trustee, describe each such affiliation.

None.

Item 16. List of Exhibits

List below all exhibits filed as a part of this Statement of Eligibility.

1. A copy of the Articles of Association of JPMorgan Chase Bank, N.A. (see Exhibit 1 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).
2. A copy of the Certificate of Authority of the Comptroller of the Currency for the trustee to commence business. (see Exhibit 2 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).
3. None, the authority of the trustee to exercise corporate trust powers being contained in the documents described in Exhibits 1 and 2.
4. A copy of the existing By-Laws of the Trustee. (see Exhibit 4 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).
5. Not applicable.
6. The consent of the Trustee required by Section 321(b) of the Act. (see Exhibit 6 to Form T-1 filed in connection with Registration Statement No. 333-106575 which is incorporated by reference).
7. A copy of the latest report of condition of the Trustee, published pursuant to law or the requirements of its supervising or examining authority.
8. Not applicable.
9. Not applicable.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939 the Trustee, JPMorgan Chase Bank, N.A., has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of New York and State of New York, on the 31st day of March 2006.

JPMORGAN CHASE BANK, N.A.

By /s/ FRANCINE SPRINGER
Francine Springer, Vice President