

Dated 2 April 2007

**Lehman Brothers Securities N.V.**

as Issuer  
and

**Lehman Brothers (Luxembourg) Equity Finance S.A.**

as Issuer  
and

**LEHMAN BROTHERS HOLDINGS INC.**

as Guarantor  
and

**LEHMAN BROTHERS INTERNATIONAL (EUROPE)**

as Arranger and Dealer

**PROGRAMME AGREEMENT**

relating to the

**Lehman Brothers Securities N.V.**  
**Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by  
**Lehman Brothers Holdings Inc.**

arranged by  
**Lehman Brothers International (Europe)**

**Linklaters**

Ref: PWZ/PSL

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**This Agreement** (as amended from time to time, the "**Programme Agreement**" or the "**Agreement**") is made on 2 April 2007, among:

- (1) **Lehman Brothers Securities N.V. ("LBS")**, with its registered office at E-Commercepark, E-Zone Vredenberg, Hoek Heelsumstraat, Hugenolzweg Z/N, Curaçao, The Netherlands Antilles;
- (2) **Lehman Brothers (Luxembourg) Equity Finance S.A. ("LBEF")**, with its registered office at 1 Allee Scheffer, L-2520 Luxembourg, Grand Duchy of Luxembourg;  
  
(each an "**Issuer**" and together the "**Issuers**")
- (3) **LEHMAN BROTHERS HOLDINGS INC.**, with its registered office at 745 Seventh Avenue, New York, New York 10019, U.S.A, in its capacity as guarantor of Securities issued by the relevant Issuer (the "**Guarantor**"); and
- (4) **LEHMAN BROTHERS INTERNATIONAL (EUROPE)** (the "**Dealer**" or "**Arranger**" or "**LBIE**") with its registered office at 25 Bank Street, London E14 5LE, United Kingdom, as Dealer and Arranger (as defined below).

#### **Whereas**

- (A) Each of the Issuers have decided to establish a Programme and to issue from time to time derivative bearer securities, in the Form of Warrants and Certificates guaranteed by the Guarantor (together the "**Securities**", which expression shall, if the context so permits, include the Global Securities (in temporary or permanent form) to be initially delivered in respect of Securities) in accordance with this Agreement (the "**Programme**").
- (B) Securities issued under the Programme may be issued either (1) pursuant to the Base Prospectus in connection with the Programme and associated Final Terms (each as defined below) or (2) pursuant to a prospectus (constituted either (i) by a single document containing the necessary information relating to the Issuer and the Guarantor and the relevant Securities or (ii) by a registration document (the "**Registration Document**") containing the necessary information relating to the Issuers and the Guarantor, a securities note (the "**Securities Note**") containing the necessary information relating to the relevant Securities and, if necessary, a summary note) (together, a "**Prospectus**"), in each case prepared in connection with a particular series of Securities, approved by the Competent Authority in compliance with the "home Member State" definition of the Prospectus Directive.
- (C) In connection with the Programme, each of the Issuers has also entered into an agency agreement dated 2 April 2007 and made among the Issuers, the Guarantor, The Bank of New York as Fiscal Agent and Principal Paying Agent and the other Agents named therein (the "**Agency Agreement**").

**It is hereby agreed** as follows:

## **1 Definitions**

- 1.1** In this Agreement and the Schedules to it:

**"Agents"** means the Fiscal Agent and Principal Paying Agent, the Paying Agents and the Calculation Agent or any of them and shall include such other Agent or Agents as may be appointed under the Agency Agreement and their successors;

**"Arranger"** means LBIE acting through its Frankfurt Branch or its London offices, as the case may be, or such other Arranger as the Issuers and the Guarantor may from time to time appoint to act as Arranger and references in this Agreement to the **"Arranger"** shall be references to the relevant Arranger;

**"BaFin"** means the Bundesanstalt für Finanzdienstleistungsaufsicht, Lurgiallee 12, 60439 Frankfurt am Main, Germany.

**"Base Prospectus"** means the base prospectus dated 30 August 2006 relating to the Securities, which comprises a base prospectus for the purposes of Article 5.4 of the Prospectus Directive (which term shall include those documents incorporated by reference into it in accordance with its terms and save as provided therein, in particular the registration document of the Issuer and the Guarantor dated 30 August 2006 (each a **"Registration Document"**)) as from time to time amended, supplemented or replaced and, in relation to each Tranche, the applicable Final Terms except that for the purpose of Clauses 7.1, 7.2 and 7.3 in respect of the Trade Date, the Signing Date (in the case of a Syndicated Issue) and the Closing Date, **"Base Prospectus"** means the Base Prospectus as at the Trade Date but not including any subsequent revision, supplement or amendment thereto save for any addition to the information included therein by virtue of the applicable Final Terms only by reference to the issue details of the relevant Tranche.

**"Certification Date"** means each Trade Date, each Closing Date, each date on which the Base Prospectus, as applicable, or any of the Contracts is amended, supplemented or replaced and each date on which the Programme Limit is increased;

**"Clearstream, Frankfurt"** means Clearstream Banking AG, Frankfurt am Main or any successor thereof;

**"Clearstream, Luxembourg"** means Clearstream Banking, société anonyme, Luxembourg or any successor thereof;

**"Closing Date"** means, in relation to any Tranche, the date on which such Tranche has been issued or, if not yet issued, the date agreed between the relevant Issuer and the Relevant Dealer or the Lead Manager, as the case may be, for the issue of such Tranche;

**"Competent Authority"** means the BaFin in its capacity as competent authority under the German Securities Prospectus Act and references in this Agreement to the relevant Competent Authority shall, in relation to any Securities, be references to the competent authority relating to the Stock Exchange on which the Securities are from time to time, or will be, listed or admitted to trading.

**"Conditions"** means, in respect of any Security of any Series, the terms and conditions applicable to such Securities as set out in the Base Prospectus, in each case as completed, amended, supplemented or replaced and as described in the relevant Final Terms or Prospectus(es), as the case may be, relating to such Securities. The Conditions may be either in the form of Consolidated Conditions or Supplemented Conditions, as specified in the relevant Final Terms or Prospectus(es), as the case may be;

**"Consolidated Conditions"** shall have the meaning as set forth in Clause 2.2 of this Agreement;

**"Contracts"** means this Agreement, the Agency Agreement and the Guarantee Agreement, in relation to any Tranche in respect of which a Calculation Agent is appointed, the relative Calculation Agency Agreement, in relation to any Tranche in respect of which a delivery agent is appointed, the relative Delivery Agency Agreement, and, in relation to any Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into, the relative Subscription Agreement;

**"Dealers"** means LBIE and includes any person appointed as an additional Dealer pursuant to Clause 13.3, but excludes any person whose appointment as such has (i) lapsed according to its terms or (ii) been terminated or (iii) is deemed to have been terminated;

**"Directive"** includes any present or future directive, regulation, request, requirement, rule or credit restraint programme of any relevant agency, authority, central bank, department, government, legislature, minister, ministry, official, public or statutory corporation, self-regulating organisation or stock exchange;

**"EEA Regulated Market"** means a market for securities which appears in the list of regulated markets drawn up by the EEA State in which the market is situated or operates, as defined by Article 4 No 13 of the Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.

**"EMU"** means the Economic and Monetary Union;

**"Euro"** means the currency introduced by some member states at the third stage of EMU;

**"Euroclear"** means Euroclear Bank S.A./N.V., Brussels, as operator of the Euroclear System or any successor thereto;

**"Exchange Act"** means the U.S. Securities Exchange Act of 1934, as amended;

**"Final Terms"** means in relation to any Tranche, final terms to the Base Prospectus issued specifying the relevant issue details of such Tranche, substantially in the form of Part 5 of the Procedures Memorandum;

**"FSA"** means the Financial Services Authority in the United Kingdom;

**"German Securities Prospectus Act"** means the law regulating the establishment, approval and publication of the prospectus, which has to be published in the case of a public offer of securities or in the case of admission to handling of securities in an organised market, dated 22 June 2005, as amended, (*Gesetz über die Erstellung, Billigung und Veröffentlichung des Prospektes, der beim öffentlichen Angebot von Wertpapieren oder bei der Zulassung von Wertpapieren zum Handel an einem organisierten Markt zu veröffentlichen ist, Wertpapierprospektgesetz – WpPG*).

**"Group"** has the meaning given to it in Clause 3.2.3;

**"Guarantee Agreement"** means the guarantee agreement as may be amended from time to time, under which the Guarantor irrevocably and unconditionally guarantees the due and punctual settlement in full of all obligations due and owing by the relevant Issuer under the Securities issued by the relevant Issuer from time to time;

**"Initial Documentation List"** means the list of documents and confirmations in Schedule A;

**"Lead Manager"** means, in relation to any Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into, the Relevant Dealer specified as such in the relative subscription agreement;

**"Listing Agent"** means any listing agent or sponsor appointed by the relevant Issuer in relation to any listing of the Programme or any Series and Tranche on the Luxembourg Stock Exchange or any other Stock Exchange;

**"Security"** means a Warrant or Certificate issued or to be issued by the relevant Issuer from time to time pursuant to this Agreement, which Security may be represented by a Temporary Global Security, a Permanent Global Security (or a Security in definitive form and any related coupons, receipts and talons) (and **"Securities"** shall be construed accordingly);

**"Permanent Dealer"** means LBIE and any additional Dealer appointed in respect of the Programme in accordance with Clause 13.3.1;

**"Permanent Global Security"** means a permanent global security substantially in the form set out in Schedule 1 to the Agency Agreement or in such other form as may be agreed between the relevant Issuer, the Guarantor, the Fiscal Agent and the Relevant Dealer(s);

**"Procedures Memorandum"** means the memorandum (as may be amended from time to time) detailing the non-binding administrative procedures and guidelines relating to the settlement of issues of Securities (other than syndicated Issues and any other Tranche in relation to which a Subscription Agreement is entered into) as attached as Schedule 4 to the Agency Agreement;

**"Programme"** means the Warrant and Certificate Programme established by this Agreement;

**"Programme Limit"** means U.S. \$3,000,000,000 or the amount stated as such from time to time in the Base Prospectus or its equivalent in other currencies, subject to Clause 15;

**"Prospectus Directive"** means the Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC.

**"Purchase Information"** means, in relation to any Tranche that is not a Syndicated Issue, the terms of such Securities and of their issue agreed between the relevant Issuer and the Relevant Dealer pursuant to the Procedures Memorandum;

**"Relevant Dealer(s)"** means, in relation to any Tranche, the Dealer or Dealers with whom the relevant Issuer has concluded or is negotiating an agreement for the issue of such Tranche;

**"Securities Act"** means the U.S. Securities Act of 1933, as amended;

**"Series"** means a series of Securities, either issued on the same date or comprising one or more Tranches which are in the latter case (i) expressed to be consolidated and forming a single series and (ii) are identical in all respects (including listing) except for their respective Closing Dates, issue prices and/or dates of the first payment of interest;

**"Signing Date"** means, in the case of a Syndicated Issue, the execution date of the relevant Subscription Agreement;

**"Stock Exchange"** means any stock exchange(s) on which any Securities may from time to time be listed, and shall include any stock exchange(s) or market(s) on which any Securities may from time to time be admitted to trading, whether on the *Freiverkehr*-segment or any equivalent trading platform; any references in this Agreement to the **"relevant Stock Exchange"** shall, in relation to any Securities, be references to the stock exchange from time to time on which such Securities are, or are intended to be, listed, and shall include any stock exchange from time to time on which such Securities are, or are intended to be, admitted to trading, whether on the *Freiverkehr*-segment or any equivalent trading platform;

**"Subscription Agreement"** means an agreement substantially in the form as set out in Schedule D.

**"Supplemented Conditions"** shall have the meaning as set forth in Clause 2.2 of this Agreement;

**"Syndicated Issue"** means an issue of Securities pursuant to an agreement reached under Clause 2.3 of this Agreement;

**"Temporary Global Security"** means a temporary global security substantially in the form set out in Schedule 1 to the Agency Agreement or in such other form as may be agreed between the relevant Issuer, the Guarantor (if applicable), the Fiscal Agent and the Relevant Dealer(s);

**"Terms and Conditions of the Securities"** means the Programme Terms and Conditions;

**"Trade Date"** means each date on which the relevant Issuer concludes an agreement for the issue and sale of Securities pursuant to Clause 2 which, in the case of a Syndicated Issue and any other Tranche in respect of which a subscription agreement is entered into, will be the date on which the Lead Manager agrees the pricing details for the relevant Securities with the relevant Issuer; and

**"Tranche"** means Securities which are identical in all respects (including listing).

- 1.2 Terms defined in the Agency Agreement and the Conditions and not otherwise defined in this Agreement shall have the same respective meanings when used in this Agreement, except where the context requires otherwise.
- 1.3 All references in this Agreement to the provisions of any statute or statutory provision shall be deemed to be references to the same as from time to time modified, extended, amended or re-enacted.
- 1.4 All references in this Agreement to an agreement, instrument or other document (including this Agreement, the Agency Agreement, the Guarantee Agreement, the Procedures Memorandum, any Schedules or Exhibits or Appendices of or to any such document, any Series of Securities and any Conditions of the Securities appertaining thereto) shall be construed as a reference to that agreement, instrument or document as the same may be amended, modified, varied, supplemented, restated, replaced or novated from time to time.
- 1.5 Words denoting the singular number only shall include the plural number also and vice versa; words denoting the masculine gender only shall include the feminine gender also; and words denoting persons only shall include firms, companies, states or agencies of states and any joint venture, association or partnership and vice versa.

- 1.6** All references in this Agreement to Euroclear and/or Clearstream, Luxembourg and/or Clearstream, Frankfurt shall, wherever the context so permits, be deemed to include reference to any additional or alternative clearing system approved by the relevant Issuer, the Guarantor, the Fiscal Agent and the Relevant Dealer(s).
- 1.7** Headings to Clauses and Schedules are for convenience only and do not affect the interpretation of this Agreement.
- 1.8** References in this Agreement to Securities being or to be "listed on a Stock Exchange" shall be to Securities that are or are to trading on any Stock Exchange's EEA Regulated Market, and the terms "to list" and "listing" on a Stock Exchange shall be interpreted accordingly, and in relation to any European Economic Area Stock Exchange where the relevant European Economic Area Member State has implemented the Prospectus Directive, "listing" and "listed" shall be construed in a similar manner.
- 1.9** All references in this Agreement to a Directive include any relevant implementing measure of each Member State of the European Economic Area which has implemented such Directive and all references to the "Prospectus Directive" shall include Commission Regulation (EC) No.809/2004.

## **2 Offers and Sales of Securities; Commissions**

### **2.1 Agreement to Issue**

Subject to the terms and conditions of this Agreement, the relevant Issuer may from time to time agree with any Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) to issue, and any Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) may agree to purchase, Securities. If the relevant Issuer and such Dealer(s) agree on the terms upon which such Securities should be issued and subscribed then, from the time of such agreement (whether by telephone, fax, writing or any other means) the relevant Issuer shall be obliged to issue and such Dealer shall be obliged to subscribe or procure the subscription of the relevant Securities on the Closing Date on either a delivery against payment or delivery free of payment basis and otherwise on the terms so agreed.

### **2.2 Conditions of the Securities**

The Conditions apply to any Series of Securities either in the form of Consolidated Conditions (as defined below) or in the form of Supplemented Conditions (as defined below), as may be agreed between the relevant Issuer and the Relevant Dealer (or the Lead Manager on behalf of the relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) in relation to such Series of Securities, provided that the Conditions are generally to be drafted in the form of Consolidated Conditions. This shall in particular apply if a Series of Securities is publicly offered in Germany. By way of exception the Supplemented Conditions shall apply if a Series of Securities is not publicly offered in Germany and/or it is not expected that the investors' interests are adversely affected by the use of Supplement Conditions.

If the Consolidated Conditions (as defined below) apply to a Series of Securities, they shall be determined as follows: The Terms and Conditions of the Securities shall be amended by incorporating the terms of the Final Terms applicable to the respective Series of Securities,

and by deleting all provisions not applicable to such Series of Securities (the "**Consolidated Conditions**"). In respect of a Series of Securities the Consolidated Conditions shall replace the Terms and Conditions of the Securities in their entirety. If and to the extent that the Consolidated Conditions deviate from the terms of the Final Terms, the Consolidated Conditions shall prevail.

If the Supplemented Conditions (as defined below) apply to a Series of Securities, they shall be determined as follows: The terms of the Final Terms applicable to the respective Series of Securities amend and supplement the Terms and Conditions of the Securities (the "**Supplemented Conditions**"). If and to the extent that the Supplemented Conditions deviate from the terms of the Final Terms, the terms of the Final Terms shall prevail.

In the case of a Prospectus, references in this 2.2 to Final Terms shall be construed as references to the Prospectus.

### **2.3 Syndicated Issues**

A Lead Manager may from time to time agree with the relevant Issuer on behalf of the Relevant Dealers that such Dealers will jointly and severally or severally, in each case as agreed in the subscription agreement relating to such Securities, agree to subscribe or procure subscribers for Securities. The terms upon which such Securities are to be subscribed shall be substantially similar to the terms of this Agreement and shall be set out in a subscription agreement substantially in the form of Schedule D executed by the relevant Issuer, the Guarantor, the Lead Manager on behalf of the Relevant Dealers and/or (as the case may be) the other person or persons agreeing to subscribe or procure subscribers for the relevant Securities (whereby they shall become a Relevant Dealer or Relevant Dealers in relation to the relevant Tranche).

### **2.4 Procedures**

Each of the Issuers and the Guarantor agrees that in relation to any issue of Securities the relevant Issuer and the Relevant Dealer(s) (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) will follow such procedures and administrative arrangements as set out in the Procedures Memorandum unless the relevant Issuer, the Relevant Dealer(s) (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) and, if affected by any such procedures or administrative arrangements, the Fiscal Agent, shall agree otherwise. In particular, the Guarantor, the relevant Issuer, the Relevant Dealer(s) (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) and the Fiscal Agent may at any time agree upon such deviation of the procedures described herein as may be required for practical or legal reasons due to changes in the practise or legal framework of the international securities clearing and settlement systems.

### **2.5 Currency Regulations**

Each issue of Securities denominated in a currency in respect of which particular laws, Directives, guidelines, consents, approvals, restrictions or reporting requirements apply shall only be issued in circumstances which comply with such laws, Directives, guidelines, consents, approvals, restrictions or reporting requirements from time to time.

### **2.6 Amounts Outstanding**

The relevant Issuer will procure that any Dealer may at any time obtain from the Fiscal Agent details of the outstanding principal amount of Securities of any Series issued by it in relation to which such Dealer is a Relevant Dealer.

## **2.7 Commissions**

At the time of delivery of, and payment for, any Securities sold by the relevant Issuer pursuant to Clause 2.1, in consideration of the obligations undertaken herein by the Relevant Dealer, the relevant Issuer agrees to pay the Relevant Dealer the commission agreed between the relevant Issuer and the Relevant Dealer. Such commission may be deducted by the Relevant Dealer from the price payable to the relevant Issuer in respect of the relevant Securities, or will be paid by the Issuer as otherwise agreed.

## **3 Conditions of Issue; Update of Legal Opinions and Comfort Letters**

### **3.1 First Issue**

The Arranger shall, as soon as practicable after the date on which it is appointed as such pursuant to this Agreement, circulate to each Dealer all of the documents and confirmations described in the Initial Documentation List after such documents and confirmations have been provided to the Arranger by each of the Issuers and the Guarantor. Before the relevant Issuer reaches its first agreement with the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) for the issue and purchase of Securities, that Dealer shall have received, and found reasonably satisfactory, all of the documents and confirmations described in the Initial Documentation List, only with respect to the relevant Issuer. Any Dealer (with respect to itself only) may waive the production of any of the documents and confirmations described in the Initial Documentation List.

### **3.2 Each Issue**

The obligations of the Relevant Dealer(s) with whom the relevant Issuer has pursuant to Clause 2 concluded an agreement for the issue and purchase of any Tranche of Securities are conditional upon:

**3.2.1 Representations and Warranties:** (save as expressly disclosed in writing by the relevant Issuer to, and acknowledged in writing by, such person prior to such agreement being entered into), on each Certification Date relating to such Securities, the representations and warranties of the relevant Issuer and the Guarantor set out in Clause 7 being true, accurate and correct (in each case as if such representations and warranties were repeated on each such date with reference to the then existing circumstances taking into account the issue of such Securities) and the performance, on or prior to each such date, by the relevant Issuer and the Guarantor of its obligations under this Agreement;

**3.2.2 Listing:** in respect of any Series of Securities which are to be listed, the relevant Competent Authority having agreed to list such Securities and the relevant Stock Exchange having agreed on or prior to the Closing Date to admit such Securities to trading, subject only to their issue;

**3.2.3 Material Change:** there not having occurred since the relevant Trade Date:

- (i) any material adverse change in the condition of the relevant Issuer or the Guarantor and its consolidated subsidiaries (the "**Group**") (if applicable), from that set forth in the Base Prospectus;
- (ii) in the opinion of the Relevant Dealer (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) (x) circumstances such as to prevent or to a material extent restrict payment for such Securities in the manner contemplated by this Agreement or to a material extent prevent or restrict settlement of transactions in such Securities in the market or otherwise, or (y) any change in national or international political, legal, tax or regulatory conditions or any calamity or emergency which has, in its view, caused a substantial deterioration in the price and/or value of such Securities agreed to be issued;

**3.2.4 Agreement to Forms of Documents and Procedures:** the forms of the Final Terms, the Temporary Global Security (if any) and the Permanent Global Security (if any) in relation to the relevant Tranche and the relevant settlement procedures having been agreed by the relevant Issuer, the Relevant Dealer or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into and the Fiscal Agent on or prior to the Closing Date;

**3.2.5 Consents and Compliance:** the relevant Issuer being permitted to issue such Securities (and the Guarantor being permitted to guarantee such Securities) under, and having complied with, and such Securities complying with, all relevant laws and Directives and all consents and approvals of any court, governmental department or other regulatory body which are required for such Securities to be issued and guaranteed and for the performance of their terms and the terms of the Contracts having been obtained;

**3.2.6 Currency accepted:** if relevant, Securities denominated in the relevant currency being accepted for settlement by either Euroclear, Clearstream, Luxembourg or Clearstream, Frankfurt or other relevant clearing systems; and

**3.2.7 Information Request:** the relevant Issuer or the Guarantor delivering to the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealer in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) such opinions, documents, certificates and information relevant in the context of the issue of such Securities as such Relevant Dealer, or Lead Manager (as the case may be), may reasonably request on or prior to the Closing Date.

The Relevant Dealer (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) at its discretion may waive compliance with the whole or any part of this Clause 3.2.

### **3.3 Update of Legal Opinions and Comfort Letters**

**3.3.1 Legal Opinions and Officer's Certificates:** Each of the relevant Issuer and the Guarantor will arrange for the delivery to the Dealers of the legal opinions referred to in the Initial Documentation List (and in respect of a Syndicated Issue, if the Lead Manager on behalf of the Relevant Dealer so requests, a legal opinion from

the Guarantor (if applicable)) and updated officer's certificates from each of the relevant Issuer and the Guarantor (to the effect set forth in Clause 3.2.3(i) above), each satisfactory to the Dealers (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into), each time the Base Prospectus is supplemented with respect to information about each of the relevant Issuer and the Guarantor and for each Syndicated Issue.

- 3.3.2 Comfort Letters:** Each of the relevant Issuer and the Guarantor will provide to the Dealers letters, in such form as the Dealers (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) may reasonably request, from the independent auditors for the time being of the relevant Issuer and the Guarantor (A) upon the establishment of this Programme, and thereafter annually on the date of the annual update of the Base Prospectus, and (B) where the Subscription Agreement so provides in the case of a Syndicated Issue of Securities, dated the signing and closing date of such issue of Securities or otherwise as of such date as the Lead Manager may reasonably request.

If at or prior to the time of any agreement to issue and purchase Securities other than Securities forming part of a Syndicated Issue (or any other Tranche in relation to which a subscription agreement is entered into) any request provided for in this Clause 3.3 is given with respect to the Securities to be issued, the receipt of such opinion and/or comfort letter(s) in a form satisfactory to the Relevant Dealer shall be a condition precedent to the issue of those Securities.

#### **3.4 Determination of Amounts Outstanding**

For the purposes of Clause 7.7:

- 3.4.1** the U.S. dollars equivalent of Securities denominated in a currency other than U.S. dollars shall be determined, at the discretion of the relevant Issuer, either as of the Trade Date for such Securities or on the preceding day on which commercial banks and foreign exchange markets are open for business in London, in each case on the basis of the spot rate for the sale of the U.S. dollars against the purchase of the relevant currency in the London foreign exchange market quoted by any leading bank selected by the Fiscal Agent on the relevant day of calculation; and
- 3.4.2** the U.S. dollars equivalent of Dual Currency Securities (as described in the relevant Final Terms or Prospectus, as the case may be) shall be calculated in the manner specified above by reference to the original nominal amount of such Securities and
- 3.4.3** the U.S. dollars equivalent of other Securities issued at a discount or premium shall be the original nominal amount of such Securities.

#### **4 Nomination and Appointment of Calculation Agent and Delivery Agent**

Unless otherwise requested by a Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) LBIE shall act as Calculation Agent or Delivery Agent in respect of any Series of Securities in accordance with the Agency Agreement. If so requested by such Relevant Dealer (or the Lead Manager on behalf of

the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) the relevant Issuer agrees that it will appoint such Dealer or a person nominated by such Dealer to be the Calculation Agent and/or Delivery Agent, as the case may be, in respect of any Series of Securities, subject to the execution by such Dealer or nominated person of an agreement substantially in the form of and upon the terms of Schedule E (in the case of a Calculation Agent) or Schedule F (in the case of a Delivery Agent).

## **5 Offering of Securities**

### **5.1 Dealers' Obligations Several**

The obligations of each of the Dealers under this Agreement are several and not joint.

### **5.2 Selling Restrictions**

Each Dealer severally agrees that it will observe the restrictions set out in Schedule B. The relevant Issuer and the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) may agree to additional restrictions or amendments thereto in relation to any Tranche which shall be set out in the relevant Final Terms or Prospectus, as the case may be, and, in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into, the Subscription Agreement.

### **5.3 Authority to Distribute Information**

Subject to Clause 5.2, each of the Issuers and the Guarantor hereby authorises each of the Dealers on its behalf to provide copies of, and to make statements consistent with the contents of, (i) the Base Prospectus; (ii) the relevant Final Terms or Prospectus, as the case may be; (iii) any other information in the public domain and (iv) such other information as the relevant Issuer and/or the Guarantor shall provide to the Dealers for use in connection with the Programme.

### **5.4 Stabilisation**

In connection with the distribution of any Securities the Dealer or Dealers (if any) designated as Stabilising Agent (a "**Stabilising Agent**") in the applicable Final Terms or Prospectus, as the case may be, may, to the extent permitted by applicable laws and directives, over-allot Securities (provided that, with respect to the relevant issue of Securities the aggregate nominal amount of Securities allotted does not exceed 105 per cent. of the aggregate nominal amount of the relevant issue of Securities (or such other percentage as may be applicable to any such actions in the jurisdiction where such stabilising activities are to be effected) and effect transactions with a view to supporting the market price of such Securities at a level higher than that which might otherwise prevail in the market, but in doing so such Dealer shall act as principal and not as agent of the relevant Issuer or the Guarantor (if applicable). Such stabilisation, if commenced, may be discontinued at any time. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer of the relevant Securities is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the relevant Securities and 60 days after the date of the allotment of the relevant Securities or, as the case may be, such other date(s) as may be applicable to any such stabilising activities in the jurisdiction where such stabilising activities are to be

effected. Any stabilising activities shall be in compliance with all laws, regulations and rules of any relevant jurisdiction. As between the relevant Issuer and the Guarantor and the Stabilising Agent, any loss resulting from stabilisation shall be borne, and any profit arising therefrom shall be retained, by the Stabilising Agent. If a Stabilising Agent has been appointed in respect of a Tranche, no other Stabilising Agent may be appointed in respect of further Tranches of the same Series until the expiry of the period during which stabilisation of the first Tranche may occur or the completion of all stabilisation activity by the existing Stabilising Agent.

## **5.5 Indemnity**

Each Dealer severally undertakes with the relevant Issuer, the Guarantor and the other Dealers that if the relevant Issuer, the Guarantor, or any other Dealer or any of their respective affiliates or any person who controls the relevant Issuer, the Guarantor or the other Dealers, within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act or any of their respective representatives, directors, officers, employees and agents (each an "**Issuer Relevant Party**") incurs any liability, damages, cost, loss or expense (including legal fees, costs and expenses reasonably incurred) (a "**Loss**" for the purposes of this Clause 5.5) which arises out of, in relation to or in connection with the failure by such Dealer to observe any of the restrictions or requirements referred to in Clause 5.2 or the giving of any information or the making of any statement which has not been authorised by the relevant Issuer or the Guarantor pursuant to Clause 5.3 (except insofar as such Loss is caused by the sale of Securities to any person believed in good faith by such Dealer, on reasonable grounds after making all reasonable investigations, to be a person to whom Securities could lawfully be offered or sold in compliance with the provisions of Clause 5.2), the Dealer shall pay to the relevant Issuer or the Guarantor (if applicable), as the case may be, on demand an amount equal to such Loss and all costs, charges and expenses which it or any Issuer Relevant Party may pay or incur in connection with investigating, disputing or defending any such action or claim as such costs, charges and expenses are incurred. This undertaking to make payment will be in addition to any liability which each Dealer may otherwise have.

## **6 Listing**

### **6.1 Initial Application for Listing**

Each of the relevant Issuer and the Guarantor confirms that it will cause to be made an application for the Programme and/or Securities to be listed on a Stock Exchange if so agreed with the Relevant Dealer(s) (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into). In connection with such application each of the relevant Issuer and the Guarantor agrees:

- 6.1.1** as soon as necessary to comply with the relevant applicable Directives, rules and regulations to supply to the relevant Stock Exchange and/or Competent Authority, as the case may be, copies of the Base Prospectus signed by each of the relevant Issuer and the Guarantor and such other documents, information and undertakings as may be required for the purpose of obtaining such listing; and
- 6.1.2** to procure that the Base Prospectus shall be approved by the relevant Stock Exchange and/or Competent Authority, as the case may be.

### **6.2 Maintenance of Listing**

Each of the Issuers agrees, once admission to listing on the relevant Stock Exchange has been obtained, to use its best endeavours to maintain such listing for so long as any Securities which are or are to be listed on the relevant Stock Exchange are outstanding, to pay all fees and, from time to time, to deliver, publish, register and supply (or procure that any such action is taken on its behalf) such further documents, information and undertakings (in addition to any already published or lodged with the relevant Stock Exchange) and publish all advertisements or other material as may be necessary or advisable in order to maintain the listing on the relevant Stock Exchange of the Programme and any Securities which are listed on the relevant Stock Exchange.

### **6.3 Alternative or No Listing**

Each of the Issuers agrees that, if the Programme or any Security is so listed as contemplated in Clause 6.1, and if maintenance of such listing has become impossible or if in connection with any issue of the Securities the relevant Issuer and the Relevant Dealer (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) agree to list such Securities on another Stock Exchange, it will use its best endeavours to obtain and maintain a quotation for or a listing of the Programme and/or such Securities, as the case may be, on another stock exchange or exchanges which is or are commonly used for the quotation or listing of debt securities as they may decide, with the approval of either (i) the Relevant Dealers (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) in the case of Securities which have been issued and are outstanding or (ii) all Dealers (in relation to the Programme). This Clause 6.3 shall be applied to any subsequent listing of the Programme or the Securities *mutatis mutandis*. In addition, the relevant Issuer and the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) may agree that any Series be unlisted.

## **7 Representations and Warranties**

Each of LBS, LBEF and the Guarantor severally represents and warrants to and with (i) each Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) in the case of a Certification Date only to an issue of Securities, each Dealer (other than the Relevant Dealer) and the Arranger in respect of Clauses 7.1, 7.2, 7.3, 7.10, and 7.11 in relation to a Trade Date, the Signing Date (in the case of a Syndicated Issue) and the Issue Date for each issue of Securities and (ii) the Dealers (in all other cases) that:

- 7.1 Corporate Existence and Capacity:** each of them is duly incorporated and validly existing and in good standing under the laws of its jurisdiction of incorporation and each has the corporate power and authority to own its properties and to conduct its business as described in the Base Prospectus and is lawfully qualified to do business in those jurisdictions in which business is conducted by it;
- 7.2 Base Prospectus, Prospectus:** the Base Prospectus (incorporating in particular the Registration Document of the Issuer and the Guarantor) as complemented by the relevant Final Terms or any Prospectus, as the case may be, contains all information with respect to the relevant Issuer and the Guarantor and the Securities that is material in the context of the issue and offering of the Securities (including all information that, according to the particular nature of each of the Issuers and the Guarantor and the Securities, is necessary

to enable investors to make an informed assessment of the investments and liabilities, financial position, profits and losses, and prospects of the relevant Issuer and of the Guarantor and of the rights attaching to the Securities as required by applicable laws) (ii) to the best of the Issuers' and the Guarantor's knowledge and belief there are no other facts the omission of which would make any statement therein misleading in any material respect, and all reasonable enquiries have been made to verify the accuracy of such information, and (iii) the Base Prospectus or Prospectus, as the case may be, will have been published as required by the German Securities Prospectus Act (*Wertpapierprospektgesetz*, "**WpPG**") implementing the Prospectus Directive in Germany not less than one business day prior to being required (in accordance with the applicable laws and regulations) for the first issue of Securities that requires a listing on any relevant Stock Exchange and/or the approval and publication of a prospectus in accordance with the WpPG, respectively;

- 7.3 Financial Statements:** the most recently prepared financial statements of the relevant Issuer and Guarantor incorporated in the Base Prospectus were prepared in accordance with accounting principles generally accepted by the Prospectus Directive, and give a true and fair view of the financial position of the relevant Issuer and the Guarantor as at the relevant dates, and the results of operations, of the relevant Issuer and the Guarantor for the periods in respect of which they have been prepared, and since the date of the last audited financial statements of the relevant Issuer and the Guarantor there has been no significant adverse change which is material in the context of the issue of Securities under the Programme in the financial condition of the relevant Issuer and the Guarantor (nor any development or event reasonably likely to involve a prospective change), other than disclosed in the Base Prospectus;
- 7.4 The Contracts and the Securities:** the execution, issue, delivery and performance by each of them of the Securities and the Contracts to which it is a party have been duly authorised by all necessary corporate action on its part under all applicable laws and regulations and no further corporate or other action is required to be taken by it under any applicable law or regulation of The Netherlands Antilles, in the case of LBS, or Luxembourg, in the case of LBEF or the State of Delaware, U.S.A. in the case of the Guarantor to authorise the execution, issue, delivery and/or performance of the Securities and the Contracts to which it is a party and the Securities and the Contracts to which each of them is a party constitute their valid, legally binding and enforceable obligations, except that (i) the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally and (ii) the availability of equitable remedies may be limited by equitable principles of general applicability;
- 7.5 No Conflict:** the execution and delivery of the Contracts, the issue of the Securities, the giving of the Guarantee Agreement, the carrying out of the other transactions contemplated by the Contracts and compliance with their terms do not and will not infringe any existing law, rule, regulation, judgment, order or decree of any government, governmental body or court having jurisdiction over any of the Issuers or the Guarantor, and will not result in any breach of the terms of, or constitute a default under, any instrument or agreement to which any of the Issuers or the Guarantor is a party or by which any of the Issuers or the Guarantor or their properties are bound or the constitutional documents of any of the Issuers or the Guarantor;
- 7.6 Consents:** all necessary consents and approvals of any courts, governmental department or other regulatory body, in the opinion of the Issuers or the Guarantor, reasonably

required for the execution and delivery by any of the Issuers or the Guarantor of the Contracts and the issuance and sale by the relevant Issuer of the Securities as contemplated herein and in the Base Prospectus and the performance by the relevant Issuer and the Guarantor of the terms of the Securities and the terms of the Guarantee Agreement, respectively, and of this Agreement have been, or will be by the Closing Date, obtained and are, or will be by the Closing Date, in full force and effect;

- 7.7 No Material Change:** that, except as described in the Base Prospectus or in the documents provided pursuant to Schedule A there has been no material adverse change in the condition (financial or otherwise) of the relevant Issuer or the Guarantor;
- 7.8 Proceedings:** that, except as described in the Base Prospectus or in the documents provided pursuant to Schedule A, neither LBS, LBEF nor the Guarantor is involved in any legal or arbitration proceedings the outcome of which may materially adversely affect LBS' LBEF's or Guarantor's ability to meet their obligations under the Securities or this Agreement or which are otherwise material in the context of the Programme, nor, so far as LBS, LBEF or the Guarantor are aware having made all necessary enquiries, have any such legal or arbitration proceedings been threatened;
- 7.9 Events of Default:** no event has occurred or circumstance arisen that might (whether or not with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement) constitute an event described under "Events of Default" in the Terms and Conditions of the Securities;
- 7.10 Directed Selling Efforts:** Neither LBS, LBEF nor the Guarantor, nor any of their respective affiliates (as defined in Rule 405 under the Securities Act), nor any person acting on the behalf of any of them has engaged in any "directed selling efforts" (as defined in Regulation S) with respect to the Securities or the securities, if any, to be delivered upon any redemption or exercise of any Series;
- 7.11 Offering Restrictions:** Each of the Issuers has implemented the necessary "offering restrictions" (as such term is defined in Regulation S); and
- 7.12 Translation:** any translation prepared of the summary contained in the Base Prospectus as required by Articles 5 and 18 of the Prospectus Directive is accurate in all material respects and is not misleading, inaccurate or inconsistent when read together with the other parts of the Base Prospectus.

## **8 Covenants of the Issuers and the Guarantor**

Each of LBS, LBEF and the Guarantor severally agrees with the Dealers and each of them that:

- 8.1 Delivery of Base Prospectus and Accounts:** upon request it will supply without cost (if supplied in electronic format) to each of the Dealers and the Fiscal Agent:
- 8.1.1** copies of the Base Prospectus each amendment, supplement or replacement of it or information incorporated by reference into it and each Final Terms or Prospectus, as the case may be, relating to Securities in respect of which the Dealer is a Relevant Dealer; and
- 8.1.2** copies of its latest audited annual accounts and any interim accounts (whether audited or unaudited) that are available to the public as soon as they are available and in such quantities as are reasonably requested from time to time by each such

Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into).

**8.2 Base Prospectus, Prospectus:** if at any time during the duration of the Programme a significant new factor, material mistake or inaccuracy arises or is noted relating to the information included in the Base Prospectus (incorporating in particular the Registration Documents of the Issuer and the Guarantor) or Prospectus, as the case may be, which is capable of affecting an assessment by investors of the assets and liabilities, financial position, profits and losses, and prospects of the relevant Issuer and/or the Guarantor and/or of the rights attaching to the Securities and/or the Guarantee Agreement, the relevant Issuer or the Guarantor, as the case may be, will promptly notify the Dealers (or, in the case of a change affecting a specific issue or Tranche of Securities, the Relevant Dealer (or the Lead Manager in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into)). Each of the Issuers and the Guarantor undertakes in such event to prepare, deliver and publish an amendment, supplement or replacement of the Base Prospectus or Prospectus, as the case may be, on or before the next Certification Date and without cost to the Permanent Dealers (or, in the case of a change affecting a specific issue or Tranche of Securities, the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into)). In addition, in any event, the Issuers and the Guarantor undertake to prepare, deliver and publish a new base prospectus, on or before the first anniversary of the date of publication of the existing Base Prospectus, (not taking into account any later supplements or amendments) and without cost (if supplied in electronic format) to the Dealers;

Notwithstanding the provisions of this sub-Clause 8.2, in relation to each Tranche, each of the Issuers undertakes that in the period from and including the relevant Trade Date to and including the relevant Issue Date, it will only prepare and publish a supplement to the Base Prospectus, or Prospectus, as the case may be, if it is required, or it has reasonable grounds to believe that it is required, to do so in order to comply with the requirements of Section 16 of the German Securities Prospectus Act and, in such circumstances, such supplement shall, solely as between the Issuers and the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) and solely for the purposes of Section 16 of the German Securities Prospectus Act and sub-Clause 3.2.1, be deemed to have been prepared and made available to the public so as to comply with the requirements of Section 16 of the German Securities Prospectus Act.

**8.3 Expenses and Taxes:**

**8.3.1** unless otherwise agreed with the Issuers and the Guarantor, the Arranger undertakes to pay all on-going Programme-related expenses (including any applicable value added tax) incidental to the performance of the relevant Issuer's and the Guarantor's obligations under this Agreement, including, but not limited to, (A) the fees and expenses of their legal advisers and auditors, the Fiscal Agent, the Paying Agents and all other parties to the Agency Agreement, and their fees in relation to performance of their duties under the Contracts and the fees and expenses of legal advisers to the Dealers in connection with the preparation of the Contracts and all amendments and supplements to it and replacements of it; (B) the cost of the listing of the Programme on any relevant Stock Exchange; (C) the

cost of obtaining ratings in respect of Securities issued under the Programme, if any; (D) the cost of any advertising agreed by them in connection with the establishment of the Programme or required in connection with any listing referred to in sub-clause (B) above or the provision of notices if obligated pursuant to the Conditions; and (E) any documentary, stamp or similar transfer or issue tax, fund duty or any value added tax, including any interest and penalties, on the execution and delivery of the Contracts; and

**8.3.2** in respect of a particular issue of Securities, the relevant Issuer and the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) may agree that the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) will pay a specific amount against certain expenses and fees (including value added tax, if any) related to the Securities, which expenses may include (but are not limited to) one or more of the following: (A) the fees and the disbursements of the Dealers' counsel, the Fiscal Agent and the Paying Agents, (B) all costs and expenses incurred in the preparation and printing of the Final Terms or Prospectus, as the case may be, the Securities and all other documents relating to the issue, subscription and offering of the Securities, (C) all fees, costs and expenses incurred in effecting the initial delivery of the Securities, including all stamp and other taxes and duties levied in connection with the issuance of the Securities and the sale thereof pursuant hereto, (D) all fees, costs and expenses incurred in connection with the listing or trading of the Securities on the relevant Stock Exchange(s) and (E) the cost of any advertising in connection with the issue of the Securities or required in connection with any Stock Exchange listing or trading or required to be made under the terms of the Securities, which, if agreed, may include notices relating to the Securities;

**8.4 Exchange of Global Securities:** the relevant Issuer will procure that each Temporary Global Security shall be exchanged for a Permanent Global Security, and each Permanent Global Security shall be exchanged for definitive Securities (if and as applicable), in accordance with the Agency Agreement and the relevant Global Security (as defined in the Agency Agreement);

**8.5 Monitoring and Lawful Compliance:** the relevant Issuer will deliver, register and supply such documents, instruments, information and undertakings to, and obtain any consent from, any relevant agency, authority, central bank, department, government, minister, official, public or statutory corporation, self-regulating organisation or stock exchange as may be, in the opinion of the relevant Issuer, reasonably required to comply with all relevant laws, guidelines and Directives which are relevant to any Securities or the Contracts;

**8.6 The Contracts:** the relevant Issuer and the Guarantor will not, without prior consultation with the Arranger, terminate any of the Contracts or effect or permit to become effective any amendment to the Agency Agreement which in the case of an amendment to the Agency Agreement would or might adversely affect the interests of any Dealer or of any holder of Securities issued after the date of such amendment and the relevant Issuer will promptly notify each of the Dealers of any termination or amendment of the Agency

Agreement and of any change in the Fiscal Agent or other paying agents under the Agency Agreement;

- 8.7 Authorised Representative:** the relevant Issuer will notify the Dealers immediately in writing if any of the persons named in the powers of attorney referred to in paragraph 5 of the Initial Documentation List shall cease to be authorised to take action on behalf of the relevant Issuer or the Guarantor (if applicable), or if any additional person shall be so authorised together, in the case of an additional authorised person, with evidence satisfactory to the Dealers that such person has been so authorised;
- 8.8 Passporting:** if the relevant Issuer has agreed with the Relevant Dealer (or the Lead Manager on behalf of the Relevant Dealers in the case of a Syndicated Issue or any other Tranche in relation to which a subscription agreement is entered into) that the home member state that approved the Base Prospectus will be requested to provide a certificate of approval and a copy of the Base Prospectus to the competent authority of one or more host member state(s) under Article 18 of the Prospectus Directive then the relevant Issuer shall promptly request such certificate and Base Prospectus from the competent authority of such home member state and use all reasonable endeavours to procure that such a certificate is issued and that it and the Base Prospectus are delivered to the relevant host member state(s);
- 8.9 Securities with a Maturity of Less than One Year:** in respect of any Securities which must be redeemed before the first anniversary of the date of their issue, the relevant Issuer will issue such Securities only if the following conditions apply or the Securities can otherwise be issued without contravention of section 19 of the FSMA:
- 8.9.1** each relevant Dealer represents, warrants and agrees in the terms set out in paragraph 2 of Schedule B; and
- 8.9.2** the redemption value of each such Security is not less than £100,000 (or an amount of equivalent value denominated wholly or partly in a currency other than sterling), and no part of any Security may be transferred unless the redemption value of that part is not less than £100,000 (or such an equivalent amount);
- 8.10 Directed Selling Efforts:** Neither LBS, LBEF nor the Guarantor nor any of their respective affiliates (as defined in Rule 405 under the Securities Act), nor any person acting on the behalf of any of them will engage in any “direct selling efforts” (as defined in Regulation S) with respect to the Securities or the securities, if any, to be delivered upon any redemption or exercise of any Series;
- 8.11 Other:** It will comply with the relevant restrictions set out in Schedule B hereto as if it had been named as a Dealer under this Agreement.

## **9 Legal Requirements relating to Offer Documents and Legal Restrictions with respect to Offers and Listings in Germany**

Each of the Issuers and the Guarantor, severally, undertake with each Dealer that they will comply with all applicable legal requirements in relation to the preparation, filing, publication and update of any offer documents in relation to Securities. In particular, they will comply with all applicable legal requirements in relation to the preparation, filing, publication and update of the Base Prospectus and the Final Terms or Prospectus, as the case may be, each as applicable, for offers of Securities in Germany.

Each of the Issuers, the Guarantor, severally, undertake with each Dealer that they will comply and will arrange for the compliance of any third party with any regulatory restrictions in relation to the public offer of Securities based on the Base Prospectus, in particular with the "home Member State" definition of the Prospectus Directive.

Each of the Issuers, the Guarantor, severally, undertake with each Dealer to observe any restrictions set out in the Base Prospectus in relation to the listing of the Securities on any Stock Exchange.

## **10 Indemnification**

The obligations of the Dealers and the Arranger in this Agreement are undertaken on the basis of the representations and warranties in Clause 7 of this Agreement with the intention that such representations and warranties shall remain true and accurate in all respects up to and including each Closing Date and LBS, LBEF and the Guarantor jointly and severally undertake to each Dealer and the Arranger that if that Dealer or Arranger, or any of their respective directors (each a "**Relevant Party**") incurs any liability, damages, cost, loss or expense (including, without limitation, legal fees, costs and expenses) (a "**Loss**" for the purposes of this Clause 10) in respect of any breach of any such representation or warranty, the LBS, LBEF and the Guarantor, as the case may be, shall pay to that Dealer or Arranger an amount equal to such Loss. No Dealer or Arranger shall have any duty or obligation, whether as fiduciary or trustee for any Relevant Party or otherwise, to recover any such payment or to account to any other person for any amounts paid to it under this Clause. If any action shall be brought against any Dealer or Arranger in respect of which payment under this Clause may be sought from LBS and/or LBEF and/or the Guarantor, such Dealer or Arranger shall promptly notify the relevant Issuer and the Guarantor in writing and shall employ such legal advisers as may be agreed between such Dealer or Arranger and the relevant Issuer or failing agreement as such Dealer or Arranger may select. Neither LBS, LBEF nor the Guarantor shall be liable in respect of any settlement of any such action effected without its consent.

## **11 Status of the Arranger**

Each of the Dealers agrees that the Arranger has only acted in an administrative capacity to facilitate the establishment and/or maintenance of the Programme and has no responsibility to it for (a) the adequacy, accuracy, completeness or reasonableness of any representation, warranty, undertaking, agreement, statement or information in the Base Prospectus, any Final Terms or Prospectus, as the case may be, this Agreement or any information provided in connection with the Programme or (b) the nature and suitability to it of all legal, tax and accounting matters and all documentation in connection with the Programme or any Tranche.

## **12 Assignment**

Any Dealer or Arranger may assign or transfer its rights and obligations hereunder upon prior written notice to each of the Issuers and the Guarantor.

## **13 Termination and Appointment**

### **13.1 Termination**

This Agreement may be terminated (subject to and save as otherwise provided in this Agreement or agreed upon by the relevant parties) in relation to all the Dealers or any of them or in relation to the Arranger by each of the Issuers and the Guarantor or, in relation to itself and each of the Issuers and the Guarantor only, by any Dealer or the Arranger, in any such case, for any reason and at any time upon the giving of not less than 30 days' written notice of such termination to the Fiscal Agent and (in the case of a termination by any of the Issuers and the Guarantor) to the Dealer(s) concerned or the Arranger (as the case may be) and (in the case of a termination by a Dealer or the Arranger) to any of the Issuers and the Guarantor, or such shorter notice as may be agreed by the parties.

### **13.2 Rights Accrued**

No such termination as aforesaid shall affect any rights or obligations accrued or incurred by the date on which such termination becomes effective or which accrue thereafter in relation to any act or omission which occurred prior to such termination. Without prejudice to the generality of the foregoing, the relevant Issuer or the Relevant Dealer(s), as the case may be, will, notwithstanding termination of this Agreement for any reason, remain responsible for the expenses to be paid by it pursuant to Clause 8.3 and all obligations under Clause 10 shall remain in effect. In addition, if any such termination occurs after the relevant Issuer has accepted an offer to subscribe or procure the subscription of Securities and prior to the Closing Date in respect thereof, the obligations of the relevant Issuer under Clauses 2 and 3 shall also remain in effect.

### **13.3 Additional Dealers**

**13.3.1 Programme:** the Issuers and the Guarantor may from time to time appoint one or more additional Dealers in respect of the Programme, which appointment shall be confirmed by a letter substantially in the form of Part II of Schedule C, provided that any such additional Dealer shall have confirmed its appointment as such upon the terms of this Agreement in respect of the Programme by a letter to the Issuers and the Guarantor substantially in the form of Part I of Schedule C, whereupon it shall become a party to this Agreement as a Dealer in respect of the Programme, vested with all the authority, rights, powers, duties and obligations of a Dealer in respect of the Programme as if originally named as a Dealer hereunder.

**13.3.2 Syndicated Issue:** The relevant Issuer may from time to time in relation to a Syndicated Issue or other specified Tranche appoint one or more additional Dealers in respect of such issue provided that any such additional Dealer shall confirm acceptance of its appointment as such upon the terms of this Agreement by its execution of the relative Subscription Agreement, whereupon it shall become a party to this Agreement as a Dealer in respect of such issue, vested with all the authority, rights, powers, duties and obligations of a Dealer for such Syndicated Issue or Tranche as if originally named as a Dealer hereunder. Such authority, rights, powers, duties and obligations shall be limited to those that accrue in connection with the Syndicated Issue or Tranche in respect of which such person is appointed Dealer and shall not extend to those that relate to Permanent Dealers unless such person is appointed as a Permanent Dealer. The appointment of such a Dealer in respect of a Tranche of Securities only shall, on the Issue Date for, and following the issue of, such Securities, be deemed to have been terminated. The indemnities, undertakings, agreements, representations, warranties and other statements of the relevant Issuer, the Guarantor and such Dealer made pursuant to

this Agreement and that Dealer's appointment will remain in full force and effect notwithstanding such termination.

**13.3.3 Tranche:** The relevant Issuer may from time to time in relation to a Tranche appoint one or more additional Dealers in respect of such Tranche, which appointment shall be confirmed by a letter substantially in the form of Part 3 to the Procedures Memorandum, whereupon the relevant Dealer shall become a party to this Agreement as a Dealer in respect of such Tranche, vested with all the authority, rights, powers, duties and obligations of a Dealer for such Tranche as if originally named as a Dealer hereunder. Such authority, rights, powers, duties and obligations shall be limited to those that accrue in connection with the Syndicated Issue or Tranche in respect of which such person is appointed Dealer and shall not extend to those that relate to Permanent Dealers unless such person is appointed as a Permanent Dealer. The appointment of such a Dealer in respect of a Tranche of Securities only shall, on the Issue Date for, and following the issue of, such Securities, be deemed to have been terminated. The indemnities, undertakings, agreements, representations, warranties and other statements of the relevant Issuer, the Guarantor and such Dealer made pursuant to this Agreement and that Dealer's appointment will remain in full force and effect notwithstanding such termination.

The Issuers and the Guarantor shall at the time of any such appointment under Clause 13.3.1 promptly give notice of it to the other Permanent Dealers.

## **14 Notices**

### **14.1 Methods of Communication**

All communications shall be in writing or by email and, in the case of communications for the purposes of Clause 2 may be by telephone. However, all communications by telephone shall be promptly confirmed in writing or by email. The initial telephone number, telefax number, address, email address and person, department, desk or other relevant recipient, as the case may be, so designated by each of the Issuers, the Guarantor and LBIE are set out in Schedule G to this Agreement.

### **14.2 Receipt**

A communication will be effective upon receipt (Zugang).

**14.3 Syndicated Issues:** Notices to the Relevant Dealers in respect of Syndicated Issues or other Tranches in relation to which a subscription agreement is entered into shall be given to the Lead Manager on behalf of those Dealers (if any).

## **15 Counterparts**

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

## **16 Governing Law and Jurisdiction**

### **16.1 Governing Law**

This Agreement, both as to form and content, and the rights and duties hereunder shall be governed exclusively by the laws of the Federal Republic of Germany. LBIE is hereby

granted exemption from the restrictions of § 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) (and any similar restrictions of the laws of other countries) in respect of all matters covered in this Agreement and the Terms and Conditions of the Securities.

**16.2 Place of Performance**

The place of performance shall be Frankfurt am Main.

**16.3 Place of Jurisdiction**

The place of jurisdiction shall be Frankfurt am Main. Each party to this Agreement hereby expressly submits to the jurisdiction of the courts of the Federal Republic of Germany.

**16.4 Appointment of Agent**

Each of the Issuers and the Guarantor appoints the Arranger acting through its Frankfurt Branch, at Rathenauplatz 1, 60313 Frankfurt am Main as its authorised agent for service of process in Germany. If for any reason such agent shall cease to be such agent for service of process, each of the Issuers and the Guarantor shall forthwith appoint a new agent for service of process in Germany and deliver to the Dealers and the Arranger a copy of the new agent's acceptance of that appointment within 30 days. Nothing in this Agreement shall affect the right to serve process in any other manner permitted by law.

**The Issuers**

Lehman Brothers Securities N.V.

By:

Title:

Lehman Brothers (Luxembourg) Equity Finance S.A.

By:

Title:

**The Guarantor**

LEHMAN BROTHERS HOLDINGS INC.

By:

Title:

**The Dealer and Arranger**

LEHMAN BROTHERS INTERNATIONAL (EUROPE), FRANKFURT

By:

Title:

## Schedule A

### Initial Documentation List

- 1 Constitution of each of the Issuers and the Guarantor:** A copy certified by a duly authorised signatory of the Issuers and the Guarantor, as the case may be, of the constitutive document(s) of each of the Issuers and the Guarantor.
- 2 Internal Authorisations of each of the Issuers and the Guarantor:** A copy, in each case certified by a duly authorised signatory of the Issuers and the Guarantor, as the case may be, of all resolutions and other authorisations required to be passed or given, and evidence of any other action required to be taken, on behalf of the relevant Issuer and the Guarantor (i) to authorise the execution of the Contracts and the entry into and performance of the transactions contemplated thereby and the issue of the Securities and the giving of the Guarantee Agreement and (ii) to authorise appropriate persons to execute each of them and take any other action in connection therewith and (iii) to authorise appropriate persons to enter into any agreement on behalf of the relevant Issuer and the Guarantor to issue Securities in accordance with Clause 2 of this Agreement and to give the Guarantee Agreement, together with certified copies of all relevant consents, authorisations and registrations.
- 3 Legal Opinions:** Legal opinions addressed to and in form and substance satisfactory to each of the Dealers by/from:
  - 3.1** Linklaters, legal advisers to the Issuers and to the Dealers as to German law.
- 4 No Material Adverse Change:** Certificates, signed by a director of each of the Issuers and the Guarantor, stating that since the date of the last audited financial statements of the relevant Issuer and the Guarantor (as the case may be) there has been no material adverse change in the financial condition of the relevant Issuer and the Guarantor (as the case may be).
- 5 Certificate of Incumbency or Powers of Attorney:** Lists of the names of the persons authorised on behalf of each of the Issuers and the Guarantor:
  - 5.1** to execute the Contracts, the Securities (as appropriate) and any agreements entered into pursuant to Clause 2;
  - 5.2** to sign or give or deliver all notices and other documents to be delivered in connection with the Contracts and the Securities; and
  - 5.3** to take any other action in relation to the Contracts and the Securities.
- 6 Copies of Contracts:**

A copy of the Programme Agreement, Agency Agreement and the Guarantee Agreement.
- 7 Governmental and other Consents:** Copies of any other governmental or other consents required for the relevant Issuer and the Guarantor to issue Securities under the Programme, the Guarantor to guarantee payment of those Securities and for the relevant Issuer and the Guarantor to execute and deliver and fulfil their respective obligations under the Contracts.
- 8 Base Prospectus:** Copies of the Base Prospectus and the Issuer's and Guarantor's Registration Document for distribution amongst the Dealers.

## **Schedule B**

### **Selling Restrictions**

#### **1 EEA States:**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (the "Prospectus Directive") (each, a "Relevant Member State"), the Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "Relevant Implementation Date") it has not made and will not make an offer of Securities to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of Securities to the public in that Relevant Member State:

- (1) in (or in Germany, where the offer starts within) the period beginning on the date of publication of a prospectus in relation to those Securities which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive and ending on the date which is 12 months after the date of such publication;
- (2) at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised or regulated, whose corporate purpose is solely to invest in securities;
- (3) at any time to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than EUR 43,000,000 and (3) an annual net turnover of more than EUR 50,000,000, as shown in its last annual or consolidated accounts; or
- (4) at any time in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer of Securities to the public" in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase or subscribe the Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

#### **2 United Kingdom:** Each Dealer represents, warrants and agrees that:

- 2.1** in relation to any Securities which must be redeemed before the first anniversary of the date of their issue, (a) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (b) it has not offered or sold and will not offer or sell any Securities other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as

principal or agent) for the purposes of their businesses where the issue of the Securities would otherwise constitute a contravention of section 19 of the Financial Services and Markets Act 2000 (the "FSMA") by the Issuer;

**2.2** it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Securities in circumstances in which section 21(1) of the FSMA does not apply to the Issuer; and

**2.3** it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to such Securities in, from or otherwise involving the United Kingdom.

**3** **United States of America:** The Securities, the Guarantee Agreement and the securities, if any, to be delivered upon any redemption or exercise of any Series have not been and will not be registered under the U.S. Securities Act of 1933 (the "Securities Act") and trading in the Securities has not been approved by the U.S. Commodity Futures Trading Commission under the U.S. Commodity Exchange Act, as amended. The Securities and the securities, if any, to be delivered upon any redemption or exercise of any Series may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act ("Regulation S") or pursuant to an exemption from the registration requirements of the Securities Act. Each Dealer represents that it has offered and sold, and agrees that it will offer and sell, the Securities and the securities, if any, to be delivered upon any redemption or exercise of any Series (i) as part of their distribution at any time and (ii) otherwise, in the case of certificates until 40 days after the completion of the distribution, or in the case of warrants within one year after the completion of the distribution, of an identifiable tranche of which such Securities are a part only in accordance with Rule 903 of Regulation S. Accordingly, neither it, its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to the Securities and the securities, if any, to be delivered upon any redemption or exercise of any Series, and it and they have complied and will comply with the offering restrictions requirement of Regulation S. Each Dealer agrees that, at or prior to confirmation of sale of the Securities or the securities, if any, to be delivered upon any redemption or exercise of any Series, (i) it has represented, as a condition to acquiring any interest in the Securities, or such securities, if any, that neither it nor any person for whose account or benefit the Securities or such securities, if any, are being acquired is a U.S. Person and (ii) it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities or the securities, if any, to be delivered upon any redemption or exercise of any Series from it during the distribution compliance period a confirmation or notice to substantially the following effect:

"The securities covered hereby have not been registered under the U.S. Securities Act of 1933 (the "Securities Act") and trading in Securities has not been approved by the U.S. Commodity Futures Trading Commission under the U.S. Commodity Exchange Act, as amended. The securities may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise, in the case of certificates until 40 days after the completion of the distribution, or in the case of warrants within one year after the completion of the distribution, of an identifiable tranche of securities of which such securities are a part, except in either case in accordance with Regulation S

under the Securities Act. Terms used this paragraph have the meaning given to them by Regulation S under the Securities Act."

Terms used above have the meanings given to them by Regulation S.

Each Dealer represents that it has not entered and agrees that it will not enter into any contractual arrangement with any distributor (as such term is defined in Regulation S) with respect to the distribution or delivery of the Securities, except with its affiliates or with the prior written consent of the Issuer.

In addition:

- (i) except to the extent permitted under U.S. Treas. Reg. §1.163-5(c)(2)(i)(D) (the "D Rules"), (a) each Dealer represents that it has not offered or sold, and agrees that during a 40-day restricted period it will not offer or sell, Securities to a person who is within the United States or its possessions or to a United States person, and (b) represents that it has not delivered and agrees that it will not deliver within the United States or its possessions definitive Securities that are sold during the restricted period;
- (ii) each Dealer represents that it has and agrees that throughout the restricted period it will have in effect procedures reasonably designed to ensure that its employees or agents who are directly engaged in selling Securities are aware that such Securities may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person, except as permitted by the D Rules;
- (iii) if it is a United States person, each Dealer represents that it is acquiring the Securities for purposes of resale in connection with their original issue and if it retains Securities for its own account, it will only do so in accordance with the requirements of U.S. Treas. Reg. §1.163-5(c)(2)(i)(D)(6); and
- (iv) with respect to each affiliate that acquires from it Securities for the purpose of offering or selling such Securities during the restricted period, each Dealer either (a) repeats and confirms the representations and agreements contained in clauses (i), (ii) and (iii) on its behalf or (b) agrees that it will obtain from such affiliate for the benefit of the Issuer the representations and agreements contained in clauses (i), (ii) and (iii).

Terms used in clauses (i), (ii), (iii) and (iv) have the meaning given to them by the U.S. Internal Revenue Code of 1986 and regulations thereunder, including the D Rules.

#### **4 The Netherland Antilles**

The Securities to be issued by LBS under the Programme have not been, directly or indirectly, offered, sold, transferred or delivered and will not be, directly or indirectly, offered, sold, transferred or delivered (including rights representing an interest in a Global Security) in the Netherlands Antilles. Securities issued by LBS under the Programme with a denomination of less than Netherlands Antillean guilder (Naf) 100,000 (or the equivalent in any other currency) have not been, directly or indirectly, offered, sold, transferred or delivered and will not be, directly or indirectly, offered, sold transferred or delivered (including rights representing an interest in a Global Security) to the account of any person or entity other than group companies and/or professional market parties, as such terms are

defined or interpreted under the Ministerial decree of December 19, 1995, in implementation of Article 1, paragraphe 3 of the National Ordinance on the Supervision of Banks and Credit Institutions, 1994.

- 5** **General:** Each Dealer acknowledges that no representation is made by the Issuers, the Guarantor or any Dealer that any action has been or will be taken in any jurisdiction by the Issuers, the Guarantor or any Dealer that would permit a public offering of the Securities, or possession or distribution of the Base Prospectus or any other offering material or Final Terms, in any country or jurisdiction where action for that purpose is required. Each Dealer agrees that it will, to the best of its knowledge and belief, comply with all relevant laws, regulations and directives in each jurisdiction in which it purchases, offers, sells or delivers Securities or has in its possession or distributes the Base Prospectus or any other offering material or Final Terms, in all cases at its own expense and neither the Issuers, the Guarantor nor any other Dealer shall have responsibility therefore.

**Schedule C**  
**Part I**  
**Form of Dealer Accession Letter (Programme)**

To: Lehman Brothers Securities N.V.  
E-Commercepark  
E-Zone Vredenberg  
Hoek Heelsumstraat  
Hugenolzweg Z/N  
Curaçao  
The Netherlands Antilles  
Attention: [•]  
  
Lehman Brothers (Luxembourg) Equity Finance S.A.  
1 Allee Scheffer  
L-2520 Luxembourg  
Grand Duchy of Luxembourg  
Attention: [•]

and

LEHMAN BROTHERS HOLDINGS INC.  
745 Seventh Avenue  
New York  
New York 10019  
U.S.A.  
Attention: [•]

[Date]

Dear Sirs,

**Lehman Brothers Securities N.V.**  
**Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by  
**Lehman Brothers Holdings Inc.**

We refer to the Programme Agreement (the "**Agreement**") dated [•] entered into in respect of the above Warrant and Certificates Programme (the "**Programme**") and made between Lehman Brothers Securities N.V., Lehman Brothers (Luxembourg) Equity Finance S.A., Lehman Brothers Holdings Inc., the Arranger and the Dealers party thereto.

**Conditions Precedent**

We confirm that we are in receipt of the documents referenced below:

- a copy of the Agreement;

- a copy of all other documents (as currently amended or supplemented) referred to in the Initial Documentation List;
- a copy of the most recent Base Prospectus;
- [other documents]

and have found them to our satisfaction.

For the purpose of the Agreement our Notice Details are as follows:

(insert name, address, telephone, fax and attention).

In consideration of the Issuers appointing us as a Dealer under Clause 13.3.1 of the Agreement we hereby undertake, for the benefit of Lehman Brothers Securities N.V., Lehman Brothers (Luxembourg) Equity Finance S.A., Lehman Brothers Holdings Inc. and each of the other Dealers, that we will perform and comply with all the duties and obligations of a Dealer under the Agreement and the other Contracts.

This letter is governed by, and shall be construed in accordance with, the laws of Germany.

Yours faithfully,

[NAME OF NEW DEALER]

cc: [Fiscal Agent]

**Schedule C**  
**Part II**  
**Form of Dealer Confirmation Letter (Programme)**

To: [NAME AND ADDRESS OF NEW DEALER]

[Date]

Dear Sirs,

**Lehman Brothers Securities N.V.**  
**Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by  
**Lehman Brothers Holdings Inc.**

We refer to the Programme Agreement (the "**Agreement**") dated [•] entered into in respect of the above Warrant and Certificate Programme (the "**Programme**") and hereby acknowledge receipt of your Dealer [or Arranger] Accession Letter to us dated [•].

In accordance with Clause 13.3.1 of the Agreement we hereby confirm that we have taken all necessary action to ensure that, with effect from the date hereof, you shall become a party to the Agreement as a Dealer [or Arranger] in respect of the Programme, vested with all the authority, rights, powers, duties and obligations of a Dealer [or Arranger] in respect of the Programme as if originally named as a Dealer under the Agreement.

The representations given by us in Clause 7 of the Agreement shall be deemed to have been repeated by us to you, as if given as of the date of this letter.

Yours faithfully,

For and on behalf of

[Lehman Brothers Securities N.V.  
Lehman Brothers (Luxembourg) Equity Finance S.A.  
[Lehman Brothers Holdings Inc.]

cc: the existing Permanent Dealers

cc: [Fiscal Agent]

**Schedule D  
Form of Subscription Agreement**

Dated [•]

**[Lehman Brothers Securities N.V.]**  
**[Lehman Brothers (Luxembourg) Equity Finance S.A.]**  
as Issuer

and

**Lehman Brothers Holdings Inc.**  
as Guarantor

and

**[LEAD MANAGER/RELEVANT DEALER]**

[and

**OTHERS]**

**SUBSCRIPTION AGREEMENT**

[CURRENCY AND PRINCIPAL AMOUNT]

[DESCRIBE ISSUE]

issued by

[Lehman Brothers Securities N.V.][Lehman Brothers (Luxembourg) Equity Finance S.A.]  
as Tranche [•] of Series [•] of the

**Lehman Brothers Securities N.V.**  
**Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by  
**Lehman Brothers Holdings Inc.**

**Linklaters**

This Subscription Agreement (the "**Subscription Agreement**") is made on [•] between:

- (1) [Lehman Brothers Securities N.V. ("**LBS**"), with its registered office at E-Commercepark, E-Zone Vredenberg, Hoek Heelsumstraat, Hugenolzweg Z/N, Curaçao, The Netherlands Antilles;] [Lehman Brothers (Luxembourg) Equity Finance S.A. ("**LBEF**"), with its registered office at 1 Allee Scheffer, L-2520 Luxembourg, Grand Duchy of Luxembourg;] as Issuer of the Securities (the "**Issuer**");
- (2) **LEHMAN BROTHERS HOLDINGS INC.** ("**LBHI**") with its registered office at 745 Seventh Avenue, New York, New York 10019, U.S.A, in its capacity as guarantor of Securities issued by the Issuer (the "**Guarantor**"); and
- (3) [**LEHMAN BROTHERS**] ("**[•]**") [•] (the "**Lead Manager**") [[**OTHER MANAGERS**] (together, the "**Managers**")].

Whereas:

- (A) The Issuer proposes to issue [Currency and Principal Amount] of its [Describe Issue] (each a "**Security**" and together, the "**Securities**", which expression, where the context so admits, shall include the [Global Securities/Temporary Global Security] to be delivered in respect thereof) [irrevocably and unconditionally guaranteed by the Guarantor]. Definitive Securities, if any, will be in bearer form in the denominations of [Denomination] [each with coupons attached].
- (B) The Securities will be issued as Tranche [•] of Series [•] of the Warrant and Certificate Programme established by [Lehman Brothers Securities N.V.][Lehman Brothers (Luxembourg) Equity Finance S.A.] ("**[LBS][LBEF]**"). This Subscription Agreement is supplemental to the Programme Agreement dated [•] made between the Issuer and the Guarantor, the Arranger and the Dealers party thereto (the "**Agreement**").

It is hereby agreed as follows:

## 1 Appointment

In accordance with the provisions of the Agreement, [each of ]the Issuer [and the Guarantor] hereby appoint[s] [•] (the "**New Dealer[s]**") as [a] dealer[s] under the Agreement for the purposes of the issue of the Securities only and not for any other Tranche or Series under the Agreement. By their signature hereon, [the/each] New Dealer confirms acceptance of its appointment under the Agreement and as such [the/each] New Dealer is hereby vested with all the authority, rights, powers, duties and obligations under the Agreement as if [the/each] New Dealer had originally been named as a Dealer thereunder.

## 2 Issue of the Securities

- 2.1 Programme Agreement:** The Securities will be issued pursuant to Clause 2.2 of the Agreement and on the terms of Clauses 2 to 9 (excluding Clauses 3.2.3(ii) [and 5.1]), 10, 11, 12, 14 (as modified by this Subscription Agreement) of the Agreement [as modified by this Subscription Agreement]. Unless otherwise defined in this Subscription Agreement, terms defined in the Agreement shall have the same respective meanings in this Subscription Agreement. References in the Agreement to Securities and Dealers shall be construed as references to the Securities and the Manager or Managers, as the case may be, for the purposes of this Subscription Agreement.

**2.2 Agreement to Issue:** Subject to the terms and conditions hereof, the Issuer agrees to issue the Securities on [Closing Date] or such later date as the Issuer and the Lead Manager [on behalf of the Managers] may agree (the "**Closing Date**"), to the [Lead] Manager[s] or as [it/they] may direct in accordance with Clause 6 of this Subscription Agreement. The Securities will be issued at a price (the "**Issue Price**") equal to [[•]% of] their principal amount less (i) a commission (the "**Selling Commission**") of [•]% of such principal amount and (ii) a combined management and underwriting commission of [•]% of such principal amount.

**2.3 The Securities:** *[In the case of issues of Securities with Conditions in Supplemented Form insert:* The Issuer will issue the Securities with conditions as set out in Part I of the Annex and in the Final Terms to the Base Prospectus, annexed hereto as Part II of the Annex (the "**Final Terms**") dated the date of this Agreement which the Issuer confirms it has prepared and copies of which it authorises the Managers to distribute in connection with the offering and sale of the Securities.] *[In the case of issues of Securities with Consolidated Conditions insert:* The Issuer will issue the Securities with Consolidated Conditions as set out in Part I of the Annex hereto.] **[In the case of any Securities for which a Stand Alone Prospectus will be prepared, please insert relevant provisions]**

### **3 Stabilisation**

The Lead Manager shall be the Stabilising Agent. Nothing herein shall be construed so as to require the Issuer to issue Securities in excess of [currency and principal amount] in aggregate principal amount.

### **4 Agreements by the [Lead Manager/Managers]**

**4.1 Subscription:** The [Lead] Manager[s] [[jointly and] severally] agree[s] that [it/they] will subscribe to the Securities on the Closing Date on the terms set forth herein.

#### **4.2 IPMA:**

**4.2.1** The Managers agree as between themselves that they will be bound by and will comply with the International Primary Market Association Standard Form Agreement Among Managers German version [1/2] [(the "**Agreement Among Managers**") as amended [hereinafter] [in the manner set out in the invitation facsimile dated [•] with respect to the Securities] and further agree that references in the Agreement Among Managers to the "Lead Manager" shall mean [•]

**4.2.2** [The Managers agree as between themselves to amend the Agreement Among Managers as follows:]]

**4.3 [Selling:** [The Lead/Each] Manager [severally (and not jointly)] agrees as follows:

[Add additional selling restrictions, if any.]]

### **5 Conditions Precedent**

**5.1** Clause 3.2 (excluding Clause 3.2.3(ii)) of the Agreement shall apply to the issue and subscription of the Securities [with the following modifications].

**5.2** The obligation[s] of the [Lead] Manager[s] to subscribe for the Securities [is/are] subject to the following conditions precedent:

**5.2.1** on or prior to the Closing Date, there having been delivered to the [Lead] Manager[s] opinions, in form and substance satisfactory to the Lead Manager,

dated the Closing Date, of [details of [Issuer's] [and Guarantor's] [foreign] [lawyers]], [details of [Lead Manager's/Managers'] foreign lawyers] and [•], legal advisers to the [Lead] Manager[s] as to German Law;

- 5.2.2 [on the date of this Subscription Agreement and on the Closing Date, there having been delivered to the [Lead] Manager[s] letters, in form and substance satisfactory to the Lead Manager, dated the date of this Subscription Agreement and the Closing Date, respectively, and addressed to the [Lead] Manager[s] from [•], the independent auditors of the Issuer [and of the Guarantor];]<sup>1</sup>
- 5.2.3 on the Closing Date there having been delivered to the [Lead] Manager[s] a certificate of a director of [each of] the Issuer [and an authorised officer of the Guarantor] to the effect that [the Base Prospectus dated [•]] [as amended by the Final Terms dated [•]]*[insert relevant provisions with respect to a Prospectus]* contains all material information relating to the assets and liabilities, financial position, profits and losses of each of them and their [respective] consolidated subsidiaries] and nothing has happened or is expected to happen which would require the [Base Prospectus as amended by the Final Terms dated [•]]*[insert relevant provisions with respect to a Prospectus]* to be supplemented or updated; and
- 5.2.4 at the Closing Date (a) the representations and warranties of the Issuer [and the Guarantor] herein being true, accurate and correct at, and as if made on, the Closing Date, (b) the Issuer [and the Guarantor] having performed all of their respective obligations under the Agreement and this Subscription Agreement to be performed on or before the Closing Date and (c) there having been delivered to the [Lead] Manager[s] a certificate to the effect of Clauses 5.2.4 (a) and (b) as signed by duly authorised officers of the Issuer, dated the Closing Date , to such effect.

[add additional conditions precedent as agreed]

## 6 Closing

- 6.1 **Issue of Securities:** At [•] hours ([•] time) (or such other time as may be agreed by the Lead Manager, on behalf of the Managers, and the Issuer) on the Closing Date, the Issuer will issue and deliver to the [Lead] Manager[s] or [its/their] order in such place as the Lead Manager may reasonably require [a] [Temporary] Global Securit[y][ies] duly executed and authenticated.
- 6.2 **Payment:** Against such delivery the [Lead] Manager[s] will pay or cause to be paid to the Issuer the net subscription moneys for the Securities (being the aggregate amount payable for the Securities calculated at the Issue Price less the commissions referred to in Clause 2.7 of the Agreement and the amount payable to the Lead Manager under Clause 7 of this Subscription Agreement). Such payment shall be made by the [Lead] Manager[s] through [the common depository (the "**Common Depository**") [Clearstream, Frankfurt] in [currency] in immediately available funds to the account of the Issuer, account number [•]. Such payment shall be evidenced by a confirmation by the [Common Depository] [Clearstream, Frankfurt] that it has made such payment.

## 7 Expenses

---

<sup>1</sup> To be agreed by the Issuer and the Guarantor and the Relevant Dealer(s) as part of the terms of the issue.

The arrangements regarding any legal and other expenses incurred in connection with the issue of the Securities shall be as set out in a separate agreement between the Issuer and the Lead Manager.

## **8 Termination**

Notwithstanding anything contained in this Subscription Agreement, the Lead Manager, on behalf of the Managers and after prior consultation with the Issuer [(and the Guarantor, if practicable)] may by notice to the Issuer [and the Guarantor] terminate this Subscription Agreement at any time prior to payment of the net subscription moneys for the Securities to the Issuer in any of the following circumstances:

**8.1** if there shall have come to the notice of the [Lead] Manager[s] any breach of, or any event rendering untrue or incorrect, in any material respect any of the warranties and representations contained in Clause 7 of the Agreement [or in this Subscription Agreement] (or any deemed repetition thereof) or failure to perform any of the Issuer's [or the Guarantor's] covenants or agreements in the Agreement or this Subscription Agreement; or

**8.2** if any of the conditions specified in Clause 5 of the Subscription Agreement has not been satisfied or waived by the Lead Manager on behalf of the Managers; or

**8.3** in the opinion of the Lead Manager, circumstances shall be such as:

**8.3.1** to prevent or to a material extent restrict payment for the Securities in the manner contemplated in this Subscription Agreement; or

**8.3.2** to a material extent prevent or restrict settlement of transactions in the Securities in the market or otherwise; or

**8.4** in the opinion of the Lead Manager, there shall have been:

**8.4.1** any change in national or international political, legal, tax or regulatory conditions; or

**8.4.2** any calamity or emergency,

which has in its view caused a substantial deterioration in the price and/or value of the Securities, and upon notice being given the parties to this Subscription Agreement shall (except for the liability of the Issuer in relation to expenses as provided under Clause 7 and except for any liability arising before or in relation to such termination pursuant to the Agreement or this Subscription Agreement) be released and discharged from their respective obligations under this Subscription Agreement.

## **9 Notices**

The communication details of the Lead Manager for the purposes of Clause 14 of the Agreement are:

[ADDRESS]

Fax:

Attention:

## **10 Governing Law and Jurisdiction**

**10.1** This Agreement, both as to form and content, and the rights and duties hereunder shall be governed exclusively by the laws of the Federal Republic of Germany.

- 10.2** The place of performance shall be Frankfurt am Main.
- 10.3** The place of jurisdiction shall be Frankfurt am Main. Each party to this Agreement hereby expressly submits to the jurisdiction of the courts of the Federal Republic of Germany.
- 10.4** Each of the Issuer and the Guarantor appoints [●] as its agent for service of process in Germany. If for any reason such agent shall cease to be such agent for service of process, the Issuer and the Guarantor shall forthwith appoint a new agent for service of process in Germany and deliver to the Lead Manager a copy of the new agent's acceptance of that appointment within 30 days. Nothing in this Subscription Agreement shall affect the right to serve process in any other manner permitted by law.

[Place, Date]

**[Lehman Brothers Securities N.V.][Lehman Brothers (Luxembourg) Equity Finance S.A.]**

By:

**Lehman Brothers Holdings Inc.**

By:

**[LEAD MANAGER]**

By:

**[OTHER MANAGERS]**

[Each by its duly authorised attorney:]

By:

**The Annex to Subscription Agreement**

***[IN THE CASE OF CONSOLIDATED CONDITIONS, ADD THE FOLLOWING INFORMATION]***

**[Consolidated Conditions**

**Insert the Consolidated Conditions]**

***[IN THE CASE OF SUPPLEMENTED CONDITIONS, ADD THE FOLLOWING INFORMATION]***

**[Part I**

**Supplemented Conditions**

**[Insert Terms and Conditions of the Securities]**

**Part II**

**Final Terms to the Base Prospectus**

**[The relevant Final Terms to the Base Prospectus will be Annexed to the Subscription Agreement]]**

**Schedule E  
Form of Calculation Agency Agreement**

**[Lehman Brothers Securities N.V.]**  
**[Lehman Brothers (Luxembourg) Equity Finance S.A.]**  
**as Issuer**  
and  
**Lehman Brothers Holdings Inc.**  
as Guarantor  
and  
**[CALCULATION AGENT]**  
**as Calculation Agent**

**CALCULATION AGENCY AGREEMENT**

relating to  
[CURRENCY AND PRINCIPAL AMOUNT]  
[DESCRIBE ISSUE]  
issued by  
[Lehman Brothers Securities N.V.] [Lehman Brothers (Luxembourg) Equity Finance S.A.]  
as Tranche [•] of Series [•] of the

**Lehman Brothers Securities N.V.**  
**Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by  
**Lehman Brothers Holdings Inc.**

**Linklaters**

**This Calculation Agency Agreement** (the "**Calculation Agency Agreement**") is made on [●] **between:**

- (1) **[Lehman Brothers Securities N.V.]**, with its registered office at E-Commercepark, E-Zone Vredenberg, Hoek Heelsumstraat, Hugenolzweg Z/N, Curaçao, The Netherlands Antilles] **[Lehman Brothers (Luxembourg) Equity Finance S.A.]**, with its registered office at 1 Allee Scheffer, L-2520 Luxembourg, Grand Duchy of Luxembourg] as Issuer of the Securities (the "**Issuer**");
- (2) **LEHMAN BROTHERS HOLDINGS INC.**, with its registered office at 745 Seventh Avenue, New York, New York 10019, U.S.A, in its capacity as guarantor of Securities issued by the Issuer (the "**Guarantor**"); and
- (3) **[CALCULATION AGENT]** (the "**Calculation Agent**", which expression shall include its successors and assigns).

Whereas

- (A) The Issuer proposes to agree to issue from time to time Warrants and Certificates (the "**Securities**") irrevocably and unconditionally guaranteed by Lehman Brothers Holdings Inc. on the terms of the Programme Agreement dated [●] between [Lehman Brothers Securities N.V.] [Lehman Brothers (Luxembourg) Equity Finance S.A.] ("**[LBS][LBEF]**"), Lehman Brothers Holdings Inc. ("**LBHI**"), the Arranger and the Dealers named in it relating to the Lehman Brothers Securities N.V. and Lehman Brothers (Luxembourg) Equity Finance S.A. Warrant and Certificate Programme.
- (B) the Issuer, the Guarantor, and the Fiscal Agent and the other parties named therein have entered into the Agency Agreement dated [●] in relation to the Securities.
- (C) The Issuer wishes to appoint the Calculation Agent as calculation agent for the purpose of determining the Redemption Amount or Interest Amount or making any other determinations and calculations that it is required to make pursuant to the Conditions in respect of Securities which it is appointed as Calculation Agent.

**It is hereby agreed** as follows:

## **1 Interpretation**

Expressions used and not defined in this Calculation Agency Agreement shall, unless the context otherwise requires, bear the meanings given to them in the Conditions and the Agreement.

## **2 Appointment**

If the Calculation Agent agrees to act as such in relation to a Series of Securities, which agreement shall be evidenced by (i) the Calculation Agent, acting in its capacity as a Dealer, sending a letter or fax to the Issuer containing the Purchase Information in respect of an issue of Securities as required by the Procedures Memorandum indicating such appointment or (ii) if the Calculation Agent is not the Relevant Dealer in respect of such Securities, a letter in the form of the Appendix to this Agreement, the Issuer appoints the Calculation Agent as its agent for the purposes of making such calculations and/or determinations in respect of the Securities as are agreed between the Issuer and the Calculation Agent (and set out in the Conditions) on the following terms and conditions.

### **3 Duties**

- 3.1 Duties:** The Calculation Agent will promptly perform the duties expressed to be performed by it in the Conditions, and as soon as possible after any such performance but in no event later than the fourth Relevant Business Day thereafter it will notify the Fiscal Agent and the Issuer and any other relevant parties as it may be required to notify in accordance with the Conditions of the results of any calculations and/or determinations made by it pursuant thereto.
- 3.2 Changes to Terms and Conditions of the Securities:** The Calculation Agent shall be obliged to perform only the duties set out specifically in this Calculation Agency Agreement and any duties necessarily incidental to them. No implied duties or obligations shall be read into this Calculation Agency Agreement or the Conditions against the Calculation Agent. If the Conditions are amended on or after a date on which the Calculation Agent accepts any appointment in a way which affects the duties expressed to be performed by the Calculation Agent, the Calculation Agent shall not be obliged to perform such duties as so amended unless it has first approved the relevant change to the Conditions.
- 3.3 Notification of failure to make determination:** If the Calculation Agent at any time does not make any determination or calculation which it has agreed to make, it shall forthwith notify the Issuer and the Fiscal Agent.

### **4 Indemnity**

The Issuer shall, upon presentation of duly documented evidence, indemnify the Calculation Agent against any and all losses, liabilities, costs, claims, damages, expenses (including, but not limited to, legal costs and expenses reasonably incurred) or demands (or actions in respect thereof) which it may incur or which may be made against it arising out of or in relation to or in connection with its appointment or the exercise of its functions, except such as may result from its own wilful default, negligence or bad faith or that of its officers, employees or agents.

The Calculation Agent shall indemnify the Issuer against any and all losses, liabilities, costs, claims, damages, expenses (including, but not limited to, legal costs and expenses reasonably incurred) or demands (or actions in respect thereof) which the Issuer may incur or which may be made against it as a result of the Calculation Agent's wilful default, negligence or bad faith in the exercise of its functions, or that of its officers, employees or agents.

### **5 General**

- 5.1 Calculations binding:** The determination by the Calculation Agent of any amount or of any state of affairs, circumstance, event or other matter, or the formation of any opinion or the exercise of any discretion required or permitted to be determined, formed or exercised by the Calculation Agent under this Calculation Agency Agreement shall (in the absence of manifest error) be final and binding on the Issuer and the Holders.
- 5.2 No agency or trust:** In acting under this Calculation Agency Agreement and in connection with the Securities the Calculation Agent shall not have any obligations towards or relationship of agency or trust with any of the Holders.
- 5.3 Taking of advice:** The Calculation Agent may consult on any legal matter any legal adviser selected by it, who may be an employee of or legal adviser to the Issuer and/or the Guarantor, and it shall be protected and shall incur no liability for action taken, or suffered

to be taken, with respect to such matter in good faith and in accordance with the opinion of such legal adviser.

- 5.4 Information believed to be genuine:** The Calculation Agent shall be protected and shall incur no liability for or in respect of any action taken or thing suffered by it in reliance upon any document or information from any electronic or other source reasonably believed by it to be genuine and to have been signed or distributed or disseminated by the proper parties, even if it is subsequently found not to be genuine or to be incorrect.
- 5.5 Other relationships:** The Calculation Agent, whether acting for itself or in any other capacity, will not be precluded from becoming the owner of, or acquiring any interest in, holding or disposing of, any Security or any shares or securities of the Issuer or the Guarantor, with the same rights as it would have were it not acting as Calculation Agent or from entering into or being interested in any contracts or transactions with the Issuer or the Guarantor or from acting on, or as the depositary, trustee or agent for, any committee or body of holders of any securities of the Issuer or the Guarantor and will not be liable to account for any resulting profit.
- 5.6 Fees and expenses:** Unless otherwise agreed between the Issuer and the Calculation Agent in relation to any Series of Securities, the Issuer shall not be liable to pay any fee to the Calculation Agent or reimburse it for any of its expenses incurred in connection with the performance of its functions hereunder.

## **6 Changes in Calculation Agent**

- 6.1 Resignation:** The Calculation Agent may resign its appointment hereunder at any time by giving to the Issuer not less than 60 days' written notice to that effect (which notice may not expire less than 30 days before any due date for payment in respect of the Securities). In the event that the Calculation Agent is unable or unwilling or otherwise fails to act, the Issuer will immediately appoint a leading bank or investment banking firm (acting through its principal London office) to act as its successor. No resignation by the Calculation Agent shall take effect, nor may the Calculation Agent be removed (save as set out in this Calculation Agency Agreement), until a replacement Calculation Agent has been appointed by the Issuer. The Issuer agrees with the Calculation Agent that if, by the day falling 10 days before the expiry of any notice under this Clause 6, the Issuer has not appointed a replacement Calculation Agent, the Calculation Agent shall be entitled, on behalf of the Issuer to appoint as Calculation Agent in its place a leading bank or investment banking firm (acting through its principal London office).
- 6.2 Termination of appointment in certain events:** The Issuer may forthwith terminate the appointment of the Calculation Agent if (i) at any time the Calculation Agent becomes incapable of acting, or is adjudicated bankrupt or insolvent, or files a voluntary petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver, administrator or other similar official of all or any substantial part of its property or admits in writing its inability to pay or to meet its debts as they mature or suspends payment thereof, or if a resolution is passed or an order made for its winding-up or dissolution, or if a receiver, administrator or other similar official of itself or all or any substantial part of its property is appointed, or if an order of any court is entered approving any petition filed by or against it under the provisions of any applicable bankruptcy or insolvency laws, or if any public officer takes charge or control of it or its property or affairs for the purpose of rehabilitation, conservation or liquidation; or (ii) it fails duly to make any calculation or determination required to be made by it under this Agreement and the Issuer

gives it notice that it intends to appoint a replacement Calculation Agent to make the calculation in question and subsequent calculations (if any).

**6.3 Notice:** The Issuer shall give the Holders, in accordance with the Terms and Conditions of the Securities, and the Fiscal Agent not less than 30 days' notice of any such proposed resignation or, where there is a termination under Clause 6.2 or the Calculation Agency Agreement, shall give notice thereof as soon as possible after such termination.

**6.4 Successor corporations:** Any corporation into which the Calculation Agent may be merged or converted or any corporation with which the Calculation Agent may be consolidated or any corporation resulting from any merger, conversion or consolidation to which the Calculation Agent shall be a party shall, to the extent permitted by applicable law, be the successor Calculation Agent under this Calculation Agency Agreement without any further formality. Notice of any such merger, conversion or consolidation shall forthwith be given to the Issuer.

## **7 Communications**

Any communication hereunder shall be by letter or telefax in accordance with Clause 14 of the Agreement and, in the case of a Calculation Agent which is not a Dealer, to the Calculation Agent at the following address, telephone number and telefax number:

Tel:

Fax:

Attention: [•]

## **8 Governing Law and Jurisdiction**

**8.1** This Calculation Agency Agreement, both as to form and content, and the rights and duties hereunder shall be governed exclusively by the laws of the Federal Republic of Germany. The Calculation Agent is hereby granted exemption from the restrictions of §181 of the German Civil Code (and any similar restrictions of the laws of other countries) in respect of all matters covered in this Calculation Agency Agreement and the Terms and Conditions of the Securities.

**8.2** The place of performance shall be Frankfurt am Main.

**8.3** The place of jurisdiction shall be Frankfurt am Main. Each party to this Calculation Agency Agreement hereby expressly submits to the jurisdiction of the courts of the Federal Republic of Germany.

**8.4** Each of the Issuer and the Guarantor appoints [•] as its agent for service of process in Germany. If for any reason such agent shall cease to be such agent for service of process, the Issuer and the Guarantor shall forthwith appoint a new agent for service of process in Germany and deliver to the Calculation Agent a copy of the new agent's acceptance of that appointment within 30 days. Nothing in this Calculation Agency Agreement shall affect the right to serve process in any other manner permitted by law.

This Calculation Agency Agreement has been entered into on the date stated at the beginning hereof.

**[Lehman Brothers Securities N.V.][Lehman Brothers (Luxembourg) Equity Finance S.A.]**

By:

**Lehman Brothers Holdings Inc.**

By:

**[CALCULATION AGENT]**

By:

## Appendix

To: [name and address of Calculation Agent]

[Date]

**Lehman Brothers Securities N.V.  
Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by  
**Lehman Brothers Holdings Inc.**

We refer to the Calculation Agency Agreement dated [•] and made between you and us and to the [Final Terms dated [•] (the "**Final Terms**")][*insert relevant provisions with respect to a Prospectus*]. We hereby confirm your appointment as Calculation Agent in relation to [details of calculation to be performed in respect of relevant Series and Tranche of Securities] in accordance with the terms of the [Final Terms][Prospectus] and the Calculation Agency Agreement.

Please confirm your agreement to your appointment by signing the acknowledgement at the foot of the enclosed copy of this letter and returning it to us.

Yours faithfully,

For and on behalf of

[Lehman Brothers Securities N.V.]

[Lehman Brothers (Luxembourg) Equity Finance S.A.]

[Lehman Brothers Holdings Inc.]

We hereby confirm our agreement to our appointment as Calculation Agent in accordance with the terms of your letter of [•] of [•] which the above is a copy.

Yours faithfully,

[CALCULATION AGENT]

By:

cc: [Fiscal Agent]

cc: Relevant Dealer (if Calculation Agent is not the Relevant Dealer)

**Schedule F  
Form of Delivery Agency Agreement**

Dated [•]

**[Lehman Brothers Securities N.V.]  
[Lehman Brothers (Luxembourg) Equity Finance S.A.]**

as Issuer

and

**Lehman Brothers Holdings Inc.**

as Guarantor

and

**[DELIVERY AGENT]**

as Delivery Agent

and

**DELIVERY AGENCY AGREEMENT**

relating to

[CURRENCY AND PRINCIPAL AMOUNT]

[DESCRIBE ISSUE]

issued by

[Lehman Brothers Securities N.V.] [Lehman Brothers (Luxembourg) Equity Finance S.A.]

as Tranche [•] of Series [•] of the

**Lehman Brothers Securities N.V.  
Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by

**Lehman Brothers Holdings Inc.**

**Linklaters**

**This Delivery Agency Agreement** (the "**Delivery Agency Agreement**") is made on [●] **between:**

- (1) **[Lehman Brothers Securities N.V.**, with its registered office at E-Commercepark, E-Zone Vredenberg, Hoek Heelsumstraat, Hugenolzweg Z/N, Curaçao, The Netherlands Antilles] **[Lehman Brothers (Luxembourg) Equity Finance S.A.**, with its registered office at 1 Allee Scheffer, L-2520 Luxembourg, Grand Duchy of Luxembourg] as Issuer of the Securities (the "**Issuer**");
- (2) **LEHMAN BROTHERS HOLDINGS INC. ("LBHI")** with its registered office at 745 Seventh Avenue, New York, New York 10019, U.S.A, in its capacity as guarantor of Securities issued by the Issuer (the "**Guarantor**"); and
- (3) **[DELIVERY AGENT]** (the "**Delivery Agent**", which expression shall include its successors and assigns).

**WHEREAS:**

- (A) The Issuer proposes to issue from time to time Warrants and Certificates (the "**Securities**") irrevocably and unconditionally guaranteed by Lehman Brothers Holdings Inc. (the "**Guarantor**") on the terms of the Programme Agreement dated [●] (the "**Agreement**") between Lehman Brothers Securities N.V. ("**LBS**"), Lehman Brothers (Luxembourg) Equity Finance S.A. ("**LBEF**"), Lehman Brothers Holdings Inc. ("**LBHI**"), the Arranger and the Dealers named in it relating to the Lehman Brothers Securities N.V. and Lehman Brothers (Luxembourg) Equity Finance S.A. Warrant and Certificate Programme.
- (B) the Issuer, the Guarantor, and the Fiscal Agent and the other parties named therein have entered into the Agency Agreement dated [●] in relation to the Securities.
- (C) The Issuer wishes to appoint the Delivery Agent as the delivery agent for the purpose of making such deliveries of Underlying Amounts under the Conditions for each series of Securities pursuant to the Programme (each such series, a "**Deliverable Issue**") for which Physical Delivery is specified as applicable and in respect of which it is appointed as Delivery Agent.

**It is hereby agreed** as follows:

**1 Interpretation**

Expressions used and not defined in this Delivery Agency Agreement shall, unless the context otherwise requires, bear the meanings given to them in the Conditions and the Agency Agreement.

**2 Appointment**

If the Delivery Agent agrees to act as such in relation to a Series of Securities, which agreement shall be evidenced by (i) the Delivery Agent, acting in its capacity as a Dealer, sending a letter or fax to the Issuer containing the Purchase Information in respect of an issue of the Securities as required by the Procedures Memorandum indicating such appointment or (ii) if the Delivery Agent is not the Relevant Dealer, a letter in the form of the Appendix to this Delivery Agency Agreement, the Issuer appoints the Delivery Agent as its Agent for the purposes of making deliveries of Underlying Amount(s) in respect of the

Deliverable Issues as are agreed between the Issuer and the Delivery Agent (and set out in the Terms and Conditions of the Securities) on the following terms and conditions.

### **3 Duties**

#### **3.1 Duties**

Subject as provided below, the Delivery Agent shall deliver the Underlyings to or at the instruction of the Issuer or its agents. Delivery of the Underlyings shall be made in accordance with the instructions provided to the Delivery Agent by the Issuer or its agents.

#### **3.2 Performance**

The Delivery Agent shall be obliged to perform only the duties set out specifically in this Agreement and in the Terms and Conditions of the Securities. No implied duties or obligations shall be read into this Agreement or the Conditions against the Delivery Agent. The Delivery Agent shall not have a relationship of trust, a fiduciary relationship or any similar relationship with the Issuer.

#### **3.3 Notification of delivery or failure to make delivery**

When the Delivery Agent delivers or if the Delivery Agent fails to deliver the Underlyings when due or in accordance with the Terms and Conditions of the Securities, it shall forthwith notify the Issuer, the Guarantor, the Fiscal Agent, the Calculation Agent and the Paying Agents thereof.

### **4 Indemnity**

The Issuer shall indemnify and keep indemnified the Delivery Agent against any losses, liabilities, costs, claims, actions, demands or expenses (including, but not limited to, all costs, legal fees, charges and expenses reasonably incurred in disputing or defending any of the foregoing) which it may incur or which may be made against it arising out of or in relation to or in connection with its appointment or the exercise of its powers and duties under this Agreement, except such as may result from its own wilful default, negligence or bad faith or that of its directors, officers or employees. This indemnity shall survive the termination of this Delivery Agency Agreement pursuant to Clause 6 and the redemption of the relevant Securities.

The Delivery Agent shall indemnify the Issuer against any losses, liabilities, costs, claims, actions, demands or expenses (including, but not limited to, all costs, legal fees, charges and expenses reasonably incurred in disputing or defending any of the foregoing) which the Issuer may incur or which may be made against it as a result of the Delivery Agent's wilful default, negligence or bad faith in the exercise of its functions, or that of its officers, employees or agents.

### **5 General**

#### **5.1 Delivery binding**

The determination by the Delivery Agent of any amount or of any state of affairs, circumstance, event or other matter, or the formation of any opinion or the exercise of any discretion required or permitted to be determined, formed or exercised by the Delivery Agent under or pursuant to this Delivery Agency Agreement shall (in the absence of wilful default, negligence, bad faith or manifest error) be final and binding on the Issuer, the Fiscal Agent, the Paying Agents, and all Holders, and in the absence of wilful default, negligence, bad faith or manifest error no liability of the Issuer or the Holders shall attach

to the Delivery Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions.

## **5.2 No agency or trust**

In acting under this Delivery Agency Agreement, the Delivery Agent shall not have any obligations towards or relationship of agency or trust with any of the Holders.

## **5.3 Legal advice**

The Delivery Agent may consult on any legal matter any legal adviser selected by it, who may be an employee of or adviser to the Issuer or the Delivery Agent, and it shall not be liable in respect of anything done or omitted to be done relating to that matter in good faith in accordance with that adviser's opinion.

## **5.4 Reliance on documents**

The Delivery Agent shall be protected and shall incur no liability for or in respect of any action taken, omitted or suffered in reliance upon an instruction, request or order from the Issuer or the Fiscal Agent, or any notice, resolution, direction, consent, certificate, affidavit, statement, cable, telex, facsimile or other paper or document which it believes to be genuine and to have been delivered, signed or sent by the proper party or parties or upon written instructions from the Issuer or the Fiscal Agent.

## **5.5 Fees and Expenses**

Unless otherwise agreed between the Issuer and the Delivery Agent in relation to any Series of Securities, the Issuer shall not be liable to pay any fee to the Delivery Agent or reimburse it for any of its expenses incurred in connection with the performance of its functions hereunder.

## **5.6 Other relationships**

The Delivery Agent and any other person, whether or not acting for itself, may acquire, hold or dispose of any Security or other security (or any interest therein) of the Issuer or any other person, may enter into or be interested in any contract or transaction with any such person and may act on, or as depository, trustee or agent for, any committee or body of holders of any securities of any such person, in each case with the same rights as it would have had if the Delivery Agent were not appointed hereunder and need not account for any profit.

## **6 Changes in Delivery Agent**

### **6.1 Resignation**

The Delivery Agent may resign its appointment hereunder at any time by giving to the Issuer not less than 60 days' written notice to that effect provided that such notice may not expire less than 30 days before any due date for delivery of any of the Underlying Amounts. If the Delivery Agent is unable or unwilling or otherwise fails to act, the Issuer shall immediately appoint a financial entity to act as its successor. No resignation by the Delivery Agent shall take effect, nor may the Delivery Agent be removed (save as set out in this Agreement), until a replacement Delivery Agent has been appointed by the Issuer.

### **6.2 Termination of appointment in certain events**

The Issuer may forthwith terminate the appointment of the Delivery Agent if at any time the Delivery Agent is adjudicated bankrupt or insolvent or files a voluntary petition in

bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of a receiver, administrator or other similar official of all or any substantial part of its property or admits in writing its inability to pay or to meet its debts as they mature or suspends payment thereof, or if a resolution is passed or an order made for its winding-up or dissolution, or if a receiver, administrator or other similar official of itself or all or any substantial part of its property is appointed, or if an order of a court is entered approving any petition filed by or against it under the provisions of any applicable bankruptcy or insolvency laws, or if a public officer takes charge or control of it or its property or affairs for the purpose of rehabilitation, conservation or liquidation.

### **6.3 Notice**

The Issuer shall give the Holders, in accordance with the Terms and Conditions of the Securities, the Fiscal Agent and the Paying Agents not less than 30 days' notice of any such proposed resignation or termination of the Delivery Agent or, where there is a termination under Clause 6.2 of this Delivery Agency Agreement, shall give notice thereof as soon as possible after such termination.

### **6.4 Successor entity**

Any partnership, corporation, trust or other organisation into which the Delivery Agent may be merged or converted or with which the Delivery Agent may be consolidated or which results from any merger, conversion or consolidation to which the Delivery Agent shall be a party shall, to the extent permitted by applicable law, be the successor Delivery Agent under this Delivery Agency Agreement without any further formality. Written notice of any such merger, conversion or consolidation shall forthwith be given to the Issuer. In addition, the Delivery Agent may transfer, in whatever form the Delivery Agent determines may be appropriate, all of its rights and obligations to a partnership, corporation, trust or other organisation to which the Delivery Agent transfers all or substantially all of the Delivery Agent's assets and business and that assumes such obligations by contract, operation of law or otherwise. Upon any such transfer and assumption of obligations, the Delivery Agent shall be relieved of and fully discharged from all obligations under this Delivery Agency Agreement, whether such obligations arose before or after such transfer and assumption.

## **7 Communications**

Any notice or communication hereunder shall be by letter or telefax in accordance with Clause 14 of the Agreement and, in the case of a Delivery Agent which is not a Dealer, to the Delivery Agent at the following address, telephone number and telefax number:

Tel:

Fax:

Attention:

## **8 Governing Law and Jurisdiction**

**8.1** This Delivery Agency Agreement, both as to form and content, and the rights and duties hereunder shall be governed exclusively by the laws of the Federal Republic of Germany. The Delivery Agent is hereby granted exemption from the restrictions of §181 of the German Civil Code (and any similar restrictions of the laws of other countries) in respect of all matters covered in this Delivery Agency Agreement and the Conditions of the Securities.

- 8.2** The place of performance shall be Frankfurt am Main.
- 8.3** The place of jurisdiction shall be Frankfurt am Main. Each party to this Delivery Agency Agreement hereby expressly submits to the jurisdiction of the courts of the Federal Republic of Germany.
- 8.4** Each of the Issuer and the Guarantor appoints [●] as its agent for service of process in Germany. If for any reason such agent shall cease to be such agent for service of process, the Issuer and the Guarantor shall forthwith appoint a new agent for service of process in Germany and deliver to the Delivery Agent a copy of the new agent's acceptance of that appointment within 30 days. Nothing in this Delivery Agency Agreement shall affect the right to serve process in any other manner permitted by law.

This Delivery Agency Agreement has been entered into on the date stated at the beginning hereof.

**[Lehman Brothers Securities N.V.][Lehman Brothers (Luxembourg) Equity Finance S.A.]**

By:

**Lehman Brothers Holdings Inc.**

By:

**[DELIVERY AGENT]**

By:

## Appendix

To: [name and address of Delivery Agent]

[Date]

**Lehman Brothers Securities N.V.  
Lehman Brothers (Luxembourg) Equity Finance S.A.**

**WARRANT AND CERTIFICATE PROGRAMME**

Irrevocably and unconditionally guaranteed by  
**Lehman Brothers Holdings Inc.**

We refer to the Delivery Agency Agreement dated [•] (the "**Delivery Agency Agreement**") between ourselves and yourselves and to [the Final Terms dated [•] relating to the issue of the securities (the "**Final Terms**")][*insert relevant provisions with respect to a Prospectus*]. We confirm your appointment as Delivery Agent in relation to the Securities in accordance with the terms of the Delivery Agency Agreement and the [Final Terms][Prospectus].

Please confirm your agreement to your appointment by signing the acknowledgement at the foot of the enclosed copy of this letter and returning it to us.

Yours faithfully,

For and on behalf of

[Lehman Brothers Securities N.V.][Lehman Brothers (Luxembourg) Equity Finance S.A.]

[Lehman Brothers Holdings Inc.]

We hereby confirm our agreement to our appointment as Delivery Agent in accordance with the terms of your letter of [•] of [•] which the above is a copy.

Yours faithfully,

[DELIVERY AGENT]

cc: [Fiscal Agent]

cc: Relevant Dealer (if Delivery Agent is not the Relevant Dealer)

**Schedule G**  
**Communication Details**

**The Issuers**

LEHMAN BROTHERS SECURITIES N.V.

E-Commercepark  
E-Zone Vredenberg  
Hoek Heelsumstraat  
Hugenolzweg Z/N  
Curaçao  
The Netherlands Antilles

Fax: + (5999) 461 8421

Attention: Managing Director

\*(with a copy to be sent or faxed to Lehman Brothers International (Europe) at the address/fax number detailed below)

LEHMAN BROTHERS (LUXEMBOURG) EQUITY FINANCE S.A.

1 Allee Scheffer  
L-2520 Luxembourg  
Grand Duchy of Luxembourg

Fax: + (352) 24 14 33 300

Attention: General Counsel

\*(with a copy to be sent or faxed to Lehman Brothers International (Europe) at the address/fax number detailed below)

**The Guarantor**

LEHMAN BROTHERS HOLDINGS INC.\*

745 Seventh Avenue  
New York  
New York 10019  
U.S.A.

Tel: (+1 212) 5 26-70 00

Telecopy: (+1 212) 5 26-14 66

Telex: 6734278

\*(with a copy to be sent or faxed to Lehman Brothers International (Europe) at the address/fax number detailed below)

**The Dealer and Arranger**

LEHMAN BROTHERS INTERNATIONAL  
(EUROPE)

25 Bank Street  
London E14 5LE  
United Kingdom

Tel: (+44) (0)207 1028660

Fax: (+44) (0)207 0679474