



**Preferred Securities  
(hybrid instruments - Additional Tier 1 capital at both UBS Group AG and UBS  
AG consolidated level)**

<b>Issuer</b>	UBS Preferred Funding (Jersey) Ltd.
<b>ISIN</b>	DE000A0D1KX0
<b>Issue Date</b>	15.04.2005
<b>Currency</b>	EUR
<b>Nominal (million)</b>	995.0
<b>Coupon Rate</b>	4.28% <sup>1</sup>
<b>Maturity Date</b>	Perpetual
<b>First Call Date</b>	15.04.2015

<sup>1</sup> Fixed until first call date. Floating thereafter.

## DESCRIPTION OF THE PREFERRED SECURITIES

Set forth below is a summary of the terms and conditions of the Preferred Securities and a summary of certain provisions of the Issuer's Articles of Association (the "**Articles**"), as in effect on the date hereof insofar as such provisions relate to the rights and privileges of the Holders of the Preferred Securities.

The summaries set forth below contain all material information concerning the Preferred Securities but do not purport to be complete and are subject to, and qualified in their entirety by reference to, the Articles which, among other things, establish the rights, preferences, privileges, limitations and restrictions relating to the Preferred Securities. Copies of the Articles are available for inspection as described under "General Information".

### 1. DEFINITIONS AND INTERPRETATION

In this description of the Preferred Securities, except to the extent that the context otherwise requires:

"**Actual/Actual (ISMA) Basis**" means the actual number of days in the Distribution Period, divided by the number of days in the Distribution Period in which the relevant period falls (including the first such day but excluding the last day);

"**Actual/360 Basis**" means the actual number of days in the Distribution Period divided by 360;

"**Additional Amounts**" means the additional amounts which may be payable in respect of the Preferred Securities as described in Clause 5;

"**Agency Agreement**" means the agency agreement dated 15 April 2005 relating to the Preferred Securities between, *inter alios*, UBS and the Paying and Transfer Agents;

"**Available Distributable Profits**" means, for any financial year of UBS:

- (a) if there are no UBS Parity Securities outstanding, Distributable Profits for the immediately preceding financial year of UBS; and
- (b) if there are UBS Parity Securities outstanding, then an amount determined as the product of:
  - (i) Distributable Profits for the immediately preceding financial year of UBS; and
  - (ii) a ratio (i) the numerator of which is the aggregate amount of full Distributions on the Preferred Securities to be paid on the Distribution Payment Dates that occur during the then current financial year (not including Distributions paid on any preceding Distribution Payment Date of the current year and including Distributions to be paid on the corresponding Distributions Payment Date of the following year) and (ii) the denominator of which is equal to the amount determined pursuant to (i) *plus* the aggregate amount of full dividends on the UBS Parity

Securities to be paid on dividend payment dates which occur during the then current financial year;

**"Business Day"** means a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in London, Switzerland and Jersey, and on which the TARGET System or any successor thereto, is operating;

**"Capital Disqualification Event"** means a change in any applicable law or regulation, or in the official interpretation or application thereof, as a result of which for the purposes of the Swiss Federal Banking Commission's minimum capital adequacy requirements applicable to banks in Switzerland, at that time the Preferred Securities cannot be included in calculating the Tier 1 Capital of UBS;

**"Capital Disqualification Event Redemption Date"** means the date designated for optional redemption of the Preferred Securities as described under sub-clause 4.4;

**"Clearstream, Frankfurt"** means Clearstream Banking Aktiengesellschaft or its successor;

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

**"Closing Date"** means 15 April 2005;

**"Distributions"** means the non-cumulative distributions in respect of the Preferred Securities as described under Clause 2;

**"Distribution Determination Date"** means, with respect to any Distribution Payment Date, the second TARGET Settlement Day before the first day of the relevant Distribution Period;

**"Distribution Payment Date"** means 15 April in each year from 15 April 2006 to the First Optional Redemption Date and 15 April, 15 July, 15 October and 15 January in each year thereafter;

**"Distribution Period"** means the period from (and including) the Closing Date to (but excluding) the first Distribution Payment Date and each period thereafter from (and including) one Distribution Payment Date to (but excluding) the next following Distribution Payment Date;

**"Distributable Profits"** means, for any financial year of UBS, profit that may be distributed in accordance with Swiss law and regulation then applicable. Currently, for any financial year of UBS, distributable profits are equal to profit brought forward, *plus* profit for the period, *minus* appropriation to general statutory reserve, *plus* other reserves, each as shown in the audited unconsolidated balance sheet and statement of appropriation of retained earnings of UBS and as determined in accordance with accounting standards applicable under Swiss law. The "appropriation to general statutory reserve" is equal to up to 5 per cent. of annual profit to the extent the general reserves of UBS do not equal 20 per cent. of the paid-in share capital *plus* 10 per cent. of

the amount distributed as a dividend from profit for the period in excess of 5 per cent. of the par value of the UBS common shares;

**"Distribution Rate"** means (i) 4.28 per cent. per annum for the Distribution Periods from and including the Closing Date to but excluding the First Optional Redemption Date; and (ii) an amount equal to the sum of 1.58 per cent. per annum and three-month EURIBOR for Distribution Periods from and including the First Optional Redemption Date and thereafter;

**"Euroclear"** means Euroclear Bank S.A./N.V. as operator of the Euroclear System;

**"First Optional Redemption Date"** means 15 April 2015;

**"Guarantee"** means the subordinated guarantee in respect of the Preferred Securities executed by UBS, acting through its Jersey branch and dated 15 April 2005;

**"Holder"** means, in respect of each Preferred Security, each person registered on the Register as the holder of such Preferred Security at the relevant time;

**"Issuer"** means UBS Preferred Funding (Jersey) Ltd.;

**"Jersey"** means the Island of Jersey;

**"Jersey Tax"** means any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of Jersey or by any authority therein or thereof having power to tax;

**"Law"** means the Companies (Jersey) Law 1991 as amended or restated from time to time;

**"Liquidation Distribution"** means the Liquidation Preference plus (a) any due and accrued but unpaid Distributions calculated from (and including) the immediately preceding Distribution Payment Date (or, if none, the Closing Date) to (but excluding) the date of payment, and (b) any Additional Amounts, in each case in cash only;

**"Liquidation Preference"** means the liquidation preference of Euro 1,000 per Preferred Security;

**"Notes"** means the Euro 1,000,000,000 Non-cumulative Fixed/Floating Rate Undated Subordinated Notes issued by UBS, acting through its Jersey branch and subscribed for by the Issuer, with the net proceeds of the issue of the Preferred Securities and any further Notes of UBS, acting through its Jersey branch of the same series issued after the Closing Date and ranking *pari passu* with the Notes, or any successor securities issued or securities substituted therefor with the prior written consent of the Swiss Federal Banking Commission (if then required);

**"Optional Redemption Date"** means, in the case of an optional redemption pursuant to sub-clause 4.2, the First Optional Redemption Date or any Distribution Payment Date thereafter, as specified in the relevant notice of redemption;

**"Optional Redemption Price"** means the Liquidation Preference plus (a) any due and accrued but unpaid Distributions calculated from (and including) the immediately preceding Distribution Payment Date (or, if none, the Closing Date) to (but excluding) the relevant Optional Redemption Date, Tax Event Redemption Date or Capital Disqualification Event Redemption Date, as the case may be and (b) any Additional Amounts payable;

**"Paying and Transfer Agents"** means HSBC Bank plc and HSBC Trinkhaus & Burkhardt or such other entities as are appointed by the Issuer and notified to the Holders as described under Clause 8;

**"Permitted Reorganisation"** means a solvent reconstruction, amalgamation, reorganisation, merger or consolidation, with the prior approval of the Holders of not less than a simple majority of outstanding Preferred Securities, whereby all or substantially all the business, undertaking and assets of UBS are transferred to a successor entity, which assumes all the obligations under the Guarantee;

**"Preferred Securities"** means the 1,000,000 Fixed/Floating Rate Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities outstanding each with a Liquidation Preference of Euro 1,000, including any further Preferred Securities of the Issuer of the same series issued after the Closing Date and ranking *pari passu* with the Preferred Securities then in issue, and **"Preferred Security"** shall be construed accordingly;

**"Principal Paying and Transfer Agent"** means HSBC Bank plc;

**"Redemption Amount"** means the Optional Redemption Price and any other redemption amount payable in accordance with Clause 4;

**"Redemption Conditions"** means, with respect to any redemption, (i) that the consent of the Swiss Federal Banking Commission to the redemption, if then required, has been obtained and (ii) that UBS has Available Distributable Profits in an amount at least equal to the aggregate Optional Redemption Price;

**"Register"** means the register of Holders maintained at the Issuer's registered office on behalf of the Issuer under the Law;

**"Registrar"** means UBS Trustees (Jersey) Limited or such other entity appointed by the Issuer having its office in Jersey and notified to the Holders as described under Clause 8;

**"Relevant Proportion"** means in relation to any partial payment of any Liquidation Distribution on a Preferred Security, the total amount available for any such payment and for making any corresponding payment of a liquidation distribution on any UBS Parity Securities divided by the sum of (i) the full Liquidation Distributions before any reduction or abatement in respect of the Preferred Securities and (ii) the amount of the full Liquidation Distribution before any reduction or abatement in respect of any UBS Parity Securities, converted where necessary into the same currency in which liquidation payments are made to creditors of UBS;

**"Stock Exchange"** means the Frankfurt Stock Exchange or such other stock exchange on which the Preferred Securities may be listed from time to time;

**"Subsidiary"** means any entity which is for the time being a subsidiary undertaking of UBS and where UBS controls the majority of the voting rights of such subsidiary undertaking;

**"TARGET Settlement Day"** means a day on which the TARGET System is open;

**"TARGET System"** means the Trans-European Automated Real-time Gross settlement Express Transfer (TARGET) system;

**"Tax Event"** means, with respect to the Issuer, the receipt by UBS of an opinion of a nationally recognised law firm or other tax advisor (which may be an accounting firm) in Switzerland or Jersey, as appropriate, experienced in such matters to the effect that there is more than an insubstantial risk that (i) the Issuer is or will be subject to more than a *de minimis* amount of additional taxes, duties or other governmental charges, (ii) UBS is or will be required to pay any additional amounts in respect of any taxes, duties or other governmental charges with respect to payments of interest or principal on the Notes, (iii) the Issuer is or will be required to pay any additional amounts in respect of any taxes, duties or other governmental charges with respect to distributions on the Preferred Securities, or (iv) the treatment of the Issuer's items of income, gain, loss, deduction or expense, or the treatment of any item of income, gain, loss, deduction or expense of UBS related to the Notes or its ownership of the Issuer, in each case as reflected on the tax returns (including estimated returns) filed (or to be filed) by the Issuer or UBS, will not be respected by a taxing authority, as a result of which the Issuer or UBS is or will be subject to more than a *de minimis* amount of additional taxes, duties or other governmental charges or civil liabilities, the effect of which cannot be avoided by the Issuer or UBS taking reasonable measures available to it without any adverse effect on or material cost to UBS or the Issuer (as determined by UBS in its sole discretion);

**"Tax Event Redemption Date"** means the date designated for optional redemption of the Preferred Securities as described under sub-clause 4.3;

**"Tier 1 Capital"** means Core Capital which has the meaning ascribed to it in the Swiss Federal Banking Commission's minimum capital adequacy requirements or any successor requirements replacing these;

**"Tier 1 Securities"** means any obligation of UBS or, as the case may be, a Subsidiary or other entity which is, or is capable of being, treated as Tier 1 Capital of UBS on a consolidated or unconsolidated basis;

**"UBS"** means UBS AG and its successors and assigns;

**"UBS Group"** means UBS together with the Subsidiaries;

**"UBS Junior Obligations"** means (i) ordinary shares of UBS, (ii) each class of preferred or preference shares or similar securities of UBS that ranks junior to the most senior ranking preferred or preference shares or similar securities of UBS, and (iii) any

indebtedness, guarantee or support agreement or similar undertaking of UBS in respect of any subsidiary securities that rank junior to the Guarantee; and

**"UBS Parity Securities"** means (i) each class of preferred or preference shares or similar securities of UBS that ranks equally with the most senior ranking preferred or preference shares or similar securities of UBS and (ii) any securities issued by any subsidiaries of UBS and entitled to the benefit of any guarantee or support agreement or similar undertaking of UBS that ranks equally with the Guarantee.

In this description of the Preferred Securities any reference to a particular time shall, unless otherwise specified, be to that time in Jersey.

## 2. **DISTRIBUTIONS**

### 2.1 **Distribution Payment Dates**

Subject as provided by the Law and in sub-clause 2.9, non-cumulative distributions ("**Distributions**") on the Preferred Securities will accrue from the Closing Date (or, in the case of any further Preferred Securities of the same series issued so as to rank *pari passu* with the Preferred Securities as regards participation in the profits and assets of the Issuer, their respective dates of issue or as otherwise provided). The Distributions shall be payable annually in arrear on 15 April in each year from 15 April 2006 until (and excluding) the First Optional Redemption Date (the "**Fixed Rate Period**") and quarterly in arrear on 15 April, 15 July, 15 October and 15 January from (and including) the First Optional Redemption Date for each Distribution Period thereafter (the "**Floating Rate Period**").

### 2.2 **Distribution Rate - Fixed Rate Period**

The rate of Distribution during the Fixed Rate Period shall be 4.28 per cent. per annum of the Liquidation Preference (calculated on an Actual/Actual (ISMA) Basis).

### 2.3 **Distribution Rate - Floating Rate Period**

The rate of Distribution during the Floating Rate Period shall be the sum of three-month EURIBOR and 1.58 per cent. per annum of the Liquidation Preference (calculated on an Actual/360 Basis).

### 2.4 For the purposes of calculating this, "**three-month EURIBOR**" means:

the rate for deposits in Euro for a period of three months which appears on the display page designated 248 on Moneyline Telerate Service (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor, for the purpose of displaying comparable rates) as of 11:00 a.m. (Brussels time) on the second TARGET Settlement Day before the first day of the relevant Distribution Period (the "**Distribution Determination Date**").

### 2.5 If such rate does not appear on that page on the Distribution Determination Date, the Principal Paying and Transfer Agent will:

- (a) request the principal Euro-zone office of each of four major banks in the Euro-zone interbank market to provide a quotation of the rate at which deposits in Euro are offered by it at approximately 11.00 a.m. (Brussels time) on the Distribution Determination Date to prime banks in the Euro-zone interbank market for a period equal to the relevant Interest Period and in an amount that is representative for a single transaction in that market at that time; and
- (b) determine the arithmetic mean (rounded, if necessary, to the nearest one hundred-thousandth of a percentage point, 0.000005 being rounded upwards) of such quotations; and
- (c) if fewer than two such quotations are provided as requested, the Principal Paying and Transfer Agent will determine the arithmetic mean (rounded, if necessary, as aforesaid) of the rates quoted by major banks in the Euro-zone, selected by the Principal Paying and Transfer Agent, at approximately 11.00 a.m. (Brussels time) on the first day of the relevant Distribution Period for loans in Euro to leading European banks for a period equal to the relevant Distribution Period and in an amount that is representative for a single transaction in that market at that time,

*provided, however, that* if the Principal Paying and Transfer Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Distribution Period, the rate of Distribution applicable to the Preferred Securities during such Distribution Period will be the sum of 1.58 per cent. per annum and the rate or (as the case may be) arithmetic mean last determined in relation to the Preferred Securities in respect of a preceding Distribution Period.

- 2.6 The Principal Paying and Transfer Agent shall, as soon as practicable after 11.00 a.m., Brussels time, on the day which is two TARGET Settlement Days prior to the first day of each Distribution Period, calculate the Distribution payable on the relevant Distribution Payment Date on each Preferred Security for the relevant Distribution Period.
- 2.7 The Principal Paying and Transfer Agent will cause the amount of the Distribution to be notified to the Issuer and the Frankfurt Stock Exchange as soon as possible after determination thereof, but in no event later than the first day of the relevant Distribution Period. Notice will also be provided to the Holders in accordance with Clause 8 below.
- 2.8 Distributions on the Preferred Securities will be payable out of the Issuer's own legally available resources on each Distribution Payment Date. Notwithstanding the existence of resources legally available for distribution by the Issuer, neither the Issuer nor UBS will pay any Distributions or make any payment in respect of Distributions (including any Additional Amounts) under the Preferred Securities or the Guarantee to the extent that such payment in respect of the Preferred Securities would breach or cause a breach of the Swiss Federal Banking Commission's minimum capital adequacy requirements then applicable to UBS on a consolidated or unconsolidated basis (a "**Capital Limitation**");
- 2.9 Subject to 2.8 above and unless the Distribution is to be made following a Mandatory Distribution Event (as defined below), neither the Issuer nor UBS will pay any Distributions or make any payment in respect of Distributions (including any Additional



Amounts) under the Preferred Securities or the Guarantee if the amount of the payment, together with the amount of any distributions or dividends paid or scheduled to be paid to holders of UBS Parity Securities, would exceed the amount of dividends that UBS would have been legally able to pay on the Preferred Securities had they been issued directly by UBS as non-cumulative preference shares of UBS (a "**Distributable Profits Limitation**"). To this end, on or before the first Distribution Payment Date of each year, UBS will deliver a certificate to the Issuer (a "**Distributable Profits Limitation Certificate**") specifying:

- (a) the Distributable Profits of UBS for the financial year ending on the preceding 31 December; and
- (b) the Available Distributable Profits (as defined above) for payment of Distributions on the Preferred Securities on the Distribution Payment Dates in the then current year.

Unless the Issuer is required to pay a Distribution due to a Mandatory Distribution Event having occurred: (i) the aggregate amount of Distributions on the Preferred Securities that the Issuer may pay on the first Distribution Payment of the current year may not exceed the lesser of full Distributions and the Available Distributable Profits set forth in such Distributable Profits Limitation Certificate, and (ii) the aggregate amount of Distributions on the Preferred Securities that the Issuer may pay on any subsequent Distribution Payment Dates in the current year may not exceed the lesser of full Distributions and the remaining amount of such Available Distributable Profits (after giving effect to the payment of Distributions pursuant to this (ii) or (i) immediately above).

- 2.10 On each Distribution Determination Date, the Issuer will determine whether sufficient Available Distributable Profits exist to allow a payment of the relevant Distribution. In the event that any Distribution cannot be paid, the Issuer will notify or procure notification to the Stock Exchange, the Registrar and the Paying and Transfer Agents and to Holders, in accordance with Clause 8, that no Distribution will be made.
- 2.11 Save as described above, Holders will have no right to participate in the profits of the Issuer or UBS and in particular will have no rights to receive from the Issuer amounts paid under the Notes or otherwise amounts in excess of Distributions due and payable under the Preferred Securities. In the event that any amounts received by the Issuer exceed the amount (if any) then due by way of Distribution under the Preferred Securities, the amount of such excess will be paid to UBS and Holders will have no rights in respect thereof.
- 2.12 Subject to sub-clause 2.8 and the Law, the Issuer will be required to pay Distributions on its Preferred Securities in two circumstances (as set out below under 2.12.1 and 2.12.2, each a "**Mandatory Distribution Event**"), as follows:
  - 2.12.1 If UBS declares or pays dividends or makes any other payment or distribution on any UBS Junior Obligations, and provided that the Capital Limitation does not apply, then the Issuer will be required to pay full Distributions during the one-year period beginning on and including the earlier of the date on which

such dividend was declared or the date on which such dividend or other payment was made.

- 2.12.2 If UBS or any of its subsidiaries redeems, repurchases or otherwise acquires any UBS Parity Securities or UBS Junior Obligations for any consideration, except by conversion into or exchange for shares of UBS or UBS Junior Obligations and except as described below (and provided that the Capital Limitation does not apply), then the Issuer will be required to pay Distributions on the Preferred Securities during the one-year period beginning on and including the date on which such redemption, repurchase or other acquisition occurred.
- 2.12.3 Notwithstanding paragraph 2.12.2, the Issuer will not be required to pay Distributions solely as a result of:
- (a) repurchases, redemptions or other acquisitions of UBS Parity Securities or UBS Junior Obligations in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants, in connection with a dividend reinvestment or shareholder share purchase plan or in connection with the issuance of UBS Parity Securities or UBS Junior Obligations (or securities convertible into or exercisable for such UBS Parity Securities or UBS Junior Obligations) as consideration in an acquisition transaction;
  - (b) market-making in the UBS Parity Securities or UBS Junior Obligations as part of the securities business of UBS or any of its subsidiaries;
  - (c) the purchase of fractional interests in UBS Parity Securities or UBS Junior Obligations pursuant to the conversion or exchange provisions of such UBS Parity Securities or UBS Junior Obligations or the security being converted or exchanged;
  - (d) any declaration of a dividend in connection with any shareholder's rights plan, or the issuance of rights, shares or other property under any shareholder's rights plan, or the redemption or repurchase of rights pursuant to any such plan; or
  - (e) any dividend in the form of shares, warrants, options or other rights where the dividend shares or the shares issuable upon exercise of such warrants, options or other rights are the same shares as that on which the dividend is being paid or ranks equally with or junior to such shares.
- 2.13 Any Distribution Payment Date or other date on which Distributions on the Preferred Securities are required to be paid as described in Clause 2.12.1 or 2.12.2 above is a "**Mandatory Distribution Payment Date**". The amount of Distributions required to be paid on any Mandatory Distribution Payment Date (after giving effect to the Capital Limitation, if applicable) is called the "**Mandatory Distribution Payment Amount**". If a Distribution Payment Date or other date is a Mandatory Distribution Payment Date, the Issuer will be required to pay the Mandatory Distribution Payment Amount as a

Distribution on that date whether or not there are Available Distributable Profits and whether or not interest is paid on the Notes.

### 3. LIQUIDATION DISTRIBUTIONS

- 3.1 In the event of the commencement of any dissolution of the Issuer, the Holders will be entitled, subject as set out in sub-clause 3.4, to receive the Liquidation Distribution, in respect of each Preferred Security held, out of the assets of the Issuer available for distribution to such Holders under the Law.

Notwithstanding the availability of sufficient assets of the Issuer to pay any Liquidation Distribution to the Holders, if, at the time such Liquidation Distribution is to be paid, proceedings have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of UBS other than pursuant to a Permitted Reorganisation, the Liquidation Distribution per Preferred Security paid to Holders thereof shall not exceed the amount per security that would have been paid as a liquidation distribution out of the assets of UBS had the Preferred Securities and all UBS Parity Securities been the most senior class of preference shares in UBS with equivalent rights of participation in the capital of UBS (whether or not UBS could in fact have issued such securities at such time) and ranked (a) junior to all liabilities of UBS including subordinated liabilities (in each case other than any liability of UBS which constitutes Tier 1 Securities or any liability which is referred to in (b) or (c) and any other liability expressed to rank *pari passu* with or junior to the Guarantee), (b) *pari passu* with UBS Parity Securities, if any, issued by UBS and any guarantee or support agreement of UBS ranking *pari passu* with the Guarantee and (c) senior to UBS Junior Obligations.

- 3.2 If the Liquidation Distribution and any other such liquidation distributions cannot be made in full by reason of the limitation described in sub-clause 3.1 or any equivalent article or term of a Parity Security, but there are funds available for payment so as to allow payment of part of the Liquidation Distribution, then each Holder will be entitled to receive the Relevant Proportion of the Liquidation Distribution.
- 3.3 In the event of an order being made for the liquidation, dissolution, or winding-up of UBS other than pursuant to a Permitted Reorganisation or UBS is declared insolvent, the Issuer shall be dissolved and the amount per Preferred Security to which Holders shall be entitled as a Liquidation Distribution will be as set out in sub-clauses 3.1 and 3.2.
- 3.4 Subject to the Law, other than in the event referred to in sub-clause 3.3, unless (i) the Swiss Federal Banking Commission has given its approval, if then required and (ii) UBS has Available Distributable Profits in an amount at least equal to the aggregate Liquidation Distribution, UBS will not permit, or take any action that would or might cause, the liquidation or dissolution of the Issuer. Notwithstanding the foregoing restriction imposed on UBS, if for any other reason the Issuer is liquidated, dissolved or wound up in circumstances where proceedings have not been commenced for the liquidation, dissolution or winding-up of UBS, the Liquidation Distribution shall only be payable to the extent that (ii) above applies. No Holder shall have any claim (whether against the Issuer or UBS) in respect of any Liquidation Distribution or part thereof not paid when it would, but for the operation of this sub-clause 3.4, otherwise have become due.

#### 4. **REDEMPTION AND PURCHASE**

- 4.1 The Preferred Securities have no fixed final redemption date and Holders have no rights to call for the redemption of the Preferred Securities.
- 4.2 The Preferred Securities are redeemable, at the option of the Issuer, subject to the satisfaction of the Redemption Conditions and the Law, in whole, but not in part, on any Optional Redemption Date upon not less than 30 nor more than 60 days' notice to the Holders specifying the Optional Redemption Date (which notice shall be irrevocable). Upon the expiry of such notice, the Issuer shall be bound to redeem each of the Preferred Securities accordingly by payment of an amount equal to the Optional Redemption Price.
- 4.3 If at any time a Tax Event has occurred and is continuing, the effect of which cannot be avoided by the Issuer or UBS taking reasonable measures available to it, then the Preferred Securities may be redeemed, in whole but not in part, at the option of the Issuer, subject to the satisfaction of the Redemption Conditions and to the Law, at any time upon not less than 30 nor more than 60 days' notice to the Holders specifying the Tax Event Redemption Date (which notice shall be irrevocable). Prior to the publication of any notice of redemption pursuant to the foregoing, the Issuer shall deliver to the Registrar a certificate signed by two directors of the Issuer stating that the Issuer is entitled to effect such redemption and an opinion of counsel to the Issuer experienced in such matters to the effect that a Tax Event has occurred (and specifying which of Clauses (i) to (iv) as set out in the definition of "**Tax Event**" is applicable). Upon the expiry of such notice, the Issuer shall be bound to redeem each of the Preferred Securities accordingly in accordance with and subject to the Law. The redemption price for a redemption arising out of a Tax Event resulting from a Change in Tax Law (as defined below) will be the Optional Redemption Price. Otherwise, the redemption price for such redemptions arising out of a Tax Event will be calculated in accordance in Clause 4.5 below.
- 4.4 If at any time a Capital Disqualification Event has occurred and is continuing the Preferred Securities may be redeemed, in whole but not in part, at the option of the Issuer, subject to the satisfaction of the Redemption Conditions and to the Law, at any time upon not less than 30 nor more than 60 days' notice to the Holders specifying the Capital Disqualification Event Redemption Date (which notice shall be irrevocable). The redemption price for a redemption arising out of a Capital Disqualification Event will be calculated in accordance in Clause 4.5 below. Prior to the publication of any notice of redemption pursuant to the foregoing, the Issuer shall deliver to the Registrar a certificate signed by two directors of the Issuer stating that the Issuer is entitled to effect such redemption and an opinion of counsel to the Issuer experienced in such matters to the effect that a Capital Disqualification Event has occurred. Upon the expiry of such notice, the Issuer shall be bound to redeem each of the Preferred Securities accordingly in accordance with and subject to the Law.
- 4.5 The redemption price for redemptions arising out of a Tax Event (other than a Tax Event resulting from a Change in Tax Law) or a Capital Qualification Event will be:
- (a) the Make Whole Amount (as defined below), plus

- (b) an amount equal to unpaid Distributions, if any, on the Preferred Securities with respect to the current Distribution Period (whether or not declared) accrued on a daily basis to the date fixed for redemption.

As used in this Clause 4:

**"Administrative Action"** means any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) by any legislative body, court, governmental authority or regulatory body having appropriate jurisdiction;

**"Change in Tax Law"** means the receipt by UBS of an opinion of a nationally recognised law firm or other tax advisor (which may be an accounting firm) in Switzerland or Jersey, as appropriate, experienced in such matters to the effect that an event of the type described in clause (i), (ii) or (iii) of the definition of "Tax Event" has occurred or will occur as a result of (a) any amendment to, clarification of, or change (including any announced prospective change) in, the laws or treaties (or any regulations under any laws or treaties) of Switzerland or Jersey or any political subdivision, or taxing authority of or in Switzerland or Jersey affecting taxation or (b) any Administrative Action or any amendment to, clarification of, or change in the official position of or UBS interpretation of any Administrative Action or any interpretation or pronouncement that provides for a position with respect to any Administrative Action that differs from the previously generally accepted position, in each case, by any legislative body, court, governmental authority or regulatory body, regardless of the manner in which such amendment, clarification, change, interpretation or pronouncement is made known, which amendment, clarification, change or Administrative Action is effective or which interpretation or pronouncement is announced on or after the date of issuance of the Preferred Securities;

**"Make Whole Amount"** as applied to a redemption of the Preferred Securities means, in respect of each Preferred Security, (a) the Liquidation Preference of such Preferred Security or, if redemption occurs before the First Optional Redemption Date and this is higher, (b) the price, expressed as a percentage (rounded to four decimal places, 0.0005 being rounded upwards), at which the then current yield on the Preferred Security on the Reference Date (as defined below) (assuming for this purpose that the Preferred Securities are to be redeemed at their Liquidation Preference on the First Optional Redemption Date) is equal to the then current yield (determined by reference to the middle market price) at 11.00 a.m. (Frankfurt time) on the Reference Date of the Reference Bond plus 0.45 per cent., all as determined by UBS;

**"Reference Bond"** means the 3.75 per cent. German Bundesobligationen due January 2015, or if such stock is no longer in issue such other German government stock with a maturity date as near as possible to the First Optional Redemption Date, as UBS may reasonably determine to be appropriate by way of substitution for the 3.75 per cent. German Bundesobligationen due January 2015; and

**"Reference Date"** means the date which is the three dealing days prior to the date fixed for redemption pursuant to Clauses 4.3 and 4.4 above.

- 4.6 For so long as the Preferred Securities are listed on the Frankfurt Stock Exchange, the Issuer shall cause any notice of redemption given pursuant to Clauses 4.2, 4.3 and 4.4 above to be given to the Frankfurt Stock Exchange.
- 4.7 Under existing Swiss Federal Banking Commission requirements, neither the Issuer nor UBS may redeem or purchase any Preferred Securities unless the Swiss Federal Banking Commission gives its prior written consent. The Swiss Federal Banking Commission may impose conditions on any such redemption or purchase.
- 4.8 In each year in which a repurchase is made, the aggregate nominal amount of the Preferred Securities repurchased shall be announced in accordance with the Listing and Issuing Rules of the Frankfurt Stock Exchange with mention of remaining Preferred Securities.

5. **ADDITIONAL AMOUNTS**

All payments in respect of the Preferred Securities by the Issuer will be made without withholding or deduction for, or on account of, any Jersey Tax, unless the withholding or deduction of such Jersey Tax is required by law. In the event of such withholding or deduction, each Holder will be entitled to receive, as further distributions, such additional amounts ("**Additional Amounts**") as may be necessary in order that the net amounts received by the Holders after such withholding or deduction shall equal the amounts which would have been receivable in respect of the Preferred Securities in the absence of such withholding or deduction; except that no such Additional Amounts will be payable to a Holder (or to a third party on his behalf) with respect to any Preferred Security (i) to the extent that such Jersey Tax is imposed or levied by virtue of such Holder (or the beneficial owner) of such Preferred Security having some connection with Jersey, other than merely being a Holder (or beneficial owner) of such Preferred Security or (ii) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive or (iii) who would have been able to avoid such withholding or deduction by presenting the Preferred Securities to another Paying and Transfer Agent in a Member State of the European Union, and except that the Issuer's obligations to make any such payments are subject to the Law and to the limitations provided in sub-clauses 2.8, 3.1 and 3.4.

6. **PAYMENTS**

- 6.1 Distributions will be payable on the relevant Distribution Payment Date (or where any Distribution Payment Date is not a Business Day on the next Business Day (without interest in respect of such delay)) to the Holders of record as they appear on the Register on the relevant record date, which will be five Business Days prior to the relevant Distribution Payment Date.

If the Issuer gives a notice of redemption pursuant to sub-clause 4.2, 4.3 or 4.4 in respect of the Preferred Securities, then, by 15.00 hours on the Optional Redemption Date, the Tax Event Redemption Date or the Capital Disqualification Event Redemption Date, as

the case may be, the Issuer shall procure that the Redemption Amount will be paid by the Registrar or by the Paying and Transfer Agent on behalf of the Issuer to the Holders. Upon such payment, all rights of Holders to participate in the assets of the Issuer or to be returned any amount in respect of the Preferred Securities will be extinguished provided its holding of Preferred Securities is redeemed in accordance with the foregoing.

6.2 Subject to all applicable fiscal or other laws and regulations:

6.2.1 each payment in respect of Distributions will be made by cheque and mailed to the Holder of record at such Holder's address as it appears on the Register on the relevant record date for the Preferred Securities; and

6.2.2 any payment in respect of a Redemption Amount or the Liquidation Distribution in respect of any Preferred Security will be made by cheque against presentation and surrender of the relevant certificate of entitlement at the office of the Registrar or a Paying and Transfer Agent,

*provided, however,* that a Holder may receive such payment by direct transfer if appropriate direct transfer instructions have been received by the Registrar in sufficient time prior to the relevant date of payment. Holders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due if the due date is not a Business Day, if the Holder is late in surrendering certificates (if required to do so) or if a cheque mailed in accordance with this Clause arrives after the due date for payment.

In the event that payment of any Redemption Amount in respect of any Preferred Security is improperly withheld or refused and not paid by the Issuer, Distributions on such Preferred Security, subject as described in sub-clause 2.8, will continue to accrue, on an Actual/Actual (ISMA) Basis (if the payment is due in the Fixed Rate Period) or on an Actual/360 Basis (if the payment is due in the Floating Rate Period), from the Optional Redemption Date, Tax Event Redemption Date or Capital Disqualification Event Redemption Date, as the case may be, to the date of actual payment of such Redemption Amount.

6.3 The Issuer will not make any payment to Holders, or procure such a payment in respect of the Preferred Securities, that could not lawfully have been made if Holders had held the most senior preference shares of UBS (if any and whether or not UBS could issue such preference shares at such time) instead of the Preferred Securities.

6.4 The Issuer will maintain, at all times whilst the Preferred Securities are outstanding (a) and listed on the Frankfurt Stock Exchange, a Paying and Transfer Agent having its specified office in Germany, (b) a Registrar having its office in Jersey and (c) a Paying and Transfer Agent having a specified office in a European Union Member State (if any) that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive.

7. **VOTING RIGHTS**

7.1 Except as described below, Holders will not be entitled to receive notice of or attend or vote at any general meeting of shareholders of the Issuer or participate in the management of the Issuer.

7.2 If for two consecutive Distribution Payment dates (in the case of annual Distribution Payment Dates) and four consecutive Distribution Payment Dates (in the case of quarterly Distribution Payment Dates):

7.2.1 Distributions and any Additional Amounts in respect of such Distributions have not been paid in full on the Preferred Securities by the Issuer; and/or

7.2.2 UBS breaches any of its payment obligations under the Guarantee in respect of such Distributions or any such Additional Amounts thereon,

then the Holders, together with the holders of any other outstanding preferred securities, preference shares or other Tier 1 Securities of the Issuer having the right to vote for the election of directors in such event, acting as a single class without regard to series, will be entitled, by written notice to the Issuer given by the holders of a majority in liquidation preference of such shares or securities or by ordinary resolution passed by the holders of a majority in liquidation preference of such shares or securities present in person or by proxy at a separate general meeting of such holders convened for the purpose, to appoint two additional members of the board of directors who, whether because of their individual residency status or otherwise, do not adversely affect the Issuer's regulatory or taxation position or status.

Not later than 30 days after such entitlement arises, if the written notice of the holders of any other outstanding preferred securities, preference shares or other Tier 1 Securities of the Issuer having the right to vote for the election of directors in the circumstances described above has not been given as provided for above, the board of directors will convene a separate general meeting for the above purpose. If the board of directors fails to convene such meeting within such 30-day period, the holders of 10 per cent. in liquidation preference of the Preferred Securities and such other outstanding preferred securities, preference shares or other Tier 1 Securities will be entitled to convene such meeting. The provisions of the Articles of Association of the Issuer concerning the convening and conduct of general meetings of shareholders will apply with respect to any such separate general meeting.

Any member of the board of directors so appointed shall vacate office, subject to the terms of such other outstanding preferred securities, preference shares or other Tier 1 Securities, if for any two consecutive Distribution Payment Dates (in the case of annual Distribution Payment Dates) and four consecutive Distribution Payment Dates (in the case of quarterly Distribution Payment Dates), Distributions and any Additional Amounts in respect of such Distributions have been paid in full on the Preferred Securities by the Issuer and/or UBS has made payment of all amounts in respect of such Distributions and any Additional Amounts in respect thereof (or an amount equivalent to the Distributions to be paid in respect of the next two or four Distribution Periods (as the



case may be) has been paid or irrevocably set aside in a separately designated trust account for payment to the Holders).

The Issuer will cause a notice of any meeting at which Holders are entitled to vote to be mailed to each Holder. Each such notice will include a statement setting forth (i) the date, time and place of such meeting, (ii) a description of any resolution to be proposed for adoption at such meeting on which such Holders are entitled to vote and (iii) instructions for the delivery of proxies.

#### 8. **NOTICES**

All notices to the Holders will be mailed to the Holder of record and, so long as the Preferred Securities are listed on the Official Market of the Frankfurt Stock Exchange, and the rules of such exchange so require, notices will be published in a leading daily newspaper having general circulation in Germany. This newspaper is expected to be the *Börsen-Zeitung*. Any mailed notice shall be deemed to have been given one clear day after the date on which it was posted and any notice published in a newspaper shall be deemed to have been given on the date of publication (or, if published more than once, on the date of the first publication).

#### 9. **TRANSFERS AND FORM**

The Preferred Securities are in registered form each with an issue price equal to the Liquidation Preference. For each Preferred Security issued, an amount equal to its nominal value will be credited to the Issuer's issued share capital account and an amount of Euro 999.99, being the difference between its issue price and its nominal value will be credited to the Issuer's share premium account. On or about the Closing Date, a single global certificate in registered form (the "**Global Certificate**") representing the Preferred Securities will be registered in the name of, and deposited with, Clearstream, Frankfurt. The Preferred Securities are also eligible for clearing and settlement through Euroclear and Clearstream, Luxembourg. For so long as the Preferred Securities are deposited and registered as described above, book-entry interests in the Preferred Securities will be shown on, and transfers of such interests will be effected through, records maintained by Clearstream, Frankfurt, Euroclear and Clearstream, Luxembourg

If (a) Clearstream, Frankfurt, or any relevant clearing system, is closed for business for a continuous period of 14 days or more (other than for the purposes of a public holiday) or announces an intention permanently to cease business or does in fact so cease business or (b) as a result of a change in law, transfer duties or similar taxes become payable on transfers of the Preferred Securities in Clearstream, Frankfurt, or the relevant clearing system, a number of Preferred Securities corresponding to its book-entry interest in the Preferred Securities represented by the certificate held by Clearstream, Frankfurt referred to above will, subject to such reasonable requirements as the Issuer may require, be transferred to each holder of an interest in the Preferred Securities whose name is notified by Clearstream, Frankfurt, or the relevant clearing system, to the Registrar. Each such holder will be registered as a Holder in the Register and receive a certificate made out in its name. Other than in the circumstances referred to in this Clause, definitive certificates will not be available to Holders.

If definitive certificates are made available in respect of Preferred Securities they will be available to the Holders from offices of the Registrar, or will be posted to the relevant Holders at the address shown in the Register or, as applicable, in the relevant instrument of transfer within three Business Days of issue, by uninsured post at the risk of such Holders. Transfers of Preferred Securities if represented by definitive certificates may be effected by presentation of the relevant certificate (with the transfer certificate relating thereto duly completed on behalf of the transferor and transferee) at the specified office of the Registrar or any Paying and Transfer Agent. Where a Holder transfers some only of the Preferred Securities represented by any such certificate he shall be entitled to a certificate for the balance without charge.

10. **REPLACEMENT OF CERTIFICATES**

If a certificate is damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Preferred Securities may be issued on payment of such fee and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses as the Issuer may think fit and on payment of the costs of the Issuer incidental to its investigation of the evidence and, if damaged or defaced, on delivery up of the old certificate at the office of the Registrar.

11. **PRESCRIPTION**

Claims against the Issuer for payment of Distributions and sums in respect of any Redemption Amount or Liquidation Distribution of the Preferred Securities will be prescribed unless made within 10 years from the date on which such payment becomes due or, if later, the date on which the Issuer makes such payment available to Holders.

## **SUMMARY OF PROVISIONS RELATING TO THE PREFERRED SECURITIES IN GLOBAL FORM**

### **Initial Issue of Preferred Securities**

The Preferred Securities have been issued in registered form and are represented by a single Global Certificate which has been registered in the name of, and deposited with, Clearstream, Frankfurt on or about the Closing Date. The Preferred Securities are also eligible for clearing and settlement through Euroclear and Clearstream Luxembourg. Upon the registration of the Global Certificate in the name of Clearstream, Frankfurt and delivery of the Global Certificate to Clearstream, Frankfurt, Clearstream, Frankfurt has, in accordance with its procedures, credited each subscriber with such number of Preferred Securities equal to the number thereof for which it has subscribed and paid.

### **Exchange**

If (a) Clearstream, Frankfurt, or any relevant clearing system, is closed for business for a continuous period of 14 days (other than for the purposes of a public holiday) or announces an intention permanently to cease business or does in fact so cease business or (b) as a result of a change in law, transfer duties or similar taxes become payable on transfers of the Preferred Securities in Clearstream, Frankfurt, or the relevant clearing system, a number of Preferred Securities corresponding to its book-entry interest in the Preferred Securities represented by the Global Certificate will, subject to such reasonable requirements as the Issuer may require, be transferred to each holder of an interest in the Preferred Securities whose name is notified by Clearstream, Frankfurt, or the relevant clearing system, to the Registrar. Each such holder will be registered as a Holder of the Preferred Securities in the Register maintained by or on behalf of the Issuer and will receive a certificate made out in its name.

### **Accountholders**

So long as the Preferred Securities are registered in the name of Clearstream, Frankfurt, Clearstream, Frankfurt will be the sole registered owner or holder of the Preferred Securities represented by the Global Certificate. Except as set forth under "Description of Preferred Securities — Transfers and Form" and under "Transfers of Interests" below, the persons shown in the records of Clearstream, Frankfurt, or any other clearing system, as the Holders of the Preferred Securities evidenced by the Global Certificate (each an "**Accountholder**") will not be entitled to have Preferred Securities registered in their names and will not receive or be entitled to receive physical delivery of definitive certificates evidencing interests in the Preferred Securities. Accordingly, each Accountholder must rely on the rules and procedures of Clearstream, Frankfurt, or the relevant clearing system, to exercise any rights and obligations of a holder of Preferred Securities.

### **Payment**

Each Accountholder must look solely to Clearstream, Frankfurt for its share of each payment made by the Issuer to the registered holder of the Preferred Securities and in relation to all other rights arising under the Global Certificate, subject to and in accordance with the respective rules and procedures of Clearstream, Frankfurt. Such persons shall have no claim directly against the Issuer in respect of payments due on the Preferred Securities for so long as the Preferred

Securities are represented by the Global Certificate and such obligations of the Issuer will be discharged by payment to the registered holder of the Preferred Securities in respect of each amount so paid.

If the Preferred Securities are cleared and settled through Euroclear or Clearstream, Luxembourg, payments will be made subject to and in accordance with the respective rules and procedures of these clearing systems.

**Transfers of Interests**

Accountholders will only be able to transfer their beneficial interests in the Preferred Securities in accordance with the restrictions described under "Description of Preferred Securities — Transfers and Form" and with the rules and procedures of Clearstream, Frankfurt, Euroclear or Clearstream, Luxembourg, as the case may be.

## SUBORDINATED GUARANTEE

The following is the Guarantee executed by UBS AG, acting through its Jersey branch.

THIS GUARANTEE (the "**Guarantee**"), dated 15 April 2005, is executed by UBS AG ("**UBS**"), acting through its Jersey branch, for the benefit of the Holders (as defined below).

WHEREAS:

- (i) UBS desires to issue this Guarantee for the benefit of the Holders, as provided herein; and
- (ii) this Guarantee is intended to provide the Holders, on a dissolution of the Issuer (as defined below) or on a default by the Issuer in discharging its obligations in respect of the Preferred Securities (as defined below), with rights against UBS in respect of the Guaranteed Payments (as defined below) which are as nearly as possible equivalent to those which they would have had if the Preferred Securities had been directly issued preference shares of UBS (whether or not UBS could in fact have issued such securities).

NOW, THEREFORE UBS executes this Guarantee for the benefit of the Holders.

### 1. **Definitions**

Terms not otherwise defined herein shall have the meaning ascribed to them in the rights attaching to the Preferred Securities as set out in the Issuer's Articles of Association and the following terms shall, unless the context otherwise requires, have the following meanings:

**"Guaranteed Payments"** means (without duplication) collectively (i) all Distributions due on the Preferred Securities, (ii) any Liquidation Distribution to which Holders are entitled, (iii) any Redemption Amount and (iv) any Additional Amounts;

**"Holder"** means, in respect of each Preferred Security, each person registered on the Register as holding such Preferred Security at the relevant time save for as long as the Preferred Securities are registered in the name of Clearstream, Frankfurt in which case each person (other than Clearstream, Frankfurt) who is for the time being shown in the records of Clearstream, Frankfurt as the holder of any Preferred Securities (in which regard any certificate or other document issued by Clearstream, Frankfurt as to the number of Preferred Securities standing to the account of any person shall be conclusive and binding for all purposes) other than with respect to payments, the right to which shall be vested in the name of the person appearing in the Register;

**"Issuer"** means UBS Preferred Funding (Jersey) Ltd.; and

**"Preferred Securities"** means the 1,000,000 Fixed/Floating Rate Guaranteed Non-voting Non-cumulative Perpetual Preferred Securities outstanding of the Issuer each with a Liquidation Preference of Euro 1,000, including any further Preferred Securities of the same series, whether or not in issue on the date of this Guarantee, the Holders of which are entitled to the benefits of this Guarantee as evidenced by the execution of this Guarantee.

## 2. **Guarantee**

- 2.1 Subject to the exceptions and limitations contained in the following provisions of this Clause 2, UBS irrevocably and unconditionally agrees to pay in full to the Holders the Guaranteed Payments, as and when due, to the extent that such payments shall not have been paid within 3 days of becoming due and payable by the Issuer regardless of any defence, right of set-off or counterclaim which the Issuer may have or assert. This Guarantee is continuing, irrevocable and absolute. The rights and claims of the Holders against UBS under this Guarantee are subordinated to the claims of the Senior Creditors (as defined in Clause 2.3) in that payment of the Guaranteed Payments is conditional upon satisfaction of the conditions set out in the following provisions of this Clause 2.

All amounts expressed to be payable hereunder are expressed as amounts net of mandatory deductions.

- 2.2 Notwithstanding Clause 2.1, UBS will not, save to the extent provided in Clause 2.5, be obliged to make any Guaranteed Payment if UBS is prevented by applicable Swiss banking regulations or other requirements from making payment in full under this Guarantee. In addition, notwithstanding Clause 2.1, UBS will not, save to the extent provided in Clause 2.5, be obliged to make any Guaranteed Payment in respect of Distributions on any Preferred Securities:

2.2.1 if the amount of the payment, together with the amount of any distributions or dividends paid or scheduled to be paid to holders of UBS Parity Securities, would exceed the amount of dividends that UBS would have been legally able to pay on the Preferred Securities had they been issued directly by UBS as non-cumulative preference shares of UBS (a "**Distributable Profits Limitation**"). To this end, on or before the first Distribution Payment Date of each year, UBS will deliver a certificate to the Issuer (a "**Distributable Profits Limitation Certificate**") specifying:

- (a) the Distributable Profits of UBS for the financial year ending on the preceding 31 December; and
- (b) the Available Distributable Profits for payment of Distributions on the Preferred Securities on the Distribution Payment Dates in the then current year.

2.2.2 even if Available Distributable Profits are sufficient, to the extent that such payment in respect of the Preferred Securities would breach or cause a breach of the Swiss Federal Banking Commission's minimum capital adequacy requirements then applicable to UBS on a consolidated or unconsolidated basis.

- 2.3 Notwithstanding Clause 2.1, if, at the time that the Liquidation Distribution is to be paid by UBS under this Guarantee in respect of any Preferred Securities, proceedings have been commenced for the voluntary or involuntary liquidation or dissolution of UBS in terms of the Swiss banking regulations other than pursuant to a Permitted Reorganisation, payment under this Guarantee of such Liquidation Distribution shall not exceed the amount per security that would have been paid as a liquidation distribution

out of the assets of UBS had the Preferred Securities and all UBS Parity Securities been the most senior class of preference shares in UBS with equivalent rights of participation in the capital of UBS (whether or not UBS could in fact have issued such securities at such time) and ranked:

- (a) junior to all liabilities of UBS including subordinated liabilities (in each case other than any liability of UBS which constitutes Tier 1 Securities or any liability which is referred to in (b) or (c) and any other liability expressed to rank *pari passu* with or junior to this Guarantee) ("**Senior Creditors**");
- (b) *pari passu* with UBS Parity Securities, if any, issued by UBS and any guarantee or support agreement of UBS ranking *pari passu* with this Guarantee; and
- (c) senior to UBS Junior Obligations.

The foregoing liabilities that rank senior to this Guarantee are collectively called "**UBS Senior Liabilities**".

Payments under this Guarantee (other than payments upon a dissolution, by bankruptcy or otherwise, in Switzerland of UBS as provided below) will be conditional upon UBS not being in default in the payment of UBS Senior Liabilities and being solvent at the time of payment. A report as to the insolvency of UBS by two persons, each being a managing director, director or other authorised officer or agent of UBS or employees of the independent accountants of UBS will, in the absence of manifest error be treated and accepted by UBS, the holders of Preferred Securities and all other interested parties as correct and sufficient evidence thereof.

The subordination provisions set out above will be irrevocable. UBS will not be permitted to create or permit to exist any charge or other security interest over its assets to secure its obligations in respect of this Guarantee.

The obligations of UBS in respect of this Guarantee will be, prior to the bankruptcy or dissolution of UBS or otherwise, conditional upon UBS being solvent immediately before and after payment by the relevant branch. If this condition is not satisfied, any amounts that might otherwise have been allocated in or towards payment in respect of this Guarantee will be used to absorb losses of UBS.

Subject to applicable law, no beneficiary of this Guarantee will be able to exercise, claim or plead any right of set-off, compensation or retention in respect of any amount owed to it by UBS arising under or in connection with this Guarantee and each beneficiary of this Guarantee will, by virtue of being a beneficiary of this Guarantee, be deemed to have waived all such rights to set-off, compensation or retention, including in the case of insolvency of UBS.

- 2.4 All Guaranteed Payments made hereunder will be made without withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of Switzerland or Jersey or any political sub-division thereof or by any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law. In that event, UBS will, if

permitted by the Swiss Federal Banking Commission's approval (to the extent such approval is required), pay such additional amounts ("**Guarantor Additional Amounts**") as may be necessary in order that the net amounts received by the Holders after such withholding or deduction shall equal the amounts which would have been receivable under this Guarantee in the absence of such withholding or deduction; except that no such Guarantor Additional Amounts will be payable to a Holder (or a third party on his behalf) (i) to the extent that such taxes, duties, assessments or governmental charges are imposed or levied by virtue of such Holder (or the beneficial owner of a Preferred Security) having some connection with Switzerland or Jersey other than being a Holder (or beneficial owner) of a Preferred Security or (ii) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive or (iii) who would have been able to avoid such withholding or deduction by presenting the Preferred Securities to another Paying and Transfer Agent in a Member State of the European Union; provided further that UBS's obligation to pay any Guarantor Additional Amounts is subject to the exceptions relating to Guaranteed Payments set out in Clauses 2.2 and 2.3.

- 2.5 If in relation to Guaranteed Payments on liquidation of the Issuer, the amounts described in Clauses 2.1 and 2.4 cannot be made in full by reason of either of the conditions referred to in Clause 2.2 or 2.3, such amounts will be payable pro rata in the Relevant Proportion and the obligations of UBS in respect of any such unpaid balance shall lapse.
- 2.6 UBS hereby waives notice of acceptance of this Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, protest, notice of non-payment, notice of dishonour, notice of redemption and all other notices and demands.
- 2.7 The obligations, covenants, agreements and duties of UBS under this Guarantee shall in no way be affected or impaired by reason of the happening from time to time of any of the following:
  - (a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied agreement, covenant, term or condition relating to the Preferred Securities to be performed or observed by or on behalf of the Issuer;
  - (b) the extension of time for the payment by or on behalf of the Issuer of all or any portion of any Distribution, the Optional Redemption Price, the Liquidation Distribution or any other sums payable under the terms of the Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Preferred Securities, provided that nothing in this Guarantee shall affect or impair a valid extension;
  - (c) any failure, omission, delay or lack of diligence on the part of Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Preferred Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;



- (d) the voluntary or involuntary winding-up, dissolution, amalgamation, reconstruction, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganisation, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;
- (e) any invalidity of, or defect or deficiency in, the Preferred Securities; or
- (f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred.

There shall be no obligation on the Holders to give notice to, or obtain consent of, UBS with respect to the happening of any of the foregoing.

- 2.8 This Guarantee shall be deposited with and held by the Registrar until all the obligations of UBS have been discharged in full. UBS hereby acknowledges the right of every Holder to the production of, and the right of every Holder to obtain a copy of, this Guarantee from the Registrar.
- 2.9 A Holder may enforce this Guarantee directly against UBS. All waivers contained in this Guarantee shall be without prejudice to the right to proceed against the assets of the Issuer as permitted by the terms of the Preferred Securities. UBS agrees that this Guarantee shall not be discharged except by complete performance of all obligations of UBS under this Guarantee, save that, for the avoidance of doubt, any partial performance by UBS shall be good discharge of its obligations as to that part performed.
- 2.10 UBS shall be subrogated to any and all rights of the Holders against the assets of the Issuer in respect of any amounts paid to the Holders by UBS under this Guarantee. UBS shall not (except to the extent required by mandatory provisions of law) exercise any rights which it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of a payment under this Guarantee, if, at the time of any such payment, any amounts are due and unpaid under this Guarantee. If UBS shall receive or be paid any amount with respect to the Preferred Securities in violation of the preceding sentence, UBS agrees to pay over such amount to the Holders.
- 2.11 Notwithstanding any reference to the Preferred Securities herein, UBS acknowledges that this Guarantee is an undertaking pursuant to Art. 111 of the Swiss Code of Obligations and not a mere surety. Its obligations hereunder are of a non-accessory nature, independent of the obligations of the Issuer under the Preferred Securities and UBS shall be liable as principal and sole obligor hereunder to make Guaranteed Payments pursuant to the terms of this Guarantee, notwithstanding the occurrence of any event referred to in Clause 2.7.
- 2.12 UBS's obligations hereunder constitute and will always constitute unsecured obligations of UBS. Holders will at all times rank (a) junior to all Senior Creditors, (b) *pari passu* with any UBS Parity Securities and any guarantee or support agreement of UBS ranking *pari passu* with this Guarantee and (c) senior to UBS Junior Obligations.

- 2.13 Following a breach by UBS of its payment obligations under this Guarantee, a Holder may initiate debt collection proceedings against UBS, which ultimately may result in UBS's bankruptcy.
- 2.14 No Holder shall following any breach by UBS of any of its obligations under this Guarantee, including in case of the insolvency of UBS, be entitled to exercise any right of set-off or counterclaim which may be available to it against amounts owed by UBS to such Holder. Notwithstanding the provisions of the foregoing sentence, if any of the said rights and claims of any Holder against UBS is discharged by set-off, such Holder will immediately pay an amount equal to the amount of such discharge to UBS or, in the event of its winding-up, the liquidator of UBS (to be held for UBS) and accordingly any such discharge will be deemed not to have taken place.

### 3. **Undertakings**

- 3.1 UBS undertakes that, so long as any of the Preferred Securities is outstanding unless UBS is itself in bankruptcy or subject to protective measures in terms of the Swiss banking regulations, it will not permit, or take any action that would or might cause, the liquidation, dissolution or winding-up of the Issuer otherwise than (i) with the prior approval of the Swiss Federal Banking Commission (if then required) and (ii) if UBS has sufficient Available Distributable Profits in an amount at least equal to the aggregate Liquidation Distribution.
- 3.2 UBS undertakes that it will not, and it will procure that no member of the UBS Group will, make any payment to Holders, or procure such a payment in respect of the Preferred Securities, that could not lawfully have been made if Holders had held the most senior preference shares of UBS (if any, and whether or not UBS could issue such preference shares at such time) instead of the Preferred Securities.
- 3.3 UBS undertakes not to incur any indebtedness in the name of the Issuer other than the costs and expenses incidental to creating the Preferred Securities and the Issuer, maintaining the listing of the Preferred Securities, the Register, the Registrar, the Paying and Transfer Agents and a listing agent in respect of the Preferred Securities, the Issuer's holding of the Notes and the maintenance of a custodian therefor, and the exercise of the Issuer's rights in respect of the Notes or any securities substituted therefor.
- 3.4 UBS will procure that the Issuer will maintain at all times whilst the Preferred Securities are outstanding (a) and whilst the Preferred Securities are listed on the Frankfurt Stock Exchange, a Paying and Transfer Agent in Germany, (b) a Registrar having its office in Jersey and (c) a Paying and Transfer Agent having a specified office in a European Union Member State (if available) that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive.

#### 4. **Termination**

With respect to the Preferred Securities, this Guarantee shall terminate and be of no further force and effect upon payment of the Optional Redemption Price on, or purchase and cancellation of, all Preferred Securities or full payment of the Liquidation Distribution, or alternatively, to the extent that partial payment is made.

#### 5. **Transfer; Amendment; Notices**

5.1 Subject to operation of law, all guarantees and agreements contained in this Guarantee shall bind the successors, assigns, receivers and representatives of UBS and shall inure to the benefit of the Holders. UBS shall not assign or transfer its obligations hereunder without the prior approval of the Holders of not less than a simple majority in Liquidation Preference of the outstanding Preferred Securities (excluding any Preferred Securities held by UBS or any entity of which UBS, either directly or indirectly, owns 20 per cent, or more of the voting shares or similar ownership interests), which approval shall be obtained in accordance with procedures contained in the Articles of Association of the Issuer and applicable law of Jersey, except in the case of a Permitted Reorganisation.

5.2 Except for those changes which do not adversely affect the rights of Holders (in any of which cases no agreement will be required), this Guarantee shall be changed only by agreement in writing signed by UBS with the prior approval of the Holders of not less than a simple majority in Liquidation Preference of the outstanding Preferred Securities (excluding any Preferred Securities held by UBS or any entity of which UBS, either directly or indirectly, owns 20 per cent, or more of the voting shares or other similar ownership interests), which approval shall be obtained in accordance with the procedures contained in the Articles of Association of the Issuer and applicable law of Jersey.

5.3 Any notice, request or other communication required or permitted to be given hereunder to UBS shall be given in writing by delivering the same against receipt therefor or be addressed to UBS, as follows, to:

UBS AG, Jersey branch  
24 Union Street  
St. Helier  
Jersey JE4 8UJ  
Channel Islands

Attention: Branch Manager  
Telephone: +44 1534 61 12 50  
Facsimile: +44 1534 50 65 80

The address of UBS may be changed at any time and from time to time and shall be the most recent such address furnished in writing by UBS to the registrar for the Preferred Securities.

Any notice, request or other communication required or permitted to be given hereunder to the Holders shall be given by UBS in the same manner as notices sent on behalf of the Issuer to Holders.

- 5.4 This Guarantee is solely for the benefit of the Holders and is not separately transferable from their interests in respect of the Preferred Securities.
- 5.5 UBS will furnish any Holder, upon request of such Holder, with a copy of its annual report, and any interim reports made generally available by UBS to Holders of the ordinary shares of UBS.

6. **Governing Law**

This Guarantee is governed by, and shall be construed in accordance with, Swiss law and UBS irrevocably submits to the exclusive jurisdiction of the courts of Zurich to settle any disputes arising out of this Guarantee.

Executed by

**UBS AG, acting through its Jersey branch**

Acting by

Director

Director