

# COMMERZBANK AKTIENGESELLSCHAFT

Frankfurt am Main

## Final Terms

dated March 27, 2009

with respect to the

## Base Prospectus

dated October 1, 2008

relating to

## Capped Bonus Certificates relating to CAC40<sup>®</sup> Index\*

to be publicly offered in the Republic of France

**COMMERZBANK** 

---

\* "CAC40<sup>®</sup>" and "CAC<sup>®</sup>" are registered trademarks of Euronext N.V. subsidiary: Euronext Paris S.A.

# RISK FACTORS

The purchase of certificates issued under the Base Prospectus dated October 1, 2008 (the "**Certificates**", the "**Base Prospectus**") is associated with certain risks. The information set forth in these Final Terms merely contains the major risks connected with an investment in the Certificates.

No person should purchase the Certificates unless that person understands the mechanics of the Certificates and the extent of that person's exposure to potential loss. Each prospective purchaser of Certificates should consider carefully whether the Certificates are suitable for it in the light of such purchaser's circumstances and financial position. In this context, investors should take into consideration the risks of an investment in the Certificates (risks relating to the Issuer as well as risks relating to the type of the Certificates and/or the underlying, if any) as well as the other information contained in the Base Prospectus, any supplements and in these Final Terms.

The order of the risk factors described herein does not imply any statement about the likelihood of occurrence of each risk factor or the influence of such risk factor on the value of the Certificates.

Moreover, additional risks that are not known at the date of preparation of the these Final Terms or currently believed to be immaterial could likewise have an adverse effect on the value of the Certificates.

It is possible that the performance of the Certificates is affected by several risk factors at the same time, but the Issuer is unable to make any reliable prediction on such combined effects.

The occurrence of one or more of the risks disclosed in the Base Prospectus, any supplement and/or these Final Terms or any additional risks may lead to a material and sustained loss and, depending on the structure of the Certificates, even result in the **total loss** of the capital invested by the investor.

**These risk warnings do not substitute advice by the investor's bank or by the investor's legal, business or tax advisers, which should in any event be obtained by the investor in order to be able to assess the consequences of an investment in the Certificates. Investment decisions should not be made solely on the basis of the risk warnings set out in the Base Prospectus, any supplement or these Final Terms since such information cannot serve as a substitute for individual advice and information which is tailored to the requirements, objectives, experience, knowledge and circumstances of the investor concerned.**

**Prospective purchasers of the Certificates are advised to read the complete Base Prospectus including the chapter on "Risk Factors") before reaching an investment decision.**

## **1. Risks relating to Capped Bonus Certificates**

### *General*

Bonus Certificates relating to indices (the "**Underlying Assets**") grant to the investor the right to receive on the Redemption Date from the Issuer the payment of (i) a Fixed Amount or (ii) a Redemption Amount which shall be calculated as described below.

The Redemption Amount shall be calculated by multiplying the price of the Underlying Asset on the Valuation Date (converted into Euro, if applicable) with the Ratio. The Redemption Amount, however, will not exceed the Maximum Amount.

The investor shall receive the Fixed Amount, if (i) during the Monitoring Period the price of the Underlying Asset has never been equal to or below the Barrier and (ii) the price of the Underlying Asset on the Valuation Date is below the Bonus Barrier.

The Fixed Amount and the Maximum Amount shall be converted into EUR, if applicable.

#### *Limited profit potential and Exposure*

Under no circumstances will the investor receive a payment which exceeds the Maximum Amount.

If the price of the Underlying Asset during the Monitoring Period has at least once been equal to or below the Barrier the investor receives the Redemption Amount depending on the price of the Underlying Asset on the Valuation Date, as described above. This amount may be considerably below the purchase price the investor paid for the Certificates. In extreme cases this may lead to a **total loss** of invested capital.

The Certificates do not entitle the Certificateholders to receive a dividend payment and therefore do not constitute a regular source of income. Possible losses in connection with an investment in the Certificates can therefore not be compensated by other income from the Certificates. In addition, investors should consider that the return on the investment in the Certificates is reduced by the costs in connection with the purchase or sale of the Certificates.

#### *Correlation risk*

In general, the price of the Certificates will rise and fall along with the price of the Underlying Asset, but it will not exactly follow it. If the Underlying Asset trades close to the Barrier, this may lead to increased price fluctuations (volatility) in the Certificates, particularly as the Certificates approach maturity. This is due to the fact that in this case, even small movements in the price of the Underlying Asset may determine whether the Fixed Amount or the Redemption Amount is to be paid.

In the case of a sale during the life of the Certificates, the repayment scenarios have only a limited influence on the price.

#### *Risk of Loss due to Changes in the Volatility of the Underlying Asset*

Changes in the frequency and intensity of fluctuations in the price of the Underlying Asset (volatility) may increase the risks connected with the purchase of the Certificates as with increasing volatility of the Underlying Asset the probability increases that the Barrier of the Certificates will be triggered.

#### *Continuous price of the Underlying Asset and the price of the Underlying Asset on the Valuation Date*

The question whether the Fixed Amount or the Redemption Amount shall be payable is decided on the basis of any price of the Underlying Asset determined at any time during the Monitoring Period. In the case that the Redemption Amount is payable, however, the calculation of the Redemption Amount is based only on one price of the Underlying Asset on the Valuation Date as determined in the Terms and Conditions.

#### *Extraordinary early termination and adjustment rights*

According to the terms and conditions of the Certificates as set forth in the Final Terms the Issuer may be entitled to make adjustments to the terms and conditions of the Certificates or to early terminate the Certificates if certain circumstances occur. Such circumstances are described in the terms and conditions and may include, without limitation, the cancellation of or changes made to an index in the case of index-linked Certificates or events that have a significant impact on the underlying shares in the case of equity-linked Certificates. Any adjustment of the terms and conditions may have a negative effect on the value of the

Certificates and the redemption amount. Also, the amount at which the Certificates are redeemed in the event of an early termination may be lower than the amount the holders of the Certificates would have received without such early termination.

#### *Market Disruption and postponement of payments*

The Issuer may be entitled to determine market disruptions or other events which may lead to a postponement of a calculation and/or of any payments and which may affect the value of the Certificates.

#### *Risks associated with Currency*

If the Underlying Asset is expressed in a currency different from EUR or if the Underlying Asset is composed of components expressed in a currency different from EUR and if the payments has to be converted into EUR the risk in connection with an investment in the Certificates does not only depend on the development of the price or the price of the Underlying Asset but also on the development of the respective currency. Unfavourable developments in these markets can increase the risk and could lead to a decrease in the value of the Certificates. Changes in exchange rates result from various factors such as macro-economic factors, speculative transactions and interventions by central banks and governments.

#### *Certificates are unsecured obligations*

The obligations under the Certificates constitute direct, unconditional and unsecured obligations of the Issuer and rank at least *pari passu* with all other unsecured and unsubordinated obligations of the Issuer (save for such exceptions as may exist from time to time under applicable law).

#### *Issuer's solvency*

The holders of the Certificates assume the credit risk of Commerzbank Aktiengesellschaft as Issuer of the Certificates. In case of insolvency of the Issuer, the holders of the Certificates may lose part or all of their invested capital if the insolvency estate of the Issuer does not suffice to satisfy all unsecured and unsubordinated obligations of the Issuer.

The Certificates are neither secured by the Deposit Protection Fund of the Association of German Banks (*Einlagensicherungsfonds des Bundesverbands deutscher Banken e.V.*) nor by the German Deposit Guarantee and Investor Compensation Act (*Einlagensicherungs- und Anlegerentschädigungsgesetz*).

## **2. Risk Factors relating to the Underlying Asset**

*Certificates that are linked to one index involve, in particular, the following risks:*

#### *Dependency on the value of the index components*

The respective value of an index is calculated on the basis of the value of its components. Changes in the composition of an index as well as factors that (may) influence the value of the components also influence the value of the relevant index and can thus influence the yield from an investment in the Certificates. Fluctuations in the value of one component of an index may be compensated or aggravated by fluctuations in the value of another component. Historical performance of the components does not represent any guarantee of future performance. An index used as an underlying may not, in certain circumstances, be maintained for the entire term of the Certificates.

An index may reflect the performance of assets of some countries or some industries only. Therefore, the value of the relevant index depends on the development of the index components of individual countries or industries. Even if more than just a few countries or industries are represented, it is still possible that the industries contained in the relevant index

are weighted unevenly. This means that in case of an unfavourable development in one industry contained in the relevant index, the index may be affected disproportionately by this adverse development.

Investors should note that the selection of an index is not based on the expectations or estimates of the Issuer or the Calculation Agent in respect of the future performance of the selected index. Investors should thus make their own estimates in respect of the future performance of the components of an index and the index itself on the basis of their own knowledge and sources of information.

Price index – dividends are not taken into account

The Final Terms may provide that payments under the Certificates are dependent on the performance of an index which is a price index. Contrary to performance indices - dividends paid out do not cause an increase in the level of a price index. Investors thus do not participate in any dividends or other distributions on the shares contained in the price index.

No influence of the Issuer

As a general rule, the Issuer has no influence on the composition and performance of an underlying index or the performance of its components. A change in composition may have an adverse effect on the value of the Certificates.

No liability of the index sponsor

Where the Issuer is not the index sponsor of the relevant index, Certificates based on an index as underlying are generally not sponsored or otherwise supported by any index sponsor, and the relevant index is composed and calculated by the respective index sponsor without any account being taken of the Issuer's or the interests of the holder's of the Certificates. In such case, the index sponsors does not assume any obligation or liability in respect of the issue, sale or trading of the Certificates.

No recognised financial indices, no independent third party

The Certificates may be linked to a index which is not recognised financial index but index that have been created for the issuance of the relevant Certificates. The index sponsor of such index might not be independent from the Issuer and may thus favour the interests of the Issuer over the interests of the holder of the Certificates.

Currency risks

The index components may be denominated or listed in a different currency or be exposed to significant influences from another currency than the currency in which the Certificates are denominated. The redemption amount and the value of the Certificates during their term may therefore depend on one or more other currencies.

Composition fees

Certain fees, costs, commissions or other charges for composition and calculation may be deducted when calculating the value of an index on the basis of the value of its individual components. As a result, the performance of the individual index components is not acknowledged in full when calculating the performance of the respective index, but is reduced by the amount of such fees, costs, commissions and other charges, and these may to some extent erode any positive performance displayed by the individual components. It should also be noted that such costs may well also be incurred if the index returns negative performance.

Publication of the index composition

Even if the composition of the relevant indices is to be published on a website or in other media specified in the Final Terms, the composition shown might not always be the current

composition of the respective relevant index because the posting of the updated composition of the respective index on the website might be delayed considerably, sometimes even by several months.

## General Information

This document contains the Final Terms of the Capped Bonus Certificates described herein and must be read in conjunction with the Base Prospectus dated October 1, 2008 (the "**Base Prospectus**"), the Supplement A to the Base Prospectus dated November 3, 2008 (the "**Supplement A**") and the Supplement B to the Base Prospectus dated December 2, 2008 (the "**Supplement B**"), the Supplement C to the Base Prospectus dated January 8, 2009 (the "**Supplement**") and the Supplement C to the Base Prospectus dated January 13, 2009 ("**Supplement C**"). Full information on the Issuer and the offer of the Capped Bonus Certificates is only available on the basis of a combination of these Final Terms, the Base Prospectus, the Supplement A, the Supplement B, the Supplement and the Supplement C.

### **Prospectus Liability**

Commerzbank Aktiengesellschaft (the "**Issuer**", the "**Bank**" or "**Commerzbank**", together with its consolidated subsidiaries "**Commerzbank Group**" or the "**Group**") accepts responsibility for the information contained in this Final Terms. The Issuer hereby declares that having taken all reasonable care to ensure that such is the case, the information contained in this Final Terms is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

No person is or has been authorized by the Issuer to give any information or to make any representation not contained in or not consistent with these Final Terms or any other information supplied in connection with this Final Terms or the Certificates and, if given or made, such information or representation must not be relied upon as having been authorized by the Issuer.

The delivery of this Final Terms does not at any time imply that the information contained herein concerning the Issuer is correct at any time subsequent to the date hereof or that any other information supplied in connection with the Final Terms or the Certificates is correct as of any time subsequent to the date indicated in the document containing the same.

### **Subscription and Sale**

The Capped Bonus Certificates (the "**Certificates**") on the CAC40® with an issue size and an issue price per series of Certificates as detailed below shall be publicly offered in the Republic of France as of the first day on which the Certificates have been admitted to trading on the Euronext Paris by NYSE Euronext.

### **Increases of a Series of Certificates**

The Issuer reserves the right to issue from time to time without the consent of the Certificateholders additional tranches of Certificates with substantially identical terms, so that the same shall be consolidated to form a single series bearing the same security codes and increase the size of the Certificates issued previously.

### **Characteristics**

ISIN	Fixed Amount in EUR	Maximum Amount in EUR	Barrier	Bonus Barrier	Monitoring Period	Redemption Date	Issue Size	Issue Price on the Issue Date in EUR
FR0010744151	30.50	30.50	2,250.00	3,050.00	27.03.2009 - 17.06.2009	24 June 2009	500,000	27.34
FR0010744169	34.00	34.00	2,100.00	3,400.00	27.03.2009 - 17.12.2010	28 December 2009	500,000	27.34

FR0010744177	32.00	32.00	1,900.00	3,200.00	27.03.2009 - 17.12.2010	28 December 2009	500,000	27.34
--------------	-------	-------	----------	----------	----------------------------	---------------------	---------	-------

### **Calculation Agent**

If a calculation agent will be necessary Commerzbank Aktiengesellschaft, Kaiserplatz, 60261 Frankfurt am Main, Germany, will act as calculation agent.

### **Securitisation**

The Certificates shall be represented by a permanent global bearer Certificates (the "**Global Certificates**") which shall be deposited with Euroclear France, 115 rue Réaumur, 75081 Paris, France (the "**Clearing System**") as specified in the applicable Final Terms.

Definitive Certificates will not be issued and the right of delivery of definitive Certificates is excluded. The Certificateholders shall receive co-ownership participations in or rights with respect to the Global Certificates which are transferable in accordance with applicable law and the rules and regulations of the Clearing System.

### **Status**

The obligations under the Certificates constitute direct, unconditional and unsecured obligations of the Issuer and rank at least pari passu with all other unsecured and unsubordinated obligations of the Issuer (save for such exceptions as may exist from time to time under applicable law).

### **Minimum Trading Unit**

The Minimum Trading Number of each series of Certificates issued is one (1) Certificate.

### **Listing**

The admission for listing and trading of the Certificates on Euronext Paris by NYSE Euronext has been applied. First day of trading is envisaged to take place on March 27, 2009.

### **Availability of documents**

These Final Terms, the Base Prospectus, the Supplement A, the Supplement B, the Supplement, the Supplement C, the Articles of Association of Commerzbank Aktiengesellschaft, the annual report of the Commerzbank Group for the financial years 2006 and 2007 as well as the interim report as of September 30, 2008 (reviewed English version) are available in their current form on the internet page of Commerzbank: [www.commerzbank.com](http://www.commerzbank.com).

### **Payment Date**

March 27, 2009

### **Settlement**

The Certificates will be cash settled. Settlement will take place on the fifth Business Day following the respective Valuation Date, all as specified in detail in the Terms and Conditions of the Certificates.

### **Taxation**

All amounts payable under the Certificates will be paid without deduction or withholding for or on account of any present or future taxes, duties or governmental charges whatsoever imposed or levied by or on behalf of the Federal Republic of Germany or any taxing authority



therein. In the case that the Issuer will be compelled by law or other regulation to deduct or withhold such taxes, duties or governmental charges the Issuer will not pay any additional amounts to compensate the Certificateholder for such deduction or withholding.

#### ***Information on the Underlying Asset***

Underlying Asset is the CAC40<sup>®</sup> Index (ISIN FR0003500008) as calculated and published by Euronext Paris S.A. Information on the Underlying Asset is available on the internet page of Euronext Paris S.A.: [www.euronext.com](http://www.euronext.com).

#### ***Disclaimer***

Euronext Paris S.A. has all proprietary rights with respect to Index. In no way Euronext Paris S.A. and any direct or indirect affiliates sponsor, endorse or are otherwise involved in the issue and offering of the Products. Euronext Paris S.A. and any direct or indirect affiliates disclaim any liability to any party for any inaccuracy in the data on which the Index is based, for any mistakes, errors, or omissions in the calculation and/or dissemination of the Index, or for the manner in which it is applied in connection with the issue and offering thereof.

CAC 40<sup>®</sup> and CAC<sup>®</sup> are registered trademarks of Euronext N.V. subsidiary: Euronext Paris S.A.

#### ***Selling Restrictions in the European Economic Area***

In any member state of the European Economic Area ("EEA") that has implemented Directive 2003/71/EC (the "**Prospectus Directive**") (the "**Relevant Member State**"), the Certificates may, with (and including) the day of entry into effect of the respective implementation in the Relevant Member State, be publicly offered in the Relevant Member State, provided that this is permitted under the applicable laws and other legal provisions, and further provided that

- (a) the Public Offering starts or occurs within a period of 12 months following the publication of the Prospectus which has been approved by BaFin in accordance with the provisions of the Prospectus Act and, if the Certificates are publicly offered in a Relevant Member State other than Germany, the approval has been notified to the competent authority in such Relevant Member State in accordance with § 18 of the Prospectus Act, or
- (b) one of the exemptions set forth in § 3 paragraph 2 of the Prospectus Act exists or, in case of an offering outside of Germany, an exemption from the obligation to prepare a prospectus exists as set forth in the implementing law of the respective Relevant Member State in which the Public Offering shall occur.

**"Public Offering"** means (i) a communication to persons in any form and by any means presenting sufficient information on the terms of the offer and the certificates to be offered, so as to enable an investor to decide to purchase or subscribe to these securities, as well as (ii) any additional specifications defined more closely in the implementing law of the respective Relevant Member State, in which the Public Offering shall occur.

In any EEA member state that has not implemented the Prospectus Directive, the Certificates may only be publicly offered within or from the jurisdiction of such member state, provided that this is in accordance with the applicable laws and other legal provisions. The Issuer has not undertaken any steps, nor will the Issuer undertake any steps, aimed at making the Public Offering of the Certificates or their possession or the marketing of offering documents related to the Certificates legal in such jurisdiction if this requires special measures to be taken.

## TERMS AND CONDITIONS OF THE BONUS CERTIFICATES RELATING TO INDICES

### § 1 (FORM, TRANSFERABILITY)

- (1) Each series of Bonus Certificates (the "**Certificates**") are issued by Commerzbank Aktiengesellschaft, Frankfurt am Main, Federal Republic of Germany (the "**Issuer**").
- (2) Each series of Certificates will be represented by a permanent global bearer Certificate (the "**Global Certificate**") which shall be deposited with Euroclear France (the "**Clearing System**").
- (3) Definitive Certificates will not be issued and the right of delivery of definitive Certificates is excluded. The Certificateholders shall receive co-ownership participations in or rights with respect to the Global Certificate which are transferable in accordance with applicable law and the rules and regulations of the Clearing System.

Each Global Certificate shall only be valid if it bears the hand-written signatures of two authorised officers of the Issuer.

- (4) The term "**Certificateholder**" in these Terms and Conditions refers to the holder of a co-ownership participation in or right with respect to the Global Certificate.
- (5) The Issuer reserves the right to issue from time to time without the consent of the Certificateholders another tranche of Certificates with substantially identical terms, so that the same shall be consolidated to form a single Series and increase the aggregate principal amount of the Certificates. The term "Certificates" shall, in the event of such consolidation, also comprise such additionally issued Certificates.

### § 2 (DEFINITIONS)

- (1) For the purposes of these Terms and Conditions of the Certificates the following definitions shall apply:

"**Barrier**" with respect to each series of Certificates means the price as specified in the table in paragraph (2), subject to adjustments according to § 4.

"**Bonus Barrier**" with respect to each series of Certificates means the price as specified in the table in paragraph (2), subject to adjustments according to § 4.

"**Fixed Amount**" with respect to each series of Certificates means the amount as specified in the table in paragraph (2)

"**Index**"

Subject to the provisions in § 5, the Index shall be the CAC40® (ISIN FR0003500008) as as determined and published by Euronext Paris S.A. (the "**Sponsor**").

"**Index Business Day**" means a day on which the Frankfurt Stock Exchange and the Sponsor determine and publish the Index.

"**Issue Currency**" means Euro ("**EUR**").

"**Market Disruption Event**" means the suspension of or limitation imposed on trading in the shares contained in the Index on the stock exchanges or trading systems the prices of which are the basis for the calculation of the Index, provided that in

the opinion of the Issuer any such suspension or limitation is material for the calculation of the Index, or the suspension of or limitation imposed on trading in options or futures contracts on the Index on the options and futures exchange with the highest trading volume of option or future contracts relating to the Index.

A limitation regarding the office hours or the number of days of trading will not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the relevant exchange. A limitation on trading imposed during the course of a day by reason of movements in price exceeding permitted limits shall only be deemed to be a Market Disruption Event in the case that such limitation is still prevailing at the time of termination of the trading hours on such date.

**"Maximum Amount"** with respect to each series of Certificates means the amount as specified in the table in paragraph (2).

**"Monitoring Period"** with respect to each series of Certificates means the period (from and including the first day and until and including the last day) as specified in the table in paragraph (2).

**"Payment Business Day"** means a day (other than a Saturday or a Sunday) on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System (TARGET-System) and the Clearing System settle payments in the Issue Currency.

**"Ratio"** means 0.01, subject to an adjustment pursuant to § 4.

**"Reference Price A"** means any price of the Index as determined and published by the Sponsor.

**"Reference Price B"** means the closing level of the Index as determined and published by the Sponsor.

**"Redemption Date"** with respect to each series of Certificates means the day as specified in the table in paragraph (2).

**"Valuation Date"** with respect to each series of Certificates means the last day of the respective Monitoring Period.

If on the Valuation Date the Reference Price B of the Index is not determined and published or if a Market Disruption Event with regard to the Index on the Valuation Date occurs, then the Valuation Date shall be postponed to the next Index Business Day on which the Reference Price B of the Index is again determined and published and on which no Market Disruption Event occurs.

If according to the provisions above the Valuation Date is postponed until the third Payment Business Day prior to the Redemption Date and if on this day the Reference Price B of the Index is still not determined and published or if a Market Disruption Event occurs or persists on such day, then the Calculation Agent (§ 10) will calculate the Index on such date by applying the calculation method for the Index last in effect.

For the purpose of such calculation, the Calculation Agent will calculate the Reference Price B of the Index on the basis of the prices of the securities comprising the Index on such day at the time the Reference Price B of the Index is usually determined (the **"Calculation Time"**). If the trading of one or more securities being relevant for such calculation is limited or suspended on such date, the Calculation Agent will, in its reasonable discretion (§ 315 of the German Civil Code (BGB)) and in consideration of the prevailing market conditions, estimate the

price of the relevant securities at the Calculation Time and make a notification in accordance with § 12.

- (2) For each series of Certificates the terms "Fixed Amount", "Maximum Amount", "Barrier", "Bonus Barrier", "Monitoring Period" and "Redemption Date" shall have the following meaning:

ISIN	Fixed Amount in EUR	Maximum Amount in EUR	Barrier	Bonus Barrier	Monitoring Period	Redemption Date
FR0010744151	30.50	30.50	2,250.00	3,050.00	27.03.2009 - 17.06.2009	24 June 2009
FR0010744169	34.00	34.00	2,100.00	3,400.00	27.03.2009 - 17.12.2010	28 December 2009
FR0010744177	32.00	32.00	1,900.00	3,200.00	27.03.2009 - 17.12.2010	28 December 2009

### § 3 (REDEMPTION)

- (1) Subject to § 5, each Certificate will be redeemed on the Redemption Date.
- (2) Subject to paragraph (3) each Certificate shall be redeemed by the payment of an amount in the Issue Currency (rounded, if necessary, to the next Eurocent (EUR 0.01) with EUR 0.005 rounded upwards) (the "**Redemption Amount**") which shall be equal to (i) the Reference Price B of the Index on the Valuation Date expressed in EUR multiplied with (ii) the Ratio.

The Redemption Amount, however, will not exceed the Maximum Amount.

For the purposes of calculations made in connection with these Terms and Conditions, one point of the Index level shall be equal to EUR 1.00.

- (3) Subject to the provisions paragraph (2) above, each Certificate shall be redeemed by payment of the Fixed Amount, if
- (a) during the Monitoring Period the Reference Price A of the Index has never been equal to or below the Barrier and
- (b) the Reference Price B of the Index on the Valuation Date is below the Bonus Barrier.

### § 4 (ADJUSTMENTS)

- (1) If the Index is no longer calculated and published by the Sponsor but by another person, company or institution acceptable to the Issuer as the new Sponsor (the "**Successor Sponsor**"), the redemption of the Certificates will be determined on the basis of the Index being calculated and published by the Successor Sponsor and any reference made to the Sponsor shall, if the context so admits, then refer to the Successor Sponsor.
- (2) If at any time the Index is cancelled or replaced, the Calculation Agent (§ 10) will determine in its reasonable discretion (§ 315 of the German Civil Code (BGB)) another index on the basis of which the redemption of the Certificates will be determined (the

"**Successor Index**"). The respective Successor Index as well as the time of its first application will be notified pursuant to § 13. Any reference made to the Index in these Terms and Conditions shall, if the context so admits, then refers to the Successor Index. All related definitions shall be deemed to be amended accordingly. Furthermore, the Calculation Agent will make all necessary adjustments to the Terms and Conditions resulting from a substitution of the Index.

- (3) If in the opinion of the Calculation Agent (i) the determination of a Successor Index in accordance with the above paragraph is not possible or (ii) if the Index Sponsor materially modifies the calculation method of an Index with effect on or before the Valuation Date, or materially modifies the Index in any other way (except for modifications which are contemplated in the calculation method of the Index relating to a change with respect to securities comprising the Index or with respect to any other routine measures) (each of such events an "**Extraordinary Event**"), then the Issuer is entitled to (a) continue (itself or through an independent expert determined by the Issuer) the calculation of the Index on the basis of the former concept of the Index and its last determined level or (b) to (instead of a continuation of the calculation of the Index) terminate and redeem the Certificates in accordance with § 5 paragraph (2).
- (4) Adjustments take effect as from the date determined by the Issuer. Adjustments as well as the effective date shall be notified by the Issuer in accordance with § 12.

#### **§ 5 (EARLY REDEMPTION, REPURCHASE OF CERTIFICATES)**

- (1) Except as provided in § 5 paragraph (2), the Issuer shall not be entitled to redeem the Certificates prior to the Redemption Date.
- (2) If an Extraordinary Event (as defined in § 4) has occurred, the Issuer is entitled, but not obligated, (instead of a continuation of the calculation of the Index) to redeem the Certificates prematurely by giving notice in accordance with § 12 seven Payment Business Days prior the Early Redemption Date. If the Certificates are called for redemption due to an Extraordinary Event, they shall be redeemed at the early redemption amount (the "**Early Redemption Amount**") which shall be calculated by the Issuer in its reasonable discretion (§ 315 of the German Civil Code) as the fair market value of the Certificates at the date as determined by the Issuer in the notification of the termination (the "**Early Redemption Date**"). The rights arising from the Certificates will terminate upon the payment of the Early Redemption Amount.
- (3) The Issuer may at any time purchase Certificates in the market or otherwise. Certificates repurchased by or on behalf of the Issuer may be held by the Issuer, re-issued, resold or surrendered to the Principal Paying Agent for cancellation.

#### **§ 6 (PAYMENTS)**

- (1) The Issuer irrevocably undertakes to pay in the Issue Currency, as and when due, all amounts payable pursuant to these Terms and Conditions.
- (2) Payments of all amounts payable pursuant to the Terms and Conditions will be made against presentation, and in the case of the last payment, against surrender of the Global Certificate to the Principal Paying Agent for transfer to the Clearing System or pursuant to the Clearing System's instruction for credit to the relevant accountholders of the Clearing System. Payment to the Clearing System or pursuant to the Clearing System's instruction shall release the Issuer from its payment obligations under the Certificates in the amount of such payment.

- (3) If any payment with respect to a Certificate is to be effected on a day other than a Payment Business Day, payment shall be effected on the next following Payment Business Day. In this case, the relevant Certificateholder shall neither be entitled to any payment claim nor to any interest claim or other compensation with respect to such delay.
- (4) All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives.
- (5) The Issuer may deposit with the Amtsgericht, Frankfurt am Main, payments not claimed by Certificateholders within 12 months after its respective due date, even though the respective Certificateholders may not be in default of acceptance. If and to the extent that the deposit is made under waiver of the right of withdrawal, the respective claims of the respective Certificateholders against the Issuer shall cease.

#### **§ 7 (TAXES)**

All present and future taxes, fees or other duties in connection with the Certificates shall be borne and paid by the Certificateholders. The Issuer is entitled to withhold from payments to be made under the Certificates any taxes, fees and/or duties payable by the Certificateholder in accordance with the previous sentence.

#### **§ 8 (PRESENTATION PERIODS, PRESCRIPTION)**

The period for presentation of the Certificates (§ 801, paragraph 1, sentence 1 of the German Civil Code) shall be ten years and the period of limitation for claims under the Certificates presented during the period for presentation shall be two years calculated from the expiry of the relevant presentation period.

#### **§ 9 (STATUS)**

The obligations under the Certificates constitute direct, unconditional and unsecured obligations of the Issuer and rank at least pari passu with all other unsecured and unsubordinated obligations of the Issuer (save for such exceptions as may exist from time to time under applicable law).

#### **§ 10 (AGENTS)**

- (1) BNP Paribas Securities Services, 25 Quai Panhard et Levassor, 75013 Paris, France shall be the "**Principal Paying Agent**". The Issuer shall procure that there will at all times be a Principal Paying Agent. The Issuer is entitled to appoint other banks of international standing as additional paying agents (each, a "**Paying Agent**"; the Principal Paying Agent and any additional Paying Agent together the "**Paying Agents**"). Furthermore, the Issuer is entitled to terminate the appointment of the Principal Paying Agent as well as of individual Paying Agents. In the event of such termination or such bank being unable or unwilling to continue to act as Principal Paying Agent or Paying Agent, the Issuer shall appoint another bank of international standing as Principal Paying Agent or Paying Agent. Such appointment or termination shall be published without undue delay in accordance with § 12.
- (2) Commerzbank Aktiengesellschaft, Main Office, Kaiserplatz, 60261 Frankfurt am Main, Federal Republic of Germany shall be the "**Calculation Agent**". The Issuer shall

procure that as long as determinations have to be made in accordance with these Terms and Conditions there shall at all times be a Calculation Agent. The Issuer reserves the right at any time to terminate the appointment of the Calculation Agent. In the event of such termination or of the appointed office of any such bank being unable or unwilling to continue to act as Calculation Agent (as the case may be) the Issuer shall appoint an appropriate office of another leading bank to act Calculation Agent. The appointment of another Calculation Agent shall be published without delay by the Issuer in accordance with § 12.

- (3) The Paying Agents and the Calculation Agent shall be held responsible for giving, failing to give, or accepting a declaration, or for acting or failing to act, only if, and insofar as, they fail to act with the diligence of a conscientious businessman. All determinations and calculations made by the Principal Paying Agent / Paying Agents and the Calculation Agent shall be made in conjunction with the Issuer and shall, in the absence of manifest error, be conclusive in all respects and binding upon the Issuer and all Certificateholders.
- (4) The Paying Agents and the Calculation Agent acting in such capacity, act only as agents of the Issuer. There is no agency or fiduciary relationship between the Paying Agents and the Calculation Agent on the one hand and the Certificateholders on the other hand. The Paying Agents and the Calculation Agent are hereby granted exemption from the restrictions of § 181 of the German Civil Code and any similar restrictions of the applicable laws of any other country.

#### § 11

#### (SUBSTITUTION OF ISSUER, BRANCH DESIGNATION)

- (1) Any other company may assume at any time during the life of the Certificates, subject to § 11 paragraph (4), without the Certificateholders' consent upon notice by the Issuer given through publication in accordance with § 12, all the obligations of the Issuer under these Terms and Conditions.
- (2) Upon any such substitution, such substitute company (hereinafter called the "**New Issuer**") shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under these Terms and Conditions with the same effect as if the New Issuer had been named as the Issuer herein; the Issuer (and, in the case of a repeated application of this § 11, each previous New Issuer) shall be released from its obligations hereunder and from its liability as obligor under the Certificates.
- (3) In the event of such substitution, any reference in these Terms and Conditions (except for this § 11) to the "Issuer" shall from then on be deemed to refer to the New Issuer and any reference to the country of the corporate seat of the Issuer which is to be substituted (except for the references in § 13 to the Federal Republic of Germany) shall be deemed to refer to the country of the corporate seat of the New Issuer and the country under the laws of which it is organised.
- (4) No such assumption shall be permitted unless
  - (a) the New Issuer has agreed to indemnify and hold harmless each Certificateholder against any tax, duty, assessment or governmental charge imposed on such Certificateholder in respect of such substitution;
  - (b) the Issuer (in this capacity referred to as the "**Guarantor**") has unconditionally and irrevocably guaranteed to the Certificateholders compliance by the New Issuer with all payment obligations assumed by it under guarantee terms usually given by the Guarantor with respect to note issues by any of its finance companies and the text of this guarantee has been published in accordance with § 12; and

- (c) the New Issuer and the Guarantor have obtained all governmental authorisations, approvals, consents and permissions necessary in the jurisdictions in which the Guarantor and/or the New Issuer are domiciled or the country under the laws of which they are organised.
- (5) Upon any substitution of the Issuer for a New Issuer, this § 11 shall apply again.
- (6) The Issuer may at any time, designate by publication in accordance with § 12 any branch (Betriebsstätte) of the Issuer outside the Federal Republic of Germany as the branch (Betriebsstätte) primarily responsible for the due and punctual payment in respect of the Certificates then outstanding and the performance of all of the Issuer's other obligations under the Certificates then outstanding.

Paragraphs (4) (c) and (5) of this § 11 shall apply mutatis mutandis to such designation.

## **§ 12 (NOTICES)**

Notices relating to the Certificates shall be published on the internet page [www.warrants.commerzbank.com](http://www.warrants.commerzbank.com) (or on another internet page notified at least six weeks in advance by the Issuer in accordance with this § 12) and shall be deemed to be effective upon such publication unless such publication gives another effective date. If applicable law or regulations of the stock exchange on which the Certificates are listed require a notification in another manner, notices shall also be given in the manner so required.

## **§ 13 (AVAILABLE INFORMATION)**

Commerzbank hereby undertakes to furnish upon the request of a Certificateholder or the holder of any beneficial interest in a Certificate, upon the request of such holder or to a prospective purchaser designated by such holder or beneficial owner, the information required to be delivered under Rule 144A(d)(4) under the U.S. Securities Act of 1933, as amended if, at the time of the request, Commerzbank is neither a reporting company under Section 13 or 15(d) of the U.S. Securities Exchange Act of 1934, as amended ("**U.S. Exchange Act**"), nor exempt from reporting pursuant to Rule 12g3-2(b) under the U.S. Exchange Act.

## **§ 14 (FINAL CLAUSES)**

- (1) The form and content of the Certificates and the rights and duties of the Certificateholders, the Issuer, the Calculation Agent and the Paying Agents shall in all respects be governed by the laws of the Federal Republic of Germany.
- (2) The Issuer shall be entitled without the consent of the Certificateholders (a) to correct obvious typing, calculation or other errors and (b) to amend or supplement contradictory or incomplete provisions contained in the Terms and Conditions, provided that in the cases of (b) only such amendments and supplements shall be permitted if such amendments or supplements, having regard to the interests of the Issuer, are reasonably acceptable for the Certificateholders, i.e. that do not adversely affect the financial situation of the Certificateholders materially. Amendments or supplements of these Terms and Conditions have to be notified without delay in accordance with § 12.
- (3) Should any provision of these Terms and Conditions be or become void in whole or in part, the other provisions shall remain in force. Void provisions shall be replaced in accordance with the meaning and purpose of these Terms and Conditions.



- (4) Place of performance is Frankfurt am Main, Federal Republic of Germany.
- (5) Place of jurisdiction shall be Frankfurt am Main, Federal Republic of Germany.
- (6) The courts of the Federal Republic of Germany shall have exclusive jurisdiction over the annulment of lost or destroyed Certificates.
- (7) The English version of these Terms and Conditions shall be binding. Any translation is for convenience only.

Frankfurt am Main  
March 27, 2009

**COMMERZBANK**  
AKTIENGESELLSCHAFT