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Attorney Client Privilege**

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"Joseph E. Bachelder" [REDACTED]

10/27/2007 11:12 PM

To

<rjoffe [REDACTED]>, <ehilfers [REDACTED]>

cc

Subject
E. Stanley O'Neal

Gentlemen:

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ML/COGR/1/0001353

1404503

Attached is a draft separation agreement for Mr. O'Neal.

Best regards,

Brad Cost

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AGREEMENT

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THIS AGREEMENT, dated as of October 28, 2007 (the "*Effective Date*") (together with all exhibits, this "*Agreement*"), by and between Merrill Lynch & Co., Inc., a Delaware corporation (the "*Company*"), and E. Stanley O'Neal (the "*Executive*").

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WHEREAS, the Company and the Executive have agreed that on the date on which the Company publicly announces the appointment of a new Chairman and Chief Executive Officer or, if earlier, November 30, 2007, but in no event later than January 31, 2008 (the earliest of such dates being the "*Separation Date*"), the Executive will retire from all capacities in which he served the Company and any of its subsidiaries or affiliates (collectively, the "*Company Group*") and will retire as an employee of the Company and all other members of the Company Group; and

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WHEREAS, the parties intend that this Agreement shall set forth the terms regarding the Executive's retirement from service and retirement;

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NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth in this Agreement, the parties agree as follows:

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1. Continued Employment, Retirement, Etc.

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(a) This Agreement shall be effective on the Effective Date, provided that Sections 2, 3 and 4 hereof shall only become operative on the Separation Date.

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(b) From and after the Effective Date and until the Separation Date, the Executive shall remain in the employment of the Company, as its Chairman and Chief Executive Officer, on the same basis, terms and conditions as in effect immediately prior to the Effective Date. The Company hereby confirms and agrees that for purposes of all Equity Plans (as hereinafter defined), all Benefit Plans (as hereinafter defined), the Executive's Executive Annuity Agreement dated January 28, 2002, any other agreements entered into by the Executive in favor of the Company or any member of the Company Group, and any other document, policy or rule of the Company or of a member of the Company Group, the Executive qualifies for, and on the Separation Date the Executive will be deemed to have terminated his employment with the Company by reason of his, "Retirement," "Career Retirement" or words to similar effect and that the Board of Directors of the Company has taken all necessary and appropriate action under all of the foregoing Plans, agreements and documents to provide that the Executive so qualifies and will be deemed to so have terminated his employment. The Company hereby waives any notice requirement and/or notice period in respect of the Executive's termination of employment by retirement on the Separation Date.

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2. Payments and Benefits. In consideration of the foregoing and the covenants set forth below and subject to the Executive's nonrevocation of the release in accordance with clause (v) of Section 4.1 hereof, the Executive shall receive the following payments and benefits:

39 2.1 Cash Payment. The Executive shall receive a cash payment in an
40 amount equal to \$[45,300,000] payable as a lump-sum cash payment on the next business
41 day following the expiration of the 7-day revocation period of the release described in
42 Section 4.1 hereof.

43 2.2 Treatment of Equity-Based Compensation. In accordance with the
44 terms and conditions of the equity-based compensation plans of the Company and the grant
45 and other agreements and documents used in connection therewith in which the Executive
46 participates or has participated, including, without limitation, the Long-Term Incentive
47 Compensation Plan, the Long-Term Incentive Compensation Plan for Managers and
48 Producers and the Managing Partners Incentive Program (together with the individual
49 grant and other agreements and documents, the "*Equity Plans*"), the Executive qualifies
50 for "Retirement" as defined in the Equity Plans, as of the Separation Date, and, accordingly,
51 all outstanding equity-based compensation awards previously granted or awarded to the
52 Executive in the form of stock options, restricted stock, restricted stock units, performance
53 units or otherwise under any Equity Plan shall be treated as follows: (1) grants of restricted
54 shares, grants of restricted stock units and grants of participation units shall continue to
55 vest and be restricted during the Vesting Period (as defined in the applicable Equity Plan)
56 pertaining to such restricted shares, restricted stock units or performance units and, as
57 applicable, at the end of the Vesting Period or on the Conversion Dates (as defined in the
58 applicable Equity Plan), such restricted shares, restricted stock units and performance units
59 shall be converted (as applicable) and distributed to the Executive in accordance with the
60 terms and provisions of the original grant and (2) vested stock options shall continue to be
61 and remain exercisable in accordance with their original terms and vesting stock options
62 shall continue to vest and remain exercisable according to their original terms; *provided,*
63 *however,* that, irrespective of any more general non-competition and/or non-solicitation
64 provision and/or longer non-competition and/or non-solicitation provision or any other
65 provision relating to the Executive's conduct prior to, on or following the Separation Date,
66 in each case as specified in the applicable Equity Plan or otherwise, vesting and/or
67 exercisability, as the case may be, of such awards shall be subject, and shall only be subject,
68 to the Executive's continued compliance with the covenants set forth in Sections 3.1 and
69 3.2 hereof, and such awards shall be forfeited in the event of, and only in the event of, the
70 Executive's breach of any of the covenants set forth in Sections 3.1 or 3.2 hereof prior to
71 the expiration of the applicable time period for such covenant. Notwithstanding the
72 foregoing, those restricted shares, restricted stock units, participation units and stock
73 options granted to the Executive which have fully vested on the Separation Date shall not
74 be subject to forfeiture for any reason under the Equity Plans or this Agreement or
75 otherwise and, in the case of stock options, shall remain exercisable for their original
76 10-year terms, and all cash and/or securities due to or received by the Executive on the
77 exercise of any stock options and/or the expiration of any restricted period applying to
78 restricted shares, restricted stock units or performance units, shall, once due or received by
79 the Executive, be wholly non-forfeitable under the Equity Plans, this Agreement and
80 otherwise. For the sake of clarity, set forth on Exhibit A to this Agreement is a list of all
81 Equity Plans and all equity awards to the Executive thereunder, and the respective vesting
82 dates, restricted periods, and, in the case of stock options, expiration dates and exercise
83 prices, in respect thereof. In the event of a Change in Control (as defined in the applicable
84 Equity Plan) of the Company, the Executive's outstanding equity awards shall be treated

85 no less favorably than the outstanding equity awards held by senior officers of the
86 Company under the Equity Plans. Except as otherwise provided in this Section 2.2, the
87 Executive's outstanding equity awards shall be governed by the applicable Equity Plan.
88 To the extent there is a conflict between this Section 2.2 and any provision of any Equity
89 Plan, including but not limited to relating to activity that can result in forfeiture of the
90 equity awards subject to this Section 2.2, this Agreement shall control.

91 2.3 **Other Benefits.** The Executive is a participant in each of the
92 Company benefit plans, including without limitation the Executive Annuity Agreement
93 dated January 28, 2002, listed in Exhibit B to this Agreement (collectively, the "**Benefit**
94 **Plans**"). Except as otherwise provided in this Section 2.3, this Agreement shall not change
95 the terms of the Benefit Plans or the payments or benefits earned by or due to the Executive
96 and/or his eligible dependents thereunder for services rendered to the Company through
97 the Separation Date. Without limiting the generality of the foregoing, the Executive and/or
98 his eligible dependents shall receive any and all available post-termination and
99 post-retirement welfare benefits provided on a basis no less favorable than those then
100 currently provided to retired senior executives of the Company. The benefits earned by or
101 due to the Executive and/or his eligible dependents in accordance with the terms of the
102 Benefit Plans shall be paid or provided by the Company or the respective Benefit Plan (as
103 the case may be) when due (whether such due date is on, before or after the Separation Date)
104 in accordance with their respective terms, provided that any such benefits, including any
105 vested or unvested leverage in any deferred compensation plan, shall not be subject to
106 forfeiture for any reason, and full payments and provision of benefits shall discharge fully
107 all obligations of the Company and such Benefit Plan with respect to the Executive's
108 benefits under such Benefit Plan. Furthermore, following the Separation Date and except
109 as otherwise permitted by this Agreement, the Executive shall not be eligible to participate
110 as an active employee in any employee welfare benefit plan, program, policy or
111 arrangement of the Company or any member of the Company Group.

112 2.4 **Reimbursement for Expenses: Legal Fees.** The Company shall
113 promptly reimburse the Executive for any reasonable business expenses incurred by him
114 through the Separation Date, upon submission of appropriate documentation in accordance
115 with the Company's policies in effect from time to time. Promptly following the expiration
116 of the 7-day revocation period in Section 4.1 hereof, the Company shall also reimburse the
117 Executive for all legal fees and related expenses incurred by him in connection with the
118 preparation and negotiation of this Agreement. Notwithstanding any other provision in
119 this Agreement to the contrary, all expenses eligible for reimbursement under any
120 provision of this Agreement shall be paid to the Executive promptly in accordance with the
121 Company's customary practices (if any) applicable to the reimbursement of expenses of
122 such type, but in any event by no later than (i) 10 days after the expiration of the 7-day
123 revocation period in Section 4.1 hereof in the case of expenses referred to in this Section
124 2.4 or (ii) December 31 of the calendar year in which expenses are incurred in the case of
125 other expenses to be reimbursed under this Agreement. The expenses incurred by the
126 Executive in any calendar year that are eligible for reimbursement under this Agreement
127 shall not affect the expenses incurred by the Executive in any other calendar year that are
128 eligible for reimbursement hereunder. The Executive's right to receive any reimbursement
129 hereunder shall not be subject to liquidation or exchange for any other benefit.

130 2.5 Exclusive Payments and Benefits. Except as otherwise provided in
131 this Agreement, the Executive agrees that he shall not be entitled to receive any other
132 payment, compensation or benefits from the Company or any other member of the
133 Company Group in connection with his employment or service, the termination of such
134 employment or service or otherwise. Except as otherwise provided in this Agreement,
135 following the Separation Date, the Executive further agrees that he is not entitled to any
136 severance, change-in-control-related or similar payments or benefits under any agreement,
137 guidelines, plan, program, policy or arrangement, whether formal or informal, written or
138 unwritten, of the Company or any member of the Company Group, including, without
139 limitation, the Company's severance guidelines.

140 3. Restrictive Covenants. The Executive agrees to the following restrictive
141 covenants. The restrictive covenants contained in Sections 3.1, 3.2 and 3.3 hereof are the
142 only restrictive covenants binding on the Executive and supersede and replace any and all
143 obligations of the Executive arising pursuant to any and all other restrictive covenants of
144 all types contained in the Equity Plans, the Benefit Plans, any other agreement entered into
145 by the Executive in favor of the Company or any member of the Company Group, or any
146 other document, policy or rule of the Company or any member of the Company Group (for
147 avoidance of doubt, all such obligations of the Executive arising pursuant to such other
148 restrictive covenants, wherever contained, shall be, and they hereby are, null and void and
149 terminated without additional or continuing obligation or liability of the Executive).
150 Notwithstanding any breach (alleged or otherwise) of any restrictive covenant contained in
151 this Section 3, any outstanding equity award shall be treated in accordance with Section 2.2
152 hereof).

153 3.1 Non-Competition. The Executive covenants and agrees with the
154 Company that from the Separation Date and for a period continuing for one year thereafter
155 (the "*Non-Competition Period*"), he shall not provide services in any capacity for any
156 entity listed on Exhibit C or any of its subsidiaries or affiliates. The engagement by the
157 Executive in any activities in any other capacity shall not be a violation of this Section 3.1.
158 If the Executive starts his own business at any time, such business will not be deemed to be
159 a competitor of the Company or any other member of the Company Group for any purpose,
160 provided that such business operates in compliance with the first sentence of this Section
161 3.1.

162 3.2 Non-Solicitation. The Executive covenants and agrees with the
163 Company that from the Separation Date and for a period continuing for one year thereafter
164 (the "*Non-Solicitation Period*"), he shall not, directly or indirectly, solicit, for purposes of
165 becoming an employee or independent contractor of the Executive or any entity with which
166 the Executive is associated, any person who is an employee with the title of Managing
167 Director (or equivalent) or higher of the Company or of any member of the Company
168 Group (a "*Covered Employee*"). Notwithstanding the foregoing, it shall not be a violation
169 of this Section 3.2 for an entity with which the Executive is associated to hire or engage any
170 Covered Employee if the Executive was not, directly or indirectly, involved in hiring or
171 identifying such person as a potential recruit or assisting in the recruitment of such
172 employee. For purposes of this Section 3.2, the Executive shall only be deemed to have
173 been involved "indirectly" in soliciting, hiring or identifying a Covered Employee if the

174 Executive (x) directs a third party to solicit or hire a Covered Employee, (y) identifies a
175 Covered Employee to a third party as a potential recruit or (z) aids, assists or participates
176 with a third party in soliciting or hiring a Covered Employee. The Executive's awareness
177 that an entity is soliciting or hiring a Covered Employee shall not be deemed to be a
178 violation of this Section 3.2 absent a direct solicitation by the Executive or an affirmative
179 act on the part of the Executive as described in the preceding sentence. In addition,
180 reference by the Executive of an incoming call to the personnel department of an entity
181 with which the Executive is associated shall not by itself be deemed a violation of this
182 Section 3.2. For purposes of this Agreement, "*associated*" shall mean service as a director,
183 officer, employee or partner or engagement in an active capacity as a consultant, advisor or
184 agent.

185 **3.3 Confidentiality.**

186 3.3.1 The Executive covenants and agrees that from the Effective
187 Date he shall keep strictly confidential, and shall not at any time, except with the
188 prior written consent of the Company, directly or indirectly, disclose or cause to be
189 disclosed to any person, any trade secrets, proprietary products, methods and
190 strategies, business plans, employee and client lists, and other non-public
191 information regarding the business and prospects of the Company or any other
192 member of the Company Group obtained by him prior to the Separation Date or
193 pursuant to Section 3.4 ("*Confidential Information*"). For purposes of this
194 Agreement, "*Confidential Information*" shall not include information which is or
195 becomes generally known to the public or within the relevant trade or industry
196 other than due to the Executive's violation of this Section 3.3.1. Anything herein to
197 the contrary notwithstanding, this Section 3.3.1 shall not apply (i) when disclosure
198 is required by law or by any court, arbitrator, mediator or administrative or
199 legislative body (including any committee thereof) with actual or apparent
200 jurisdiction to order the Executive to disclose or make accessible any information,
201 provided that the Executive shall request confidential treatment with respect to
202 such information and/or request matters with respect to such information be sealed,
203 or (ii) when disclosure to the other party or the trier of fact is necessary or
204 appropriate to the assertion of the Executive's entitlements (including any defense
205 with respect to any claim) in connection with any litigation or other proceeding,
206 provided that the Executive shall request confidential treatment with respect to
207 such information and/or request matters with respect to such information be sealed;
208 *provided, however*, that, in the circumstances in clause (i), to the extent reasonably
209 practicable, the Executive shall also provide the Company with written notice
210 within a reasonable time prior to such disclosure of his intention to disclose to a
211 party other than the Company or any other member of the Company Group or their
212 authorized agents. The covenant as set forth in this Section 3.3.1 shall be of
213 indefinite duration.

214 3.3.2 As promptly as he is reasonably able to do following the
215 Separation Date, the Executive agrees to use his reasonable best efforts to return to
216 the Company any Confidential Information which he, as of the Effective Date,
217 believes to be in his possession or under his control, and the Executive shall

218 continue to use his reasonable best efforts to return all Confidential Information in
219 his possession or under his control by no later than three months after the
220 Separation Date or, if later, promptly after he discovers such Confidential
221 Information in his possession. Anything to the contrary notwithstanding, the
222 Executive shall be entitled to retain (i) papers and other materials of a personal
223 nature, including, without limitation, photographs, correspondence, personal
224 diaries, calendars and rolodexes, files relating to the Executive's personal affairs
225 and personal phone books (but not directories of Company Group personnel), (ii)
226 information showing his compensation or relating to reimbursement of expenses,
227 (iii) information he reasonably believes may be needed for his personal tax
228 purposes and (iv) copies of plans, programs and agreements relating to his
229 employment, or termination thereof, with the Company or any other member of the
230 Company Group.

231 **3.4 Cooperation.** The Executive covenants and agrees that, for the
232 three-year period following the Separation Date and upon the prior written request of the
233 Company, he shall make himself reasonably available, taking into account his other
234 business and personal commitments as reasonably determined by the Executive, to
235 cooperate with the Company, submit to interviews by Company counsel and, if necessary,
236 provide depositions or testimony (collectively, referred to as "*Cooperation*"), in
237 connection with any investigation of, or litigation, arbitration, regulatory or other
238 proceeding concerning, the business of the Company or any other member of the Company
239 Group in respect of which the Executive has knowledge, provided that in no event shall the
240 Executive be required to provide any Cooperation if such Cooperation is adverse to the
241 Executive's legal interests. In no event shall the Executive be required to provide more
242 than 10 full calendar days per year of Cooperation to the Company pursuant to this Section
243 3.4. For these purposes, Cooperation by the Executive entailing five or more hours during
244 a single day shall be treated as a full day of Cooperation, provided that any Cooperation
245 provided by the Executive entailing any period of time during a single day that requires the
246 Executive's presence outside of New York, New York; shall be treated as a full day of
247 Cooperation. The Company shall promptly reimburse the Executive for his reasonable
248 out-of-pocket expenses for such Cooperation (including travel costs for such Cooperation
249 and legal fees to the extent the Executive reasonably believes that separate representation is
250 warranted. Notwithstanding the foregoing, the provisions of this Section 3.4 with respect
251 to reimbursement of expenses, including legal fees, shall in no way affect the Executive's
252 rights to be indemnified and/or advanced expenses in accordance with the Company's
253 and/or any other applicable member of the Company Group's corporate documents,
254 applicable insurance policies and/or in accordance with this Agreement.

255 **3.5 Remedies.**

256 **3.5.1 General.** Without intending to limit the remedies available
257 to the parties hereto, the parties acknowledge that a breach by any party of any of
258 the covenants contained in this Section 3 may result in material and irreparable
259 injury to the other party for which there is no adequate remedy at law, that it shall
260 not be possible to measure damages for such injuries precisely and that, in the event
261 of such a breach or threat thereof, the non-breaching party shall be entitled to seek a

262 temporary restraining order and/or a preliminary or permanent injunction in a
263 federal court of competent jurisdiction sitting in the State of New York, County of
264 New York (or if such federal court does not have or declines jurisdiction, in a state
265 court of competent jurisdiction sitting in the State of New York, County of New
266 York) restraining the breaching party from engaging in activities prohibited by this
267 Section 3 or compelling compliance with this Section 3 and shall be entitled to seek
268 such other relief, including, without limitation, the recovery of money damages, as
269 may be available at law or equity, provided any such recovery is not inconsistent
270 with this Agreement.

271 **3.5.2 Reasonableness of Covenants and Remedies.** The Executive
272 acknowledges that: (i) in the course of his involvement in the activities of the
273 Company Group, he has had access to Confidential Information and the Company
274 Group's client base and profited from the goodwill associated with the Company
275 Group; (ii) if he violates the covenants set forth in this Section 3, the Group will
276 likely suffer significant harm; (iii) the Company would not have entered into this
277 Agreement absent the Executive's agreement to the covenants in this Section 3; (iv)
278 this Agreement provides the Executive with substantial entitlements in addition to
279 those he had in his prior arrangements with the Company Group; and (v) complying
280 with this Section 3 will not result in severe economic hardship for the Executive or
281 his family. In return for the benefits the Executive will receive from the Company
282 Group and to induce the Company to enter into this Agreement, and in light of the
283 potential harm the Executive could cause the Company Group, the Executive
284 agrees to the provisions of this Section 3. The Company acknowledges that (i) if it
285 or any other related party violates the covenants set forth in this Section 3, the
286 Executive will likely suffer significant harm; and (ii) the Executive would not have
287 entered into this Agreement absent the Company's agreement to the provisions of
288 this Section 3.

289 **4. Releases.**

290 **4.1 Release of Claims by Executive.** The Executive, in consideration of
291 the payments and benefits described in this Agreement, releases and discharges the
292 Company and its subsidiaries, affiliates, officers, directors, employees, agents and their
293 successors and assigns (the "*Merrill Lynch Released Parties*") from any and all actions,
294 causes of action, claims, allegations, rights, obligations, liabilities, or charges that he has or
295 may have, whether known or unknown, by reason of any matter relating to or arising from
296 his employment with the Company or any other member of the Company Group or the
297 termination of such employment, including, without limitation, claims for compensation or
298 bonuses, including, without limitation, any claim for an award under any compensation
299 plan or arrangement maintained by the Company or any other member of the Company
300 Group, including, without limitation, the Equity Plans, wrongful, constructive, or unlawful
301 discharge, age and national origin discrimination, sexual harassment, claims for back pay,
302 front pay, benefits, whistleblower claims, emotional distress, intentional infliction of
303 emotional distress, assault, battery, pain and suffering, punitive or exemplary damages;
304 violations of the Equal Pay Act, Title VII of the Civil Rights Act of 1964, the Civil Rights
305 Act of 1991, the Age Discrimination in Employment Act of 1967 ("*ADEA*"), the

306 Americans with Disabilities Act of 1991, the Employee Retirement Income Security Act,
307 the Worker Adjustment Retraining and Notification Act, the Family Medical Leave Act,
308 the New York State Human Rights Law, or the New York City Human Rights Law,
309 including all amendments to any of the aforementioned acts; violations of any other federal,
310 state, or municipal fair employment statutes or laws, including, without limitation,
311 violations of any other law, rule, regulation, or ordinance pertaining to employment, wages,
312 compensation, hours worked, or any other matters related in any way to the Executive's
313 employment with the Company or the termination of that employment, including, without
314 limitation, defamation, infliction of emotional distress, assault, battery, negligence and
315 interference with contractual, business, or prospective relations (collectively, the
316 "Claims"). In addition, in consideration of the provisions of this Agreement, the Executive
317 further agrees to waive any and all rights under the laws of any jurisdiction in the United
318 States, or any other country, that limit a release to those claims that are known or suspected
319 to exist in the Executive's favor as of the Separation Date. However, notwithstanding the
320 above, this release shall not limit or prohibit in any way the Executive's (or his
321 beneficiaries' or legal representatives') ability to bring an action to enforce the terms of
322 this Agreement, nor shall it release any claim for employee benefits under plans covered by
323 the Employee Retirement Income Security Act of 1974, as amended, to the extent that such
324 claims may not lawfully be waived or for any payments or benefits under any Merrill
325 Lynch plans that have vested or will vest according to the terms of those plans or any claim
326 the Executive has in connection with the administration of his CMA Account or brokerage
327 account. In addition, notwithstanding the above, this release shall not release any claims
328 for indemnification in accordance with applicable laws and the corporate governance
329 documents of the Company or any other member of the Company Group in accordance
330 with their terms as in effect from time to time or pursuant to any applicable directors and
331 officers insurance policy with respect to any liability incurred by the Executive as an
332 officer, director or employee of the Company or any member of the Company Group (or as
333 an officer, director, employee or trustee of any employee benefit plan) or any right the
334 Executive may have to obtain contribution as permitted by law in the event of entry of a
335 judgment. This release will not release, waive or discharge any rights or claims the
336 Executive may have that arise from actions or omissions after the Separation Date. Finally
337 this release shall not release any agent of any member of the Company Group or any
338 individual who is a Merrill Lynch Released Party from any obligations that he or she has to
339 the Executive arising from any personal or business relationship with the Executive outside
340 of the employment relationship, including, without limitation, any mortgages, loans or
341 contracts of insurance. For purposes of this Section 4.1, the term "Claims" as used herein
342 shall not include any claims not released by the Executive as set forth in this paragraph.

343 The Executive further represents and warrants that as of the date he signs
344 this Agreement he has not filed any civil action, suit, arbitration, administrative charge, or
345 legal proceeding against any Merrill Lynch Released Party nor has he assigned, pledged, or
346 hypothecated as of such date any Claim to any person and no other person has an interest in
347 the claims that he is releasing herein.

348 The Executive acknowledges and agrees that he has read this release in its
349 entirety and that this release is a release of all known and unknown Claims, including

350 without limitation, to rights and claims arising under ADEA. The Executive further
351 acknowledges and agrees that:

352 (i) this release does not release, waive or discharge any
353 rights or claims that may arise for actions or omissions after the date of this
354 Agreement;

355 (ii) the Executive is entering into this Agreement and
356 releasing, waiving and discharging rights or claims only in exchange for
357 consideration which he is not already entitled-to receive;

358 (iii) the Executive has been advised, and is being advised
359 by the release, to consult with an attorney before executing this Agreement;
360 Executive acknowledges that he has consulted with counsel of his choice
361 concerning his rights and that his counsel has negotiated this Agreement on
362 his behalf;

363 (iv) this Executive has been advised, and is being advised
364 by the release, that he has had at least twenty-one (21) days within which to
365 consider the release; and

366 (v) the Executive is aware that this release shall become
367 null and void if he revokes his agreement to this release within seven (7)
368 days following his signing of this Agreement. The Executive may revoke
369 this release at any time during such 7-day period by delivering (or causing
370 to be delivered) to the Company at the address set forth in Section 7.3
371 hereof written notice of his revocation of this release no later than 5:00 p.m.
372 eastern time on the seventh (7th) full day following his signing of this
373 Agreement.

374 The Executive agrees that should any person or entity file or cause to be
375 filed any civil action, suit, arbitration, or other legal proceeding seeking equitable or
376 monetary relief concerning any claim released by the Executive herein, the Executive shall
377 not seek or accept any personal relief from or as the result of such civil action, suit,
378 arbitration, or other legal proceeding.

379 4.2 Release of Claims by the Company. The Company, on behalf of
380 itself and any other Merrill Lynch Released Party, in consideration of the Executive
381 entering into this Agreement and providing the release of claims and other covenants
382 contained herein, releases and discharges the Executive and his heirs, dependents,
383 administrators, executors, agents, successors and assigns from any and all Claims that it or
384 any other Merrill Lynch Released Party has or may have relating to, or arising from, the
385 Executive's employment with the Company or any other member of the Company Group
386 or the termination of such employment, including, without limitation, Claims for any
387 violation of federal, state, or municipal statutes or laws or any matters related to the
388 Executive's employment with the Company or any other member of the Company Group
389 or the termination of that employment, including, without limitation, for defamation,

390 infliction of emotional distress, assault, battery, negligence and interference with
391 contractual, business, or prospective relations. Notwithstanding any of the foregoing to the
392 contrary, this release shall not limit or prohibit in any way the Company's ability to bring
393 an action to enforce the terms of this Agreement, nor shall it release any right the Company
394 may have to obtain contribution as permitted by law in the event of entry of a judgment, nor
395 shall it waive or discharge any rights or claims that may arise for actions or omissions after
396 the Separation Date, nor shall it release the Executive from any obligations that he has to
397 the Company or any other member of the Company Group arising from any business
398 relationship other than that attributable to his employment with the Company or any other
399 member of the Company Group, including, without limitation, any mortgages, contracts of
400 insurance, credit card purchases, margin obligations, brokerage accounts or loans. As of
401 the Effective Date, the Company, on behalf of itself and any other Merrill Lynch Released
402 Party, represents and warrants that it (or any other Merrill Lynch Released Party) has not
403 filed any civil action, suit, arbitration, administrative charge, or legal proceeding against
404 the Executive with respect to any Claim released by the Company or any other Merrill
405 Lynch Released Party herein nor has it (or any other Merrill Lynch Released Party)
406 assigned, pledged, or hypothecated such Claims to any person and no other person has an
407 interest in the Claims that are-being released herein.

408 The Company agrees that should any person or entity file or cause to be
409 filed any civil action, suit, arbitration, or other legal proceeding seeking equitable or
410 monetary relief concerning any Claim released by the Company or any other Merrill Lynch
411 Released Party herein, the Company and any other Merrill Lynch Released Party shall not
412 seek or accept any personal relief from or as the result of such civil action, suit, arbitration,
413 or other legal proceeding.

414 5. Indemnification/D&O Liability Insurance. The Executive shall continue to
415 be indemnified to the fullest extent permitted under applicable law and pursuant to the
416 corporate governance documents of the Company and of any other member of the
417 Company Group in accordance with their terms as in effect from time to time. The
418 Company agrees that for purposes of this Section 5 it (or any member of the Company
419 Group, as the case may be) shall interpret and/or apply any provision of applicable law or
420 any corporate governance document relating to indemnification (including advancement of
421 expenses) with respect to the Executive in a manner consistent with how such provisions
422 are interpreted and applied by the Company (or the relevant member of the Company
423 Group) to then active senior officers of the Company or of the relevant member of the
424 Company Group. The Executive shall continue to be covered under the Company's
425 directors' and officers' liability insurance policies in effect from time to time to the same
426 extent he would have been covered if he were employed when a claim is made. The
427 Executive agrees to promptly notify the Company of any claims made against him in his
428 capacity as a former officer/employee of the Company or any other member of the
429 Company Group, but the delay or failure to so notify the Company shall not affect the
430 Company's obligations under this Agreement, including this Section 5.

431 6. Legal Matters.

432 6.1 Governing Law. This Agreement shall be governed by and
433 construed in accordance with the laws of the State of New York, without giving effect to
434 the conflicts of laws principles thereof.

435 6.2 Arbitration. Any controversy, dispute or claim arising out of or
436 relating to this Agreement, any other agreement or arrangement between the Executive and
437 the Company, the Executive's employment with the Company, or the termination thereof
438 (collectively, "*Covered Claims*") shall be resolved by binding arbitration, to be held in the
439 Borough of Manhattan in New York City, in accordance with the Commercial Arbitration
440 Rules of the American Arbitration Association and this Section 6.2. Judgment upon the
441 award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
442 The Company shall promptly advance to the Executive (and his beneficiaries) any and all
443 costs and expenses (including without limitation attorneys' fees) incurred by the Executive
444 (or any of his beneficiaries) in resolving any such Covered Claim; provided, however, that
445 the recipient agrees to repay any amounts advanced to the extent that the recipient's
446 claims/defenses are found by the arbitrator(s) to have lacked a reasonable basis. Pending
447 the resolution of any Covered Claim, the Executive (and his beneficiaries) shall continue to
448 receive all payments and benefits due under this Agreement or otherwise.

449 7. Miscellaneous.

450 7.1 Successors. Except as otherwise expressly provided herein, this
451 Agreement shall be binding upon and inure to the benefit of the parties and their respective
452 successors, heirs (in the case of the Executive) or assigns. The Company shall require any
453 successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to
454 all or substantially all of the business and/or assets of the Company to assume and agree to
455 perform this Agreement in the same manner and to the same extent that the Company
456 would be required to perform it if no such succession had taken place. As used in this
457 Agreement, "*Company*" shall mean the Company as defined above and any successor to its
458 business and/or assets which by reason hereof assumes and agrees to perform this
459 Agreement by operation of law or otherwise; *provided, however*, that if following a merger,
460 consolidation or similar transaction in which the Company is not the surviving entity, the
461 surviving entity thereof or its subsidiaries or affiliates conducts businesses ("*Other*
462 *Businesses*") that were not conducted by the Company and its subsidiaries and affiliates
463 immediately prior to such merger, consolidation or other transaction, references to the
464 "*Company*" or the "*Company Group*" shall not include such *Other Businesses* carried on
465 by such successor entity nor shall any reference to a director, officer or employee of the
466 Company or the Company Group include a reference to a director, officer or employee of
467 the successor entity unless such director, officer or employee also served in such capacity
468 for the Company or the Company Group prior to such merger, consolidation or other
469 transaction. In the event of the Executive's death or a judicial determination of his
470 incompetence, with respect to any payments, entitlements or benefits payable or due
471 hereunder, references in this Agreement to the Executive shall be deemed to refer, where
472 appropriate, to his legal representatives or his beneficiary or beneficiaries.

514 7.4 Entire Agreement. Except as expressly set forth herein, this
515 Agreement represents the entire agreement of the parties concerning the subject matter
516 hereof and shall supersede any and all previous contracts, arrangements or understandings
517 with respect to such subject matter between the Company and the Executive. Any
518 document produced in the course of negotiating the terms of this Agreement shall not be
519 deemed to constitute a part of this Agreement and shall not be used to interpret the terms of
520 this Agreement or the intent of the parties hereto. Neither party is relying upon any
521 representation, understanding, undertaking or agreement not set forth in this Agreement,
522 and each party expressly disclaims any reliance on any such representation, understanding,
523 undertaking or agreement. In the event there is a conflict between any provision of this
524 Agreement and any provision of any Equity Plan, Benefit Plan or other agreement, plan,
525 policy or program of the Company or any other member of the Company Group, the
526 provisions of this Agreement shall control.

527 7.5 Representations of the Company. The Company represents and
528 warrants to the Executive that (i) the execution, delivery and performance of this
529 Agreement and the consummation of the transactions contemplated hereby have been duly
530 and validly authorized on behalf of the Company by its Board of Directors or a committee
531 thereof and that all corporate action required to be taken by the Company for the execution,
532 delivery and performance of this Agreement has been or promptly shall be duly and
533 effectively taken; (ii) the officer signing this Agreement on behalf of the Company is duly
534 authorized to do so; (iii) the execution, delivery and performance of this Agreement by the
535 Company does not violate any applicable law, regulation, order, judgment or decree or any
536 agreement, plan or corporate governance document to which the Company is a party or by
537 which it is bound; and (iv) upon execution and delivery of this Agreement by the parties, it
538 shall be a valid and binding obligation of the Company enforceable against it in accordance
539 with its terms, except to the extent that enforceability may be limited by applicable
540 bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights
541 generally.

542 7.6 Amendment; Waiver. This Agreement may not be amended except
543 by mutual written agreement of the Executive and an authorized officer of the Company.
544 No waiver by any party to this Agreement at any time of any breach by the other party of,
545 or compliance with, any condition or provision of this Agreement to be performed by such
546 other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the
547 same or at any prior or subsequent time. Any waiver to be effective must be in writing and
548 signed by the party against whom it is being enforced.

549 7.7 Tax Matters.

550 7.7.1 The payment of any amount pursuant to this Agreement shall
551 be subject to all applicable withholding and payroll taxes and other applicable
552 deductions consistent with past practice, including, without limitation, deductions
553 for payments or benefits provided prior to the Separation Date and deductions
554 required under the Company's employee benefit plans, if any. [Section 409A to be
555 considered.]

590 **IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of**
591 **the day and year indicated below.**

592

MERRILL LYNCH & CO., INC.

593

By: _____

594

Name:

595

Title:

596

Signed on October __, 2007

597

EXECUTIVE

598

599

Signed on October __, 2007

600

EXHIBIT A

601

Equity Plans and Awards

602

[To be provided.]

603

EXHIBIT B

604 **Health and Insurance Benefits:**

605 ● Enrolled in the Merrill Lynch Medical Plan with Retiree + Spouse + Dependents
606 coverage effective _____.

607 ● Enrolled in the Merrill Lynch Dental Plan through COBRA with Retiree + Spouse
608 + Dependents coverage effective _____.

609 **Retirement and Savings**

610 ● Life Annuity pursuant to the Executive Annuity Agreement dated January 28,
611 2002

612 ● Merrill Lynch 401(k) Plan

613 Balance as of September 30, 2007: \$ _____

614 ● Merrill Lynch Retirement Accumulation Plan

615 Balance as of September 30, 2007: \$ _____

616 **Deferred Compensation**

617 Balance under all deferred compensation plans as of September 30, 2007: \$ _____.

618 Accounts will be distributed in ___ annual installments. The first installment will be paid in
619 _____, 20__.

620 [Others to be provided.]

621

EXHIBIT C

622

LIST OF COMPETITORS

623

Morgan Stanley

624

The Goldman Sachs Group, Inc.

625

Deutsche Bank Group Citigroup Inc.

626

Credit Suisse Group

627

UBS Group

628

Lehman Brothers Holdings Inc.

629

Wachovia Corporation

630

J.P. Morgan Chase & Co.