

Macquarie Bank Capital Notes Deed Poll

Dated: 15 September 2014

Macquarie Bank Limited (ABN 46 008 583 542) ("**Issuer**")
Macquarie Group Limited (ABN 94 122 169 279) ("**MGL**")
in relation to the Macquarie Bank Capital Notes

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Details

Parties	Macquarie Bank Limited (ABN 46 008 583 542) (" Issuer ")
	Macquarie Group Limited (ABN 94 122 169 279) (" MGL ")
In favour of	Each person who is from time to time a Holder (as defined in the Terms)
Recitals	A The Issuer proposes to issue BCN (as defined in the Terms).
	B BCN will be issued in registered form by inscription in the Register (as defined in the Terms).
Governing law	New South Wales
Date of deed	15 September 2014

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General terms

1 Interpretation

1.1 Definitions

In this deed **Terms** means the terms and conditions set out in schedule 1 and any other capitalised terms have the meaning given to them in the Terms.

1.2 Interpretation

Clause 18.1 of the Terms applies to this deed as if set out in full in this deed and as if a reference to the Terms were, unless the context otherwise requires, a reference to this deed.

2 The BCN

2.1 Creation of the BCN

The obligations of the Issuer and MGL under the BCN are constituted by, and specified in, this deed.

2.2 Undertaking to pay

The Issuer undertakes with each Holder:

- (a) to pay, in respect of each BCN held by the Holder, the Issue Price, any interest and any other moneys payable on the BCN in accordance with the Terms; and
- (b) otherwise to comply with the Terms.

2.3 Undertaking to Exchange and comply

MGL irrevocably undertakes with each Holder:

- (a) to Exchange the BCN for MGL Ordinary Shares when required to do so under the Terms in accordance with the Terms; and
- (b) otherwise to comply with the Terms.

MGL has no other obligation or liability in respect of any BCN.

2.4 Appointment of Registrar

The Issuer agrees to appoint the Registrar as registrar for the BCN and to procure that the Registrar establishes and maintains a principal Register for such BCN in New South Wales or such other place as the Issuer and the relevant Registrar may agree.

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3 Rights and obligations of Holders

3.1 Benefit and entitlement

This deed is executed as a deed poll. Accordingly, each Holder has the benefit of, and is entitled to enforce, this deed even though it is not a party to, or is not in existence at the time of execution and delivery of, this deed.

3.2 Rights independent

Each Holder may enforce its rights under this deed independently from the Registrar and each other Holder.

3.3 Holders bound

Each Holder and any person claiming through or under a Holder (including a person to whom MGL Ordinary Shares are issued on Exchange of a BCN) is bound by this deed. The BCN will be issued subject to and on the basis that each Holder and any such person is deemed to have notice of, and be bound by, all the provisions of this deed and the Terms.

3.4 Directions to hold BCN Deed Poll

Each Holder is taken to have irrevocably instructed the Issuer that this deed is to be delivered to and held by the Registrar in New South Wales on its behalf.

3.5 Amendment

This deed may be amended as provided in clause 14 of the Terms.

4 Governing law

This deed is governed by the law in force in New South Wales.

EXECUTED as a deed poll in New South Wales.

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Schedule 1 - Terms and conditions of the BCN

These Terms have been established pursuant to, and are incorporated by reference into, the BCN Deed Poll. In the event of any inconsistency between the BCN Deed Poll and these Terms, the provisions of these Terms shall prevail.

1 Form and ranking

1.1 Issue Price

Each Macquarie Bank Capital Note ("BCN") is issued fully paid for an issue price of A\$100 ("**Issue Price**").

1.2 Form

- (a) The BCN are fully paid, unsecured, subordinated notes of the Issuer which are mandatorily Exchangeable for MGL Ordinary Shares.
- (b) Subject, if required by these Terms, to the prior written consent of APRA, each BCN may be:
 - (i) Redeemed or Resold by the Issuer; or
 - (ii) Exchanged for fully paid MGL Ordinary Shares,in accordance with these Terms.
- (c) The BCN cannot be Redeemed, Resold or Exchanged at the option of a Holder.
- (d) The BCN do not represent protected accounts of the Issuer or any other member of the Macquarie Group for the purposes of section 13A(3) of the Banking Act or any similar law of any jurisdiction and nor do they represent deposits with, or deposit liabilities of, the Issuer or any other member of the Macquarie Group for any other purposes of the Banking Act or the laws of any jurisdiction.
- (e) Except for a claim made on the Issuer or MGL in accordance with these Terms, a Holder has no claim on any member of the Macquarie Group for payment of any amount or the performance of any obligation in respect of any BCN held by that Holder.
- (f) The BCN are not obligations of the Australian Government or of any other government and, in particular, are not guaranteed or insured by the Commonwealth of Australia or any government, government agency or compensation scheme in any jurisdiction or by any other person.
- (g) The BCN are constituted by the BCN Deed Poll of which these Terms form part.

1.3 Entries in the Register

The BCN are issued when they are entered in the Register.

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1.4 CHESS

The BCN will be lodged into and dealt with in CHESS. While the BCN remain in CHESS:

- (a) the rights and obligations of a person holding the BCN; and
- (b) all dealings (including transfers and payments) in relation to the BCN within CHESS,

will be subject to and governed by the ASX Settlement Operating Rules (but without affecting any provisions of these Terms which affect the eligibility of the BCN as Additional Tier 1 Capital).

No certificates will be issued to Holders unless the Issuer determines that certificates should be available or are required by law.

1.5 Ranking

Subject to the BCN Deed Poll, and except to the extent mandatorily provided by law, each BCN ranks for payment, and ranks in a Winding Up of the Issuer:

- (a) senior to MBL Ordinary Shares;
- (b) equally with all other BCN in all respects;
- (c) equally with all Equal Ranking Obligations; and
- (d) subordinate to all Senior Creditors in respect of distributions and payments in a Winding Up of the Issuer.

1.6 Independent obligations

Each entry in the Register constitutes a separate and individual acknowledgement to the relevant Holder of the Issuer's indebtedness to, and the obligations of the Issuer and MGL to, the relevant Holder under these Terms.

1.7 No other rights

Except as expressly provided in these Terms in respect of Exchange, BCN confer no rights on a Holder to:

- (a) subscribe for securities, or to participate in any bonus issues of securities, of the Issuer or any other member of the Macquarie Group; or
- (b) to otherwise participate in the profits or property of the Issuer or any other member of the Macquarie Group, except by receiving payments as set out in these Terms.

Nothing in these Terms limits the ability of any member of the Macquarie Group, in its absolute discretion from time to time, from issuing shares or other securities of any kind.

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2 Distributions

2.1 Distributions

Subject to these Terms, each BCN entitles the Holder as at a Record Date to receive on each Distribution Payment Date a cash distribution for the Distribution Period ending on that Distribution Payment Date ("**Distribution**") calculated according to the following formula:

$$\text{Distribution} = \frac{\text{Distribution Rate} \times \text{A\$}100 \times \text{N}}{365}$$

where:

Distribution Payment Date means, in respect of a BCN:

- (a) each 24 March and 24 September commencing on 24 March 2015 until (but not including) the date on which that BCN has been Redeemed or Exchanged in accordance with these Terms; and
- (b) the Redemption Date or, subject to clause 8.6(c), the Resale Date or an Exchange Date, except where the Exchange is on account of an Automatic Exchange Event;

Distribution Rate means:

(Reference Rate + Margin) × Franking Adjustment Factor,

where:

- (c) **Reference Rate** means, for a Distribution Period, the rate (expressed as a percentage per annum) which is the average mid-rate for Bills for a term of 180 days as displayed on the "BBSW" page of the Reuters Monitor System (or any page that replaces that page) on the first Business Day of the Distribution Period. However, if the average mid-rate is not displayed by 10.30am on that day, or if it is displayed but the Issuer determines that there is a manifest error in that rate, Reference Rate means the rate specified by the Issuer in good faith at or around 10.30am on that day, having regard, to the extent possible, to:
 - (i) the rates otherwise bid and offered for Bills of a term of 180 days at or around that **time** on that day (including any displayed on the "BBSW" page of the Reuters Monitor System (or any page that replaces that page)); and
 - (ii) if bid and offer rates for Bills of a term of 180 days are not otherwise available, the rates otherwise bid and offered for funds of a term of 180 days at or around that time on that day,

(and provided that where a BCN is Resold on a day which is not a scheduled semi-annual Distribution Payment Date, the Reference Rate for the Distribution Period commencing on the Resale Date is the Reference Rate for the Distribution Period preceding the Resale Date);

- (d) **Bills** has the meaning given in the Bills of Exchange Act 1909 (Cth);

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(e) **Franking Adjustment Factor** means:

$$\frac{(1 - T)}{1 - [T \times (1 - F)]}$$

where:

- (i) **F** means the Franking Rate; and
 - (ii) **T** means the Tax Rate;
- (f) **Margin** means the rate (expressed as a percentage per annum) determined under the Bookbuild; and

N means, for a Distribution Period, the number of days in that Distribution Period; and

Record Date means, for any payment of Distributions:

- (g) the date which is eight calendar days before the relevant Distribution Payment Date;
- (h) such other date as is determined by the Issuer, in its absolute discretion, and announced to the Holders on ASX and which is before the Record Date which would have been determined under paragraph (a) above; or
- (i) such other date as may be required by, or agreed by the Issuer with, ASX.

2.2 Business Days

If a Distribution Payment Date is a day which is not a Business Day, then the Distribution Payment Date becomes the next day which is a Business Day.

2.3 Distribution payment conditions

The payment of any Distribution will be made unless:

- (a) the Issuer, in its absolute discretion, determines that the Distribution is not payable to Holders;
- (b) payment of the Distribution would result in the Issuer breaching APRA's capital adequacy requirements applicable to it;
- (c) payment of the Distribution would result in the Issuer becoming, or being likely to become, insolvent for the purposes of the Corporations Act; or
- (d) APRA objects to the payment of the Distribution.

In determining not to pay a Distribution, the Issuer shall consider payment of Distributions as if it were payment of a dividend on a preference share which is an Equal Ranking Obligation.

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2.4 Non-payment of Distributions

- (a) Distributions are non-cumulative. If all or any part of any Distribution is not paid because of clause 2.3, the Issuer has no liability to pay the unpaid amount of the Distribution and Holders have no claim or entitlement in respect of any person in respect of such non-payment and such non-payment does not constitute an event of default however described, determined or defined.
- (b) No interest accrues on any unpaid Distributions and the Holders have no claim or entitlement in respect of interest on any unpaid Distributions.
- (c) If all or any part of a Distribution will not be paid in whole or part because of clause 2.3, the Issuer must give notice to the Registrar and ASX promptly after determining or becoming aware that payment will not be made.

2.5 Dividend Restriction

- (a) If, for any reason, an amount of any Distribution has not been paid in full on the relevant Distribution Payment Date, a Dividend Restriction shall apply from that date until the next Distribution Payment Date unless the Distribution is paid in full within 10 Business Days of the relevant Distribution Payment Date.

"Dividend Restriction" means that the Issuer must not, without prior approval of a Special Resolution of Holders:

- (i) determine, declare or pay any MBL Ordinary Share Dividend; or
 - (ii) undertake any Buy-Back or Capital Reduction.
- (b) The Dividend Restriction does not apply:
 - (i) in connection with any employment contract, employee equity plan, other benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants of a member of the Macquarie Group; or
 - (ii) to the extent that at the time a Distribution has not been paid on the relevant Distribution Payment Date, the Issuer is legally obliged to pay on or after that date a MBL Ordinary Share Dividend or is legally obliged to complete on or after that date a Buy-Back or Capital Reduction.

3 Scheduled Mandatory Exchange

3.1 Scheduled Mandatory Exchange

Subject to this clause 3, clause 4.8 and clause 16, the Issuer must Exchange all (but not some) of the BCN for MGL Ordinary Shares in accordance with clause 9 on the Mandatory Exchange Date.

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3.2 Mandatory Exchange Date

The “**Mandatory Exchange Date**” is the first to occur of the following dates:

- (a) 24 March 2023 (the “**Scheduled Mandatory Exchange Date**”) (a “**Scheduled Mandatory Exchange**”); or
- (b) any Distribution Payment Date (within the meaning of paragraph (a) of the definition of that term) after the Scheduled Mandatory Exchange Date (a “**Deferred Mandatory Exchange Date**”),

(each a “**Relevant Mandatory Exchange Date**”) on which the Exchange Conditions relevant to those dates as described in clause 3.3 are satisfied, unless the BCN have been or will be Redeemed or Exchanged before that date.

3.3 Exchange Conditions

The Exchange Conditions in respect of a Relevant Mandatory Exchange Date are:

- (a) the Daily VWAP on the 25th Business Day immediately preceding (but not including) the Relevant Mandatory Exchange Date (or, if that day is not an ASX Trading Day, the last ASX Trading Day prior to that day) is greater than 56% of the Issue Date VWAP (“**First Exchange Condition**”);
- (b) the VWAP during the 20 ASX Trading Days immediately preceding (but not including) the Relevant Mandatory Exchange Date is such that the number of MGL Ordinary Shares to be issued (calculated in accordance with clause 9.1 as if it were not limited by the Maximum Exchange Number applicable to the Relevant Mandatory Exchange Date) is less than or equal to the Maximum Exchange Number applicable to a Relevant Mandatory Exchange Date (“**Second Exchange Condition**”);
- (c) no Suspension Event applies in respect of the Relevant Mandatory Exchange Date (“**Third Exchange Condition**”); and
- (d) MGL is not Delisted as at the Relevant Mandatory Exchange Date (“**Fourth Exchange Condition**”),

together, the “**Exchange Conditions**”.

3.4 Mandatory Exchange Notices

- (a) Between the 25th and 21st Business Day (inclusive) before a Relevant Mandatory Exchange Date, the Issuer will notify Holders as to whether or not the First Exchange Condition is satisfied in relation to that Relevant Mandatory Exchange Date and, if it is not, that Exchange will not occur.
- (b) If the First Exchange Condition is satisfied in relation to that Relevant Mandatory Exchange Date, and any of the other Exchange Conditions are not satisfied in relation to a Relevant Mandatory Exchange Date, the Exchange will not occur and the Issuer will notify Holders on or as soon as practicable after the Relevant Mandatory Exchange Date that Exchange did not occur.

Failure to give a notice when required by this clause 3.4 (including where in accordance with clause 13 such notice takes effect only after the last date for the

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giving of that notice) does not affect the obligations of the Issuer, MGL and the Holders to Exchange each BCN when required in accordance with these Terms.

4 Automatic Exchange

4.1 Automatic Exchange Event

An “Automatic Exchange Event” will occur if either of the following occurs:

- (a) the Issuer determines, or APRA has notified the Issuer in writing that it believes, that either or both of the Common Equity Tier 1 Ratios in respect of the MBL Level 1 Group and the MBL Level 2 Group is equal to or less than 5.125% (“**Common Equity Tier 1 Trigger Event**”); or
- (b) APRA:
 - (i) has issued a written notice to the Issuer that:
 - (A) Exchange of the BCN; or
 - (B) the exchange or conversion into MGL Ordinary Shares or write-off of Relevant Tier 1 Securities in accordance with their terms or by operation of law,

is necessary because, without such exchange, conversion or write-off, APRA considers that the Issuer would become non-viable; or
 - (ii) has notified the Issuer in writing that it has determined that without a public sector injection of capital, or equivalent support, the Issuer would become non-viable,

(each, a “**Non-Viability Event**”).

The Issuer must immediately notify APRA in writing if the Issuer determines that a Common Equity Tier 1 Trigger Event has occurred.

4.2 Exchange on account of an Automatic Exchange Event

Subject to this clause 4, if an Automatic Exchange Event occurs, the Issuer must immediately, in accordance with this clause 4 and clause 9, Exchange such number of BCN as is equal (following or together with any conversion into MGL Ordinary Shares or write-off of Relevant Tier 1 Securities as referred to in clause 4.3) to the aggregate face value of Relevant Tier 1 Securities which APRA has notified the Issuer must be exchanged into MGL Ordinary Shares, converted into MGL Ordinary Shares or written-off (or, if APRA has not so notified the Issuer, such number of BCN as the Issuer determines is necessary to satisfy APRA that:

- (a) in the case of a Common Equity Tier 1 Trigger Event, the Common Equity Tier 1 Ratio in respect of either or both of the MBL Level 1 Group and the MBL Level 2 Group, as the case may be, will be restored to greater than 5.125%; or
- (b) in the case of a Non-Viability Event, the Issuer will not become non-viable),

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(provided that in the case of a Non-Viability Event described in clause 4.1(b)(ii) all BCN must be Exchanged).

4.3 Determination of number of BCN to be Exchanged

In determining the number of the BCN which must be Exchanged in accordance with this clause 4, the Issuer may in its discretion, Exchange (in the case of the BCN), or convert into MGL Ordinary Shares or write-off (in the case of any other Relevant Tier 1 Securities), the BCN and any Relevant Tier 1 Securities on a proportionate basis (unless the terms of any Relevant Tier 1 Security provide for that Relevant Tier 1 Security to be converted or written-off other than on a proportionate basis with BCN and other Relevant Tier 1 Securities), or such other basis as the Issuer considers fair and reasonable (subject to such adjustment as the Issuer may determine to take into account the effect on marketable parcels and whole numbers of MGL Ordinary Shares and any BCN or other Relevant Tier 1 Securities remaining on issue), provided always that nothing in the making of the determination or the adjustments is to delay or impede the immediate Exchange of the BCN on the Automatic Exchange Date.

4.4 Treatment of Holders

- (a) If, in accordance with clauses 4.2 and 4.3, only some BCN are to be Exchanged, the Issuer will endeavour to treat Holders on an approximately proportionate basis, but may discriminate to take account of the effect of marketable parcels and other similar considerations and the need to effect the Exchange immediately.
- (b) In determining the identity of the Holder at the time that the Exchange is to take effect on the Automatic Exchange Date the Issuer may make any decision as may be necessary or desirable to ensure Exchange occurs in an orderly manner, including disregarding any transfers of BCN that have not been settled or registered at that time.

4.5 Exchange is automatic and irrevocable

If an Automatic Exchange Event has occurred and all or some of the BCN are required to be Exchanged in accordance with clause 4.2 then, subject to clause 4.6:

- (a) Exchange of the relevant BCN will be taken to have occurred in accordance with clause 9 immediately upon the date of occurrence of the Automatic Exchange Event;
- (b) none of the following shall prevent, impede or delay the Exchange of the BCN as required by clause 4.2:
 - (i) any failure to or delay in the conversion or write-off of other Relevant Tier 1 Securities;
 - (ii) any failure to or delay in giving an Automatic Exchange Notice;
 - (iii) any failure or delay in quotation of the MGL Ordinary Shares to be issued on or arising from the Exchange; or
 - (iv) any requirement to select or adjust the amount of the BCN to be Exchanged in accordance with clause 4.4; and

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- (c) from the Automatic Exchange Date the Issuer and MGL shall, subject to clause 15.1(b), treat the Holder in respect of its BCN as the holder of the Exchange Number of MGL Ordinary Shares and will take all such steps, including updating any register, required to record the Exchange.

4.6 Conditions to Exchange on account of an Automatic Exchange Event

An Exchange on account of an Automatic Exchange Event is not subject to the Exchange Conditions or any other condition except as provided in this clause 4 and clause 9.16.

4.7 Automatic Exchange Notice

As soon as practicable after the occurrence of an Automatic Exchange Event, the Issuer must give notice that the Exchange has occurred ("**Automatic Exchange Notice**") to the Holders, the Registrar and ASX.

An Automatic Exchange Notice must specify:

- (a) the details of the Automatic Exchange Event to which the Automatic Exchange Notice relates;
- (b) the date on which the Exchange occurred; and
- (c) the number of BCN Exchanged and the relevant number of Relevant Tier 1 Securities converted into MGL Ordinary Shares or written-off.

Failure to give an Automatic Exchange Notice when required by this clause 4.7 (including where in accordance with clause 13 such notice takes effect only after the Automatic Exchange Date) does not affect the obligations of the Issuer, MGL and the Holders to Exchange each BCN for MGL Ordinary Shares when required in accordance with these Terms or affect or impede the Exchange in any way.

4.8 Priority of Exchange obligations

An Exchange on account of an Automatic Exchange Event takes place on the relevant date and in the manner required by clause 9, notwithstanding anything in clauses 3, 5, 6, 7, 8 or 16 (and any Optional Exchange Notice, Acquisition Exchange Notice, Redemption Notice or Resale Notice in respect of the BCN given before the Automatic Exchange Date but in respect of which the Redemption or Resale has not completed will be taken to be revoked and of no force or effect).

4.9 Interpretation

A reference in this clause 4 to the "**conversion**" of a Relevant Tier 1 Security includes any method by which the Relevant Tier 1 Security is converted or exchanged into MGL Ordinary Shares.

5 Optional Exchange

5.1 Optional Exchange

Subject to this clause 5 and to clause 16, by notice (an "**Optional Exchange Notice**") to Holders the Issuer may, in its sole discretion, elect to:

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- (a) Exchange all or some of the BCN on any Scheduled Optional Exchange Date; and
- (b) Exchange all or some of the BCN following the occurrence of a Tax Event or a Regulatory Event.

An Optional Exchange Notice is irrevocable and takes effect despite anything in clause 3, except as provided in clauses 4.8 and 16.

5.2 Scheduled Optional Exchange Dates

The Scheduled Optional Exchange Dates are the Distribution Payment Dates falling on or about:

- (a) 24 March 2020 (the “**First Scheduled Optional Exchange Date**”);
 - (b) 24 September 2020 (the “**Second Scheduled Optional Exchange Date**”); and
 - (c) 24 March 2021 (the “**Third Scheduled Optional Exchange Date**”),
- (each a “**Scheduled Optional Exchange Date**”).

5.3 Contents of the Optional Exchange Notice

An Optional Exchange Notice must specify:

- (a) in the case of an Optional Exchange Notice given following the occurrence of a Tax Event or Regulatory Event, the details of the Tax Event or Regulatory Event to which the Optional Exchange Notice relates; and
- (b) the date on which the Exchange is to occur (an “**Optional Exchange Date**”), which:
 - (i) in the case of Exchange on a Scheduled Optional Exchange Date, is the relevant Scheduled Optional Exchange Date falling no earlier than 25 Business Days after the date of the Optional Exchange Notice;
 - (ii) in the case of a Tax Event or Regulatory Event, will be a day no earlier than 25 Business Days nor more than 60 Business Days after the date of the Optional Exchange Notice; or
 - (iii) in any case, is such other date as APRA may require.

5.4 Optional Exchange Restriction

The Issuer may not elect to Exchange under this clause 5 if:

- (a) on the second Business Day before the date on which an Optional Exchange Notice is to be sent by the Issuer (or, if that Business Day is not an ASX Trading Day, the last ASX Trading Day prior to that day) (the “**Non-Exchange Test Date**”) the Daily VWAP on that date is less than or equal to 25% of the Issue Date VWAP (the “**First Optional Exchange Restriction**”); or

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- (b) MGL is Delisted as at the Non-Exchange Test Date (the “**Second Optional Exchange Restriction**” and together with the First Optional Exchange Restriction, the “**Optional Exchange Restrictions**”).

5.5 Conditions to Exchange occurring once elected by the Issuer

If the Issuer has given an Optional Exchange Notice but, if the Exchange Date were a Relevant Mandatory Exchange Date for the purposes of clause 3, any one or more of the Second Exchange Condition (tested on the basis of the Maximum Exchange Number applicable to an Optional Exchange Date), the Third Exchange Condition or the Fourth Exchange Condition would not be satisfied in respect of that date, then, notwithstanding any other provision of these Terms:

- (a) the Exchange Date will be deferred until the first Distribution Payment Date (within the meaning of paragraph (a) of the definition of that term) on which:
 - (i) the Daily VWAP on the 25th Business Day immediately preceding (but not including) that Distribution Payment Date (or, if that day is not an ASX Trading Day, the last ASX Trading Day prior to that day) is greater than 25% of the Issue Date VWAP; and
 - (ii) each of the Second Exchange Condition (tested on the basis of the Maximum Exchange Number applicable to an Optional Exchange Date), the Third Exchange Condition and the Fourth Exchange Condition would be satisfied if that Distribution Payment Date were a Relevant Mandatory Exchange Date for the purposes of clause 3,(the “**Deferred Exchange Date**”);
- (b) the Issuer must Exchange the BCN on the Deferred Exchange Date (unless the BCN are Exchanged or Redeemed earlier in accordance with these Terms); and
- (c) until the Deferred Exchange Date, all rights attaching to the BCN will continue as if the Optional Exchange Notice had not been given.

The Issuer will notify Holders on or as soon as practicable after an Exchange Date in respect of which this clause 5.5 applies that Exchange did not occur on that Exchange Date (a “**Deferred Exchange Notice**”).

6 Acquisition Event Exchange

6.1 Exchange on account of an Acquisition Event

If an Acquisition Event occurs, subject to clause 4.8, the Issuer must Exchange all but not some of the BCN in accordance with this clause 6, unless the Directors determine that:

- (a) as at the Acquisition Exchange Date, MGL will be, or will be likely to be, Delisted (except where, despite MGL being Delisted, the Exchange would be in the best interests of Holders as a whole); or
- (b) the Exchange Number of MGL Ordinary Shares to be issued in Exchange for a BCN (calculated in accordance with clause 9.1 as if it

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were not limited by the Maximum Exchange Number applicable to an Acquisition Exchange Date) would exceed the Maximum Exchange Number applicable to an Acquisition Exchange Date (except where, despite the Exchange Number being limited to the Maximum Exchange Number applicable to an Acquisition Exchange Date, the Exchange would be in the best interests of Holders as a whole).

Exchange on account of an Acquisition Event is not subject to any Exchange Conditions or other conditions except as expressly provided in this clause 6.

6.2 Acquisition Exchange Notice

No later than 5.00pm (Sydney time) on the tenth Business Day after the occurrence of the Acquisition Event, the Issuer must give each Holder a notice (an “**Acquisition Exchange Notice**”) specifying:

- (a) details of the Acquisition Event to which the notice relates; and
- (b) if an Exchange is to occur:
 - (i) the date on which the Exchange is to occur (an “**Acquisition Exchange Date**”), which is to be:
 - (A) no later than the second Business Day prior to the date reasonably determined by the Issuer to be the last date on which holders of MGL Ordinary Shares can participate in the bid, scheme or arrangement concerned;
 - (B) such other earlier date as the Issuer may reasonably determine having regard to the best interests of Holders as a whole and the timing of the Acquisition Event concerned (provided that the Acquisition Exchange Date must be at least 25 Business Days after the date of the Acquisition Exchange Notice); or
 - (C) such other date as APRA may require; and
 - (ii) whether any Distribution will be paid in respect of the BCN on the Acquisition Exchange Date; or
- (c) otherwise, the reason why an Exchange is not to occur.

7 Optional Redemption

7.1 Optional Redemption

Subject to clause 7.2, by notice (a “**Redemption Notice**”) to Holders, the Issuer may, in its sole discretion, but with APRA’s prior written approval, elect to:

- (a) Redeem all or some of the BCN on a Scheduled Optional Exchange Date; or
- (b) Redeem all or some of the BCN following the occurrence of a Tax Event or a Regulatory Event.

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A Redemption Notice, once given, is irrevocable and takes effect despite anything in clause 3, except as provided in clauses 4.8 and 16.

Holders should not expect that APRA's approval will be given for any Redemption of the BCN.

7.2 Redemption conditions

A Redemption in accordance with clause 7.1 must not occur unless either:

- (a) the BCN which are to be Redeemed are replaced, concurrently with the Redemption or beforehand, with Tier 1 Capital of the same or better quality, and the replacement of those BCN is done under conditions which are sustainable for the income capacity of the MBL Level 1 Group and the MBL Level 2 Group; or
- (b) APRA is satisfied that the capital positions of the MBL Level 1 Group and the MBL Level 2 Group are sufficient after the BCN are Redeemed.

7.3 Contents of the Redemption Notice

A Redemption Notice must specify:

- (a) in the case of Redemption following the occurrence of a Tax Event or Regulatory Event, the details of the relevant Tax Event or Regulatory Event;
- (b) the date on which the Redemption is to occur (the "**Redemption Date**"), which:
 - (i) in the case of a Scheduled Optional Exchange Date, will be the next Scheduled Optional Exchange Date falling no earlier than 10 Business Days after the date of the Redemption Notice; and
 - (ii) in the case of a Tax Event or Regulatory Event, will be a day no earlier than 10 Business Days nor more than 60 Business Days after the date of the Redemption Notice; and
- (c) if less than all of the outstanding BCN are to be Redeemed, the proportion of each Holder's holding which is to be Redeemed.

7.4 Redemption Price

On the Redemption Date:

- (a) each BCN being Redeemed will be Redeemed by payment of the Issue Price of that BCN (the "**Redemption Price**") to the relevant Holder recorded on the Register at 10.00 am on the Redemption Date (or such other time required by the ASX Listing Rules); and
- (b) Distributions from (and including) the immediately preceding Distribution Payment Date and up to (but excluding) the Redemption Date will be paid in respect of the BCN being Redeemed on such date, to the extent the conditions of payment of Distributions under clause 2.3 are met.

7.5 No right of Holders to require Redemption

No BCN can, or will, be Redeemed at the option of a Holder.

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7.6 Effect of Redemption

Upon payment of the Redemption Price and any Distribution payable on the Redemption Date, all other rights conferred, or restrictions imposed, by each BCN being Redeemed on that date will no longer have effect and that BCN will be cancelled.

7.7 Partial Redemption or Resale

If some but not all of the outstanding BCN are Redeemed in accordance with this clause 7 or Resold in accordance with clause 8, the Issuer must select the BCN to be Redeemed or Resold:

- (a) in a manner that is, in the opinion of the Issuer, fair and reasonable; and
- (b) in compliance with any applicable law, directive or requirement of ASX.

8 Resale

8.1 Issuer may give Resale Notice

On any date on which it may issue a Redemption Notice, in lieu of such Redemption Notice, the Issuer may, in its sole discretion, but with APRA's prior written approval, issue to each Holder a notice (a "**Resale Notice**") specifying that all or some of each Holder's holding of the BCN will be transferred to one or more Nominated Parties ("**Resale**").

A Resale Notice to a Holder must specify:

- (a) the date on which the Resale is to occur (the "**Resale Date**"), which:
 - (i) in the case of a Scheduled Optional Exchange Date, will be the next Scheduled Optional Exchange Date falling no earlier than 10 Business Days after the date of the Resale Notice; and
 - (ii) in the case of a Tax Event or Regulatory Event, will be a day no earlier than 10 Business Days nor more than 60 Business Days after the date of the Resale Notice; and
- (b) the name of each Nominated Party to whom that Holder's offer under clause 8.3 is being made and, where there is more than one Nominated Party, the basis for determining the BCN to be purchased by each Nominated Party, and any special provisions to be applied if there is a Non-Completing Nominated Party,

and, subject to clauses 4.8 and 16, once given is irrevocable.

Holders should not expect that APRA's approval will be given for any Resale of the BCN.

8.2 Appointment of Nominated Party

- (a) The Issuer may not appoint itself or a Related Entity of the Issuer as a Nominated Party.
- (b) The Issuer may appoint one or more Nominated Parties for the Resale on such terms including as to the conditions of any Resale as may be

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agreed between the Issuer and the Nominated Parties and with the prior written approval of APRA.

- (c) If the Issuer appoints more than one Nominated Party in respect of a Resale, all or any of the BCN held by a Holder which are being Resold may be purchased for the Resale Price by any one or any combination of the Nominated Parties, as determined by the Issuer.

8.3 Irrevocable offer to sell

- (a) If the Issuer gives a Resale Notice in accordance with clause 8, each Holder on the Resale Date is taken to irrevocably offer to sell the BCN that are the subject of the Resale Notice to the Nominated Party or Nominated Parties on the Resale Date for a purchase price per BCN equal to the Issue Price of that BCN (the “**Resale Price**”).
- (b) Subject to payment of the Resale Price on the Resale Date each BCN which is to be Resold will be transferred to the relevant Nominated Party or Nominated Parties free from any Encumbrance.

8.4 Effect of transfer

The transfer will convey to the relevant Nominated Party all rights to:

- (a) Distributions payable on the BCN in respect of any Distribution Payment Date arising after the Resale Date;
- (b) be issued with MGL Ordinary Shares on Exchange on or after the Resale Date; and
- (c) any Redemption Price payable on or after the Resale Date,

but excluding any Distribution payable on the BCN in respect of any Distribution Payment Date on or before the Resale Date, which, to the extent the conditions of payment of Distribution under clause 2.3 are met, shall be paid by the Issuer to the holder of the BCN entitled to such amounts as otherwise provided in these Terms.

8.5 Terms after Resale

If any BCN are Resold in accordance with these Terms, these Terms will apply in all respects to the BCN held by the Nominated Party on and from the Resale Date.

8.6 Nominated Party not completing

If a Nominated Party does not for any reason pay the Resale Price in full on the relevant Resale Date (a “**Non-Completing Nominated Party**”):

- (a) the Resale Notice will be void insofar as it relates to BCN referable to the Non-Completing Nominated Party and any obligations of the Holder and Non-Completing Nominated Party in respect of the Resale of the BCN that is the subject of the Resale Notice will terminate;
- (b) the Holder will continue to hold the BCN that are the subject of the Resale Notice which are referable to the Non-Completing Nominated Party; and

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- (c) the Issuer and MGL have no liability for the Non-Completing Nominated Party not paying the Resale Price and the Resale Date will not be a Distribution Payment Date unless:
 - (i) such date would otherwise have been a Distribution Payment Date; or
 - (ii) a Distribution is paid on that date to Holders whose BCN have been transferred to a Nominated Party on that date.

8.7 No right of Holders to require Resale

No BCN can, or will, be Resold at the option of a Holder.

9 Exchange Mechanics

9.1 Exchange

On an Exchange Date, subject to clauses 4.8, 9.13 and 9.16, each of the events described in paragraphs (a), (b), (c) and (d) shall occur.

- (a) Each BCN will be automatically transferred free from any Encumbrance to MGL or, only with APRA's written approval obtained prior to the Exchange Date, to another subsidiary of MGL which is a holding company of the Issuer on the Exchange Date nominated by MGL (an "**Approved Nominee**").
- (b) MGL will allot and issue the Exchange Number of MGL Ordinary Shares to the Holders (or as they may direct) for each BCN held by the Holder. The "**Exchange Number**" will be calculated by MGL in accordance with the following formula:

$$\text{Exchange Number} = \frac{\text{Issue Price}}{0.99 \times \text{Exchange Date VWAP}}$$

subject to the Exchange Number being no greater than the Maximum Exchange Number, where:

- (i) **Exchange Date VWAP** (expressed in Australian Dollars) means the VWAP during the VWAP Period;
- (ii) **VWAP** means, subject to any adjustment under clauses 9.3 or 9.4, for a period or relevant number of days, the average of the Daily VWAPs (such average being rounded to the nearest full cent) of MGL Ordinary Shares sold on ASX during the relevant period or on the relevant days; and
- (iii) **VWAP Period** means, for the purposes of calculating the Exchange Date VWAP and the Exchange Number:
 - (A) in the case of an Exchange on a Relevant Mandatory Exchange Date or an Optional Exchange Date, the 20 ASX Trading Days immediately preceding, but not including, that Exchange Date;
 - (B) in the case of an Exchange on account of an Acquisition Event, the lesser of 20 ASX Trading Days and the

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number of ASX Trading Days that MGL Ordinary Shares are entitled to trade on ASX after the occurrence of the Acquisition Event immediately preceding, but not including, the Acquisition Exchange Date; and

- (C) in the case of an Exchange on account of an Automatic Exchange Event, the 5 ASX Trading Days immediately preceding, but not including, the Automatic Exchange Date.

- (c) The **Maximum Exchange Number** will be calculated by the Issuer on the Issue Date in accordance with the following formula for each BCN held by the Holder:

$$\text{Maximum Exchange Number} = \frac{\text{Issue Price}}{\text{Exchange Floor Price}}$$

where:

- (i) **Exchange Floor Price** means Issue Date VWAP x the Relevant Percentage;
- (ii) **Issue Date VWAP** is the VWAP during the 20 ASX Trading Days immediately preceding, but not including, the Issue Date (as such number may be adjusted under clauses 9.5, 9.6 or 9.7); and
- (iii) **Relevant Percentage** is:
- (A) if the Exchange is occurring on a Relevant Mandatory Exchange Date, 50%; and
- (B) if the Exchange is occurring on any other Exchange Date, 20%.

If the total number of MGL Ordinary Shares to be allotted to a Holder in respect of their aggregate holding of BCN upon Exchange includes a fraction of an MGL Ordinary Share, that fraction of an MGL Ordinary Share will be disregarded.

- (d) As agreed between, amongst others, MGL and the Issuer on or about the Issue Date, MGL, the Issuer and their Related Bodies Corporate will deal with the BCN being Exchanged so that MBL Ordinary Shares are issued to, or as directed by, MGL or to a Related Body Corporate of MGL nominated by MGL (which itself issues ordinary shares to, or as directed by, MGL), for an aggregate issue price equal to the aggregate Issue Price of the BCN to be Exchanged and the BCN transferred to MGL or to an Approved Nominee in accordance with this clause 9.1 shall be redeemed and cancelled (the “**Related Exchange Steps**”).

9.2 Holder information

Each Holder agrees to provide to the Issuer, MGL (and, where clause 9.13 applies, the Sale Agent) any information necessary or desirable to give effect to an Exchange.

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9.3 Adjustments to VWAP

For the purposes of calculating VWAP in these Terms:

- (a) where, on some or all of the ASX Trading Days in the relevant VWAP Period, MGL Ordinary Shares have been quoted on ASX as cum dividend or cum any other distribution or entitlement and the BCN will be Exchanged for MGL Ordinary Shares after the date those MGL Ordinary Shares no longer carry that dividend or any other distribution or entitlement, then the VWAP on the ASX Trading Days on which those MGL Ordinary Shares have been quoted cum dividend or cum any other distribution or entitlement shall be reduced by an amount ("**Cum Value**") equal to:
- (i) in case of a dividend or other distribution, the amount of that dividend or other distribution including, if the dividend or other distribution is franked, the amount that would be included in the assessable income of a recipient of the dividend or other distribution who is both a resident of Australia and a natural person under the Tax Act and eligible to receive a franked distribution;
 - (ii) in the case of any other entitlement that is not a dividend or other distribution under clause 9.3(a)(i) and which is traded on ASX on any of those ASX Trading Days, the volume weighted average sale price of all such entitlements sold on ASX during the VWAP Period on the ASX Trading Days on which those entitlements were traded; or
 - (iii) in the case of any other entitlement which is not traded on ASX during the VWAP Period, the value of the entitlement as reasonably determined by the Directors; and
- (b) where, on some or all of the ASX Trading Days in the VWAP Period, MGL Ordinary Shares have been quoted on ASX as ex dividend or ex any other distribution or entitlement, and the BCN will be Exchanged for MGL Ordinary Shares which would be entitled to receive the relevant dividend or other distribution or entitlement, the VWAP on the ASX Trading Days on which those MGL Ordinary Shares have been quoted ex dividend or ex any other distribution or entitlement shall be increased by the Cum Value.

9.4 Adjustments to VWAP for divisions and similar transactions

- (a) Where during the relevant VWAP Period there is a change in the number of the MGL Ordinary Shares on issue as a result of a Reclassification, in calculating the VWAP for that VWAP Period the Daily VWAP applicable on each day in the relevant VWAP Period which falls before the date on which trading in MGL Ordinary Shares is conducted on a post Reclassification basis shall be adjusted by multiplying the VWAP by the following fraction:

$$\frac{A}{B}$$

where:

- (i) **A** means the aggregate number of MGL Ordinary Shares immediately before the Reclassification; and

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- (ii) **B** means the aggregate number of MGL Ordinary Shares immediately after the Reclassification.
- (b) Any adjustment made by MGL in accordance with clauses 9.3 and 9.4(a) will be effective and binding on Holders under these Terms and these Terms will be construed accordingly. Any such adjustment must be notified to all Holders as soon as reasonably practicable following its determination by MGL or the Issuer.

9.5 Adjustments to Issue Date VWAP

For the purposes of determining the Issue Date VWAP, adjustments to VWAP will be made in accordance with clauses 9.3 and 9.4(a) during the VWAP Period for the Issue Date VWAP. On and from the Issue Date, adjustments to the Issue Date VWAP:

- (a) may be made in accordance with clauses 9.6 and 9.7; and
- (b) if so made, will correspondingly cause an adjustment to the Maximum Exchange Number.

9.6 Adjustments to Issue Date VWAP for bonus issues

- (a) Subject to clause 9.6(b) below, if MGL makes a pro rata bonus issue of MGL Ordinary Shares to holders of MGL Ordinary Shares generally, the Issue Date VWAP will be adjusted immediately in accordance with the following formula:

$$V = V_0 \times \frac{RD}{RD + RN}$$

where:

- (i) **V** means the Issue Date VWAP applying immediately after the application of this formula;
 - (ii) **V₀** means the Issue Date VWAP applying immediately prior to the application of this formula;
 - (iii) **RN** means the number of MGL Ordinary Shares issued pursuant to the bonus issue; and
 - (iv) **RD** means the number of MGL Ordinary Shares on issue immediately prior to the allotment of new MGL Ordinary Shares pursuant to the bonus issue.
- (b) Clause 9.6(a) does not apply to MGL Ordinary Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top up plan, share purchase plan or a dividend reinvestment plan.
 - (c) For the purpose of clause 9.6(a), an issue will be regarded as a pro rata issue notwithstanding that MGL does not make offers to some or all holders of MGL Ordinary Shares with registered addresses outside Australia, provided that in so doing MGL is not in contravention of the ASX Listing Rules.

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- (d) No adjustments to the Issue Date VWAP will be made under this clause 9.6 for any offer of MGL Ordinary Shares not covered by clause 9.6(a), including a rights issue or other essentially pro rata issue.
- (e) The fact that no adjustment is made for an issue of MGL Ordinary Shares except as covered by clause 9.6(a) shall not in any way restrict MGL from issuing MGL Ordinary Shares at any time on such terms as it sees fit nor be taken to constitute a modification or variation of rights or privileges of Holders or otherwise requiring any consent or concurrence.

9.7 Adjustment to Issue Date VWAP for divisions and similar transactions

- (a) If at any time after the Issue Date there is a change in the number of MGL Ordinary Shares on issue as a result of a Reclassification, the Issuer shall adjust the Issue Date VWAP by multiplying the Issue Date VWAP applicable on the Business Day immediately before the date of any such Reclassification by the following fraction:

$$\frac{A}{B}$$

where:

- (i) **A** means the aggregate number of MGL Ordinary Shares immediately before the Reclassification; and
 - (ii) **B** means the aggregate number of MGL Ordinary Shares immediately after the Reclassification.
- (b) Each Holder acknowledges that MGL may consolidate, divide or reclassify securities so that there is a lesser or greater number of MGL Ordinary Shares at any time in its absolute discretion without any such action constituting a modification or variation of rights or privileges of Holders or otherwise requiring any consent or concurrence.

9.8 No adjustment to Issue Date VWAP in certain circumstances

Despite the provisions of clauses 9.6 and 9.7, no adjustment shall be made to the Issue Date VWAP where such cumulative adjustment (rounded if applicable) would be less than 1 per cent. of the Issue Date VWAP then in effect. Any adjustment not made in accordance with this clause 9.8 shall be carried forward and taken into account in determining whether any subsequent adjustment shall be made.

9.9 Announcement of adjustment to Issue Date VWAP

If the Issuer determines an adjustment to the Issue Date VWAP under clauses 9.6 and 9.7, such an adjustment will be:

- (a) determined as soon as reasonably practicable following the relevant event; and
- (b) notified to Holders (an "**Adjustment Notice**") within 10 Business Days of the Issuer determining the adjustment.

The adjustment set out in the Adjustment Notice will be final and binding on Holders and these Terms will be construed accordingly.

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9.10 Listing of MGL Ordinary Shares

MGL agrees to use all reasonable endeavours to list the MGL Ordinary Shares issued or arising from an Exchange on ASX.

9.11 Status of MGL Ordinary Shares

The MGL Ordinary Shares issued or arising from an Exchange will rank equally with all other fully paid MGL Ordinary Shares.

9.12 Failure to Exchange

(a) Subject to clauses 9.13(g) and 9.16, if, in respect of an Exchange of a BCN, MGL fails to issue the MGL Ordinary Shares in respect of a BCN to, or in accordance with the instructions of, the relevant Holder on the applicable Exchange Date or to the Sale Agent where clause 9.13 applies, that BCN remains on issue (and, without limitation, clause 2 applies) until:

- (i) the MGL Ordinary Shares are issued to, or in accordance with the instructions of, that Holder or, where clause 9.13 applies, to the Sale Agent; or
- (ii) that BCN is Redeemed in accordance with these Terms,

and the remedies of a Holder in respect of that failure are limited to seeking an order for specific performance of MGL's obligations to issue MGL Ordinary Shares.

(b) If, in respect of an Exchange of a BCN, the BCN is not transferred on the Exchange Date free from Encumbrance to MGL or its Approved Nominee, MGL shall issue the Exchange Number of MGL Ordinary Shares to the Holder in respect of that BCN and all rights of the relevant Holder (and any person claiming through the Holder) in such BCN are taken to have ceased and the BCN shall be cancelled.

(c) This clause 9.12 does not affect the obligation of MGL to deliver the MGL Ordinary Shares or of the Holder to transfer BCN when required in accordance with these Terms.

9.13 Holders whose MGL Ordinary Shares are to be sold

Subject to clause 9.16, if any BCN of a Holder are required to be Exchanged and if:

- (a) the Holder has notified the Issuer that it does not wish to receive MGL Ordinary Shares as a result of the Exchange (whether entirely or to the extent specified in the notice), which notice may be given at any time on or after the Issue Date and no less than 15 Business Days prior to the Exchange Date;
- (b) the BCN are held by a Foreign Holder;
- (c) if for any reason (whether or not due to the fault of a Holder) the Issuer or MGL does not receive any information required by it in accordance with these Terms so as to impede MGL from issuing the MGL Ordinary Shares to the Holder on the Exchange Date; or

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- (d) MGL is of the opinion that under an Applicable Shareholding Law the Holder is prohibited from acquiring some or all of the Exchange Number of MGL Ordinary Shares on the Exchange Date, (to the extent it is so prohibited, an “**Ineligible Holder**”),

then, the Issuer will use reasonable endeavours to appoint a Sale Agent (which is not the Issuer or any Related Entity of the Issuer) on such terms as the Issuer considers reasonable, who will act in accordance with paragraph (f) where the Issuer, MGL and the Sale Agent can be satisfied that the obligation in paragraph (f) may be performed in respect of the relevant Holder and the relevant MGL Ordinary Shares in accordance with all applicable laws and without the Issuer, MGL or the Sale Agent having to take steps which any of them regard as onerous.

On the Exchange Date:

- (e) where paragraph (a), (b) or (d) applies, MGL will issue the Exchange Number of MGL Ordinary Shares to the Holder only to the extent (if at all) that:
- (i) where paragraph (a) applies, the Holder's notice referred to in paragraph (a) indicates the Holder wishes to receive them;
 - (ii) where paragraph (b) applies, MGL is satisfied that the laws of both Australia and the Foreign Holder's country of residence permit the issue of the Exchange Number of MGL Ordinary Shares to the Foreign Holder as contemplated by this clause 9 (but as to which MGL is not bound to enquire), either unconditionally or after compliance with conditions which the MGL, in its absolute discretion, regards as acceptable and not unduly onerous; and
 - (iii) where paragraph (d) applies, the issue would result in the Holder receiving the maximum number of MGL Ordinary Shares the Holder is permitted to acquire in compliance with Applicable Shareholding Law as at the Exchange Date;
- (f) otherwise, subject to paragraph (g) and clause 9.16, MGL will issue the balance of the Exchange Number of MGL Ordinary Shares in respect of that Holder to the Sale Agent on the terms that, at the first reasonable opportunity to sell the MGL Ordinary Shares, the Sale Agent will arrange for their sale and pay to the relevant Holder on a date determined by the Sale Agent a cash amount equal to the Attributable Proceeds of the relevant Holder. The issue of MGL Ordinary Shares to the Sale Agent will satisfy all obligations of MGL and its Related Bodies Corporate in connection with the Exchange, the BCN will be deemed Exchanged and will be dealt with in accordance with clause 9.1 and, on and from the issue of MGL Ordinary Shares, the rights of a Holder the subject of this clause 9.13 are limited to its rights in respect of the MGL Ordinary Shares or the Attributable Proceeds as provided in this clause 9.13; and
- (g) where paragraph (f) applies in respect of a Holder and a Sale Agent is unable to be appointed, or any of the Issuer, MGL or the Sale Agent is of the opinion that the issue of MGL Ordinary Shares to the Sale Agent and subsequent sale in accordance with paragraph (f) cannot be undertaken in accordance with Applicable Shareholding Law or other applicable law (or can be undertaken in accordance with Applicable Shareholding Law or applicable law only after MGL or the Sale Agent take steps which any of the Issuer, MGL or the Sale Agent regard as onerous) then:

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- (i) in respect of an Automatic Exchange Date, but without in any way limiting clause 9.16, if either or both of MGL and the Sale Agent is of the opinion that the issue of MGL Ordinary Shares cannot be undertaken within 5 Business Days of the Automatic Exchange Date to the Sale Agent in accordance with paragraph (f) or otherwise to the relevant Holder in accordance with clause 9, then the relevant BCN will be Written-Off; or
- (ii) in respect of an Exchange Date other than an Automatic Exchange Date:
 - (A) the issue of MGL Ordinary Shares to the Sale Agent in accordance with paragraph (f) shall occur as soon as practicable after MGL is able to issue the relevant MGL Ordinary Shares to the Sale Agent in accordance with Applicable Shareholding Law and other applicable law (and without MGL or the Sale Agent taking steps which either or both of MGL and the Sale Agent regard as onerous); and
 - (B) on and from the Exchange Date, the BCN of the relevant Holder remain on issue (and, without limitation, clause 2 applies) until the first to occur of:
 - (aa) the issue of the relevant MGL Ordinary Shares in accordance with paragraphs (f) and (g)(ii)(A) or otherwise to that relevant Holder in accordance with clause 9; or
 - (ab) the relevant BCN are Redeemed in accordance with these Terms; or
 - (ac) the date which is 6 months after the Exchange Date, upon which date an Exchange will not occur in respect of the balance of the Holder's BCN at that date and such BCN will be automatically transferred free from any Encumbrance to MGL or, subject to APRA's prior written approval, to another subsidiary of MGL which is a holding company of the Issuer on that date nominated by MGL, in each case for no consideration and cancelled. Upon transfer of the BCN, such BCN shall be deemed to have been Exchanged (without MGL being required to allot or issue MGL Ordinary Shares).

Nothing in this clause 9.13 shall affect the Exchange of BCN to a Holder which is not a person to which any of paragraphs (a) to (d) (inclusive) applies.

9.14 No duty on sale

For the purpose of clause 9.13, none of the Issuer, MGL, the Sale Agent or any other person owes any obligations or duties to the Holders in relation to the price at which MGL Ordinary Shares are sold or has any liability for any loss suffered by a Holder as a result of the sale of MGL Ordinary Shares.

9.15 No right of Holders to require Exchange

No BCN can, or will, be Exchanged at the option of a Holder.

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9.16 Write-Off on failure to perform Exchange

- (a) Notwithstanding any other provisions of this clause 9, if for any reason (including, without limitation, an Inability Event) Exchange has not occurred within 5 Business Days of an Automatic Exchange Date, then Exchange will not occur and each BCN, which but for this clause would be required to be Exchanged, will be Written-Off.
- (b) The Issuer must give notice to Holders if that Exchange has not occurred by operation of this clause 9.16, but failure to give that notice shall not affect the operation of this clause.

10 Acknowledgements and appointments

10.1 Acknowledgements

Each Holder, by subscribing for, purchasing or otherwise acquiring a BCN:

- (a) is taken to have notice of, and irrevocably agrees to be bound by, the terms of the BCN Deed Poll and these Terms;
- (b) upon an Exchange, consents to becoming a member of MGL and agrees to be bound by the constitution of MGL;
- (c) agrees that any Redemption, Resale or Exchange shall occur on a Redemption Date, Resale Date or Exchange Date (as the case may be) in accordance with these Terms;
- (d) agrees that it is obliged to accept the MGL Ordinary Shares in respect of its BCN upon an Exchange Date, notwithstanding anything which might otherwise affect the Exchange including:
 - (i) any change in the financial position of the Issuer, MGL or the Macquarie Group since the Issue Date;
 - (ii) any disruption to the market or potential market for the MGL Ordinary Shares or to capital markets generally;
 - (iii) it being impossible or impracticable to list the MGL Ordinary Shares on ASX; or
 - (iv) it being impossible or impracticable to sell or otherwise dispose of the MGL Ordinary Shares;
- (e) acknowledges and agrees that Exchange must occur immediately on the Automatic Exchange Event and that may result in disruption or failures in trading or dealings in the BCN;
- (f) acknowledges and agrees that:
 - (i) if Exchange does not occur in the circumstances contemplated in clauses 9.13(g) or 9.16, each BCN will be Written-Off; and
 - (ii) each of clauses 9.13(g) and 9.16 is a fundamental term of the BCN and where it applies, no other conditions or events will affect its operation;

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- (g) agrees to provide to the Issuer and MGL any information that the Issuer or MGL considers necessary or desirable, or to take any and all such action as is within the reasonable control of that Holder, to give effect to a Redemption, Resale or an Exchange;
- (h) acknowledges and agrees that it has:
 - (i) no right to request a Redemption, Resale or an Exchange;
 - (ii) to the fullest extent permitted by law:
 - (A) no right to initiate the Winding Up of the Issuer, MGL or any member of the Macquarie Group or to have any such entity placed in administration; or
 - (B) to cause a receiver or receiver and manager to be appointed in respect of any such entity,

merely on the grounds that a Distribution or any other amount is not paid; and
 - (iii) no rights against any member of the Macquarie Group in connection with the BCN except as expressly provided in these Terms and under the BCN Deed Poll; and
- (i) acknowledges and agrees that these Terms contain no events of default (however described, determined or defined). Accordingly (but without limitation), failure to pay in full, for any reason, a Distribution on the scheduled Distribution Payment Date will not constitute an event of default; and
- (j) acknowledges and agrees it has no remedies on account of a failure by MGL to issue MGL Ordinary Shares in accordance with clause 9 other than (and subject always to clauses 9.13(g) and 9.16) to seek specific performance of the obligation to issue the MGL Ordinary Shares.

10.2 Appointment of attorneys, agents and directions

Each Holder irrevocably:

- (a) appoints each of MGL, the Issuer, their respective Authorised Officers and any liquidator, administrator, statutory manager or other similar official of MGL or the Issuer (each an “**Appointed Person**”) severally to be the attorneys of the Holder and the agents of the Holder, with the power in the name and on behalf of the Holder to:
 - (i) do all such acts and things (including, without limitation, signing all documents, instruments or transfers or instructing CHES) as may, in the opinion of the Appointed Person, be necessary or desirable to be done in order to give effect to, record or perfect a Redemption, Resale or Exchange in accordance with clauses 3, 4, 5, 6, 7, 8 and 9 or, where clauses 9.13(g) or 9.16 apply, a Write-Off in accordance with that clause;
 - (ii) do all other things which an Appointed Person reasonably believes to be necessary or desirable to give effect to these Terms; and

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- (iii) appoint in turn its own agent or delegate; and
- (b) authorises and directs the Issuer and/or the Registrar to make such entries in the Register, including amendments and additions to the Register, which the Issuer and/or the Registrar may consider necessary or desirable to record:
 - (i) a Redemption, Resale or an Exchange; or
 - (ii) where clauses 9.13(g) or 9.16 apply, a Write-Off in accordance with that clause.

The power of attorney given in this clause 10.2 is given for valuable consideration and to secure the performance by the Holder of the Holder's obligations under these Terms and is irrevocable and shall survive and not be affected by the subsequent disability or incapacity of the Holder (or, if such Holder is an entity, by its dissolution or termination). An Appointed Person shall have no liability in respect of any acts duly performed in accordance with power of attorney given in this clause 10.2.

11 Payments to Holders

11.1 Calculation of payments

All calculations of payments will be rounded to the nearest four decimal places (with 0.00005 being rounded to 0.0001). For the purposes of making any payment in respect of a Holder's aggregate holding of BCN, any amount less than A\$0.01 will be disregarded.

11.2 Payments subject to laws

All payments are subject in all cases to:

- (a) compliance by the Issuer with applicable laws; and
- (b) any applicable fiscal or other laws in the place of payment, but without prejudice to the provisions of clause 11.3.

No commissions or expenses shall be charged to the Holders in respect of such payments (except in respect of the calculation of Attributable Proceeds in accordance with clause 9.13(f)).

11.3 Deductions

- (a) The:
 - (i) Issuer, MGL and any financial institutions or intermediaries through which payments are made or securities issued, may withhold or deduct from any payment payable or securities issuable to a Holder; and
 - (ii) Sale Agent and MGL may withhold or deduct from any payment payable to a Holder in accordance with clause 9.13,

the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such payment or issue of securities including, without limitation, any withholding or deduction of taxes, interest or

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penalties required under FATCA or where the Issuer, MGL or the Sale Agent (as applicable) has reasonable grounds to suspect that a Holder or a beneficial owner of any BCN (or any financial institution or intermediary) may be subject to FATCA, and may deal with such payment, issue of securities and the Holder's BCN in accordance with FATCA, including withholding any tax or reporting payment or account information to the IRS or other relevant taxing authority as prescribed by FATCA. For the avoidance of doubt, any withholding required under FATCA is a tax, the deduction or withholding of which is required by applicable law for purposes of this clause 11.

- (b) If any deduction is required, the Issuer, MGL or the Sale Agent (as applicable) must pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring a penalty under the applicable law.
- (c) If:
 - (i) a deduction is made;
 - (ii) the amount of the deduction is accounted for by the Issuer, MGL or the Sale Agent (as applicable) to the relevant revenue authority; and
 - (iii) the balance of the amount payable has been paid to the Holder,then the Issuer's, MGL's or the Sale Agent's (as applicable) obligation to make the payment to the Holder is taken to have been satisfied in full.

11.4 No set-off

A Holder has no right to set-off any amounts owing by it to a member of the Macquarie Group against any claims owing by the Issuer or another member of the Macquarie Group to such Holder. The Issuer has no right to set-off any amounts owing by it to a Holder in respect of the BCN against any claims owing by the Holder to it or any member of the Macquarie Group.

11.5 Payment method

Subject to clause 11.2, all monies payable by the Issuer to a Holder may be paid in any manner the Issuer decides, which may include any of the following:

- (a) by any method of direct crediting determined by the Issuer to the Holder or Holders shown on the Register or to such person or place directed by them;
- (b) by sending on or before the payment date a cheque, through the post at the Holder's risk directed to the physical or postal address of the Holder as shown in the Register or, in the case of joint Holders, to the physical or postal address notified to the Registrar for receipt of such monies (and in default of notification, to the physical or postal address shown in the Register as the address of the joint Holder first named in that Register); or
- (c) by cheque sent through the post directed to such other physical or postal address as the Holder or joint Holders in writing direct.

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A cheque sent through the post on or before the date for payment is taken to have been received on the payment date.

11.6 Unpresented cheques

- (a) Cheques issued by the Issuer that are not presented within 6 months of being issued, or such lesser period as determined by the Issuer, may be cancelled.
- (b) Where a cheque which is cancelled was drawn in favour of a Holder, the moneys are to be held by the Issuer for the Holder as a non-interest bearing deposit until the Holder or any legal personal representative of the Holder claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys.

11.7 Unsuccessful attempts to pay

Subject to applicable law, where the Issuer:

- (a) decides that an amount is to be paid to a Holder by a method of direct credit and the Holder has not given a direction as to where amounts are to be paid by that method;
- (b) attempts to pay an amount to a Holder by direct credit, electronic transfer of funds or any other means and the transfer is unsuccessful; or
- (c) has made reasonable efforts to locate a Holder but is unable to do so,

the amount of the unsuccessful payment will be held by the Issuer for the Holder as a non-interest bearing deposit with a bank selected by the Issuer until the Holder or any legal personal representative of the Holder claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys.

Holders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due.

11.8 Payment to joint Holders

A payment to any one of joint Holders will discharge the Issuer's liability in respect of the payment.

11.9 Time limit for claims

A claim against the Issuer for a payment under a BCN is void unless made within 5 years from the date on which payment first became due.

12 Title and transfer of BCN

12.1 Title

Title to a BCN passes when details of the transfer are recorded in the Register.

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12.2 Effect of entries in the Register

Each entry in the Register for a BCN constitutes an entitlement to the benefits given to the Holder under these Terms and the BCN Deed Poll in respect of the BCN.

12.3 Register conclusive as to ownership

An entry in the Register in relation to a BCN constitutes conclusive evidence that the person so entered is the absolute owner of that BCN, subject to correction for fraud or error.

12.4 Non-recognition of interests

- (a) Except as required by clause 9 and by law, and save as provided below, the Issuer, MGL and the Registrar must treat the person entered in the Register in respect of a BCN as the absolute owner of that BCN.
- (b) No notice of any trust, Encumbrance or other interest in, or claim to, any BCN will be entered in the Register. None of the Issuer, MGL or the Registrar need take notice of any trust, Encumbrance or other interest in, or claim to, any BCN, except as ordered by a court of competent jurisdiction or required by law.
- (c) This clause 12.4 applies whether or not a payment has been made when scheduled on a BCN and despite any notice of ownership, trust, Encumbrance or other interest in the BCN.

12.5 Joint holders

Where two or more persons are entered in the Register as joint Holders of a BCN then they are taken to hold the BCN jointly, but the Registrar is not bound to register more than four persons as joint holders of a BCN.

12.6 Transfers

A Holder may transfer a BCN:

- (a) in accordance with the rules and regulations of CHESSE;
- (b) by a proper transfer under any other applicable computerised or electronic system recognised by the Corporations Act (or as the Issuer may otherwise accept); or
- (c) subject to clause 1.4, by any proper or sufficient instrument of transfer of marketable securities under applicable law, provided such instrument is delivered to the Registrar with any evidence the Registrar requires to prove title to or the right to transfer the BCN.

The Holder is responsible for any stamp duty or other similar taxes which are payable in any jurisdiction in connection with a transfer, assignment or other dealing with BCN.

12.7 Transferee takes subject to terms

A transferee of, or any person claiming, an interest in a BCN takes subject to these Terms and the BCN Deed Poll.

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12.8 Other transfers void

A purported transfer otherwise than in accordance with these Terms and the BCN Deed Poll or grant of an interest in a BCN otherwise than by way of transfer is, to the fullest extent permitted by law, void.

12.9 Issuer may request holding lock or refuse to register transfer

If BCN are quoted on ASX, and if permitted to do so by the ASX Listing Rules and the Corporations Act, the Issuer may:

- (a) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of BCN approved by and registered on the CS Facility's electronic subregister or any BCN registered on an issuer-sponsored subregister, as the case may be; or
- (b) refuse to register a transfer of any BCN.

12.10 Issuer must request holding lock or refuse to register transfer

- (a) The Issuer must request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of BCN approved by and registered on the CS Facility's electronic subregister or BCN registered on an issuer-sponsored subregister, as the case may be, if the Corporations Act or the ASX Listing Rules require the Issuer to do so.
- (b) The Issuer must refuse to register any transfer of any BCN if the Corporations Act or the ASX Listing Rules require the Issuer to do so.

12.11 Notice of holding locks and refusal to register transfer

If, in the exercise of its rights under clauses 12.9 and 12.10, the Issuer requests the application of a holding lock to prevent a transfer of BCN or refuses to register a transfer of BCN, it must, within 2 months after the date on which the transfer was lodged with it, give written notice of the request or refusal to the Holder, to the transferee and the broker lodging the transfer, if any. Failure to give such notice does not, however, invalidate the decision of the Issuer.

12.12 Delivery of instrument

If an instrument is used to transfer any BCN according to clause 12.6, it must be delivered to the Registrar, together with such evidence (if any) as the Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the BCN.

12.13 Refusal to register

- (a) A transferor of a BCN is deemed to remain a Holder until the transfer is Registered and the name of the transferee is entered in the Register.
- (b) The Issuer may refuse to Register a transfer of any BCN if:
 - (i) such registration would contravene these Terms; or
 - (ii) the Corporations Act or any other law or regulation binding on the Issuer or MGL forbids registration.

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If the Issuer refuses to Register a transfer, the Registrar must give the lodging party notice of the refusal and the reasons for it within 5 Business Days after the date on which notice of the transfer was delivered to it.

12.14 No liability to persons other than Holders

The Issuer is not liable to pay any amount to any person claiming an interest in a BCN in connection with that BCN other than the Holder.

13 Notices and other communications

13.1 Notices to Holders

All notices and other communications to Holders must be in writing and must be:

- (a) left at the address of or sent by prepaid post (airmail, if appropriate) to the address of the Holder (as shown in the Register at the close of business on the day which is 5 Business Days before the date of the notice or communication);
- (b) (if available) issued to Holders through CHESS in accordance with any applicable rules and regulations of CHESS;
- (c) so long as the BCN are quoted on ASX, by publication of an announcement on ASX;
- (d) given by an advertisement published in the Australian Financial Review, The Australian or in any other newspaper nationally circulated within Australia;
- (e) sent by email or electronic message to the electronic address (if any) of the Holder (as shown in the Register at the close of business on the day which is 5 Business Days before the date of the notice or communication); or
- (f) given in any other way agreed between the Issuer and any Holder (and in agreeing in such way, the Issuer and such Holders may have regard to the dates by which notice is to be given under these Terms).

13.2 Notices to the Issuer

All notices and other communications to the Issuer must be in writing and must be:

- (a) sent by fax to the fax number, or left at the address, or sent by prepaid post (airmail, if appropriate) to the address, set out below:
 - Name: Macquarie Bank Limited
 - Address: Level 4, 1 Martin Place, Sydney, NSW, 2000, Australia
 - Attention: Company Secretary
 - Fax: +61 2 8232 4330
- (b) given in any other way reasonably determined by the Issuer and notified to Holders.

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For the purposes of this clause 13.2, the Issuer's address for notices and other communications is the address set out above or as otherwise notified by the Issuer to Holders.

13.3 When effective

Communications take effect from the time they are received or taken to be received under clause 13.4 (whichever happens first) unless a later time is specified.

13.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, the day immediately following the day on which the notice was posted (or four days after posting if sent from one country to another);
- (b) if addressed and transmitted to the person and fax number specified in accordance with clause 13.2, on the Business Day following its transmission;
- (c) if sent by e-mail to the electronic address in respect of the Holder as specified in accordance with clause 13.1, on the day following its transmission to that electronic address;
- (d) if issued to Holders through CHES, on the date of the issuance unless the sender receives an automated message that the e-mail has not been delivered;
- (e) if announced on ASX, on the date of the announcement; or
- (f) if published in a newspaper, on the first date that publication has been made in the required newspaper.

13.5 Receipt outside business hours

Despite clauses 13.3 and 13.4, if communications are received or taken to be received under clause 13.4 after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am in the place of receipt on the next Business Day and take effect from that time unless a later time is specified.

13.6 Effect of failure to give notice

If the Issuer is required to give a notice in relation to any act, matter or determination, the accidental omission to give that notice to a Holder does not invalidate the notice in relation to Holders generally, or affect the validity of that act, matter or determination.

14 Amendment of Terms

14.1 Amendment without consent

Subject to complying with the Corporations Act and all other applicable laws and directives, the Issuer may amend these Terms and the BCN Deed Poll, with the prior written approval of APRA (to the extent any such amendment may affect the

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eligibility of the BCN as Additional Tier 1 Capital of either or both of the MBL Level 1 Group and the MBL Level 2 Group) but without the consent of the Holders:

- (a) if the Issuer is of the opinion that the amendment is:
 - (i) of a formal, minor or technical nature;
 - (ii) made to correct any ambiguity or any manifest or proven error;
 - (iii) expedient for the purpose of enabling the BCN to be listed for quotation or to retain a listing on any Stock Exchange, to be cleared or settled through any clearing system or to retain clearance and settlement through any clearing system or to be offered for sale, or subscribed for, under the laws for the time being in force in any place and, in each case, it is otherwise not considered by the Issuer to be materially adverse to the interests of Holders as a whole;
 - (iv) necessary to comply with the provisions of any statute or the requirements of any statutory authority; or
 - (v) in respect of any time or notice period stated, required or permitted in respect of any Exchange on account of any Acquisition Event, as is necessary or appropriate to give effect to such Exchange; and
- (b) if the Issuer is of the opinion that the amendment does not, taken as a whole and in conjunction with all other amendments, if any, made contemporaneously with the amendments, materially adversely affect the interests of Holders as a whole.

14.2 Amendment without consent where Approved Acquirer

Without limiting clause 14.1, subject to complying with the Corporations Act and all other applicable laws and directives, the Issuer may make amendments to these Terms and the BCN Deed Poll, with the prior written approval of APRA but without the consent of the Holders, which are necessary and appropriate to effect the substitution of the Approved Acquirer as the issuer of ordinary shares whenever BCN are required to be Exchanged in the manner contemplated by these Terms, including without limitation:

- (a) amendments to the definition of "Exchange" such that, unless APRA otherwise agrees, on the Exchange Date:
 - (i) each BCN that is to be Exchanged will be automatically transferred by each Holder free from Encumbrance to the Approved Acquirer (or another subsidiary of the Approved Acquirer which is a holding company of the Issuer on the Exchange Date) (the "Transferee");
 - (ii) each Holder will be issued a number of ordinary shares in the capital of the Approved Acquirer equal to the Exchange Number; and
 - (iii) as between the Issuer and the Transferee, the BCN held by the Transferee as a result of the transfer will be exchanged for a number (rounded down to the nearest whole number) of MBL

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Ordinary Shares the aggregate value of which equals the aggregate Issue Price of the transferred BCN;

- (b) amendments and additions to the definitions of “Acquisition Event”, “Macquarie Group”, “Regulatory Event” and “Tax Event”; and
- (c) amendments and additions to any term defining the rights of Holders if the Exchange is not effected which is appropriate for the BCN to remain to be eligible as Additional Tier 1 Capital of the MBL Level 1 Group or the MBL Level 2 Group.

14.3 Amendment with consent

Without limiting clauses 14.1 and 14.2, the Issuer may, with APRA's prior written approval (to the extent any such amendment may affect the eligibility of the BCN as Additional Tier 1 Capital of the MBL Level 1 Group or of the MBL Level 2 Group), amend these Terms or the BCN Deed Poll, if the amendment has been approved by a Special Resolution.

14.4 Meanings

In this clause 14, “**amend**” includes modify, cancel, alter, adjust or add to and “**amendment**” has a corresponding meaning.

14.5 Notice of amendments

Any amendment of these Terms or the BCN Deed Poll made in accordance with this clause 14 must be promptly notified by the Issuer to Holders.

15 General provisions

15.1 Voting and meetings

- (a) The BCN Deed Poll contains provisions for convening meetings of the Holders to consider any matter affecting their interests, including any amendment of these Terms which requires the consent of Holders.
- (b) Holders will have no voting rights in respect of any member of the Macquarie Group.
- (c) Subject to applicable law, Holders are not entitled to be provided with copies of:
 - (i) any notices of general meetings of the Issuer or MGL; or
 - (ii) other documents (including annual reports and financial statements) sent by the Issuer or MGL to holders of ordinary shares or other securities (if any) in the Issuer or MGL.

15.2 Listing

The Issuer must use its best endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure, at its own expense, quotation of the BCN on ASX on or as soon as possible after the Issue Date and maintain quotation on ASX until all BCN have been Exchanged, Redeemed or Written-Off.

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15.3 Purchases

Subject to APRA's prior written approval and applicable law, any member of the Macquarie Group may purchase BCN at any time and at any price. Such BCN may, at the option of the acquirer, be held or resold.

16 Winding Up

16.1 Ranking in Winding Up

- (a) If an order of a court of competent jurisdiction in Australia is made (other than an order successfully appealed or permanently stayed within 30 days), or an effective resolution passed, for the Winding Up of the Issuer in Australia, the Issuer is liable to redeem each BCN for its Liquidation Amount in accordance with, and subject to, this clause 16.
- (b) In the Winding Up of the Issuer in Australia, a Holder is entitled, subject to the terms of the BCN Deed Poll and to this clause 16, to claim on a subordinated basis in accordance with clauses 1.5 and 16.1(c) for payment in cash of an amount equal to the Liquidation Amount but has no further or other claim on the Issuer in the Winding Up.
- (c) In a Winding Up of the Issuer in Australia:
 - (i) Holders shall be entitled to prove only for any sums payable in respect of the BCN as a debt which are subject to, and contingent upon the prior payment in full of, the Senior Creditors;
 - (ii) Holders shall be entitled to claim for payment in cash of an amount equal to the Liquidation Amount and that claim ranks equally with all Equal Ranking Obligations; and
 - (iii) Holders waive, to the fullest extent permitted by law, any right to prove in any such Winding Up as a creditor ranking for payment in any other manner.

16.2 Agreements of Holders as to subordination

Each Holder irrevocably agrees:

- (a) that clause 16.2 is a debt subordination for the purposes of section 563C of the Corporations Act;
- (b) that it does not have, and waives to the maximum extent permitted by law, any entitlement to interest under section 563B of the Corporations Act to the extent that a holder of a preference share which is an Equal Ranking Obligation would not be entitled to such interest;
- (c) not to exercise any voting or other rights as a creditor in any Winding Up or administration of the Issuer in any jurisdiction:
 - (i) until after all Senior Creditors have been paid in full; or
 - (ii) otherwise in a manner inconsistent with the ranking and subordination contemplated by clauses 1.5 and 16.1;

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- (d) that it must pay or deliver to the liquidator or administrator any amount or asset received on account of its claim in any Winding Up or administration of the Issuer in any jurisdiction in respect of the BCN in excess of its entitlement under clauses 1.5 and 16.1;
- (e) that it must pay in full all liabilities it owes the Issuer before it may receive any amount or asset on account of its claim in any Winding Up or administration in any jurisdiction in respect of a BCN; and
- (f) that the debt subordination effected by clauses 1.5 and 16.1 is not affected by any act or omission of the Issuer or a Senior Creditor which might otherwise affect it at law or in equity.

16.3 No charge

Nothing in clause 1.5 or this clause 16 shall be taken to:

- (a) create a charge or security interest on or over any right of the Holder; or
- (b) require the consent of any Senior Creditor to any amendment of these Terms.

17 Governing law, jurisdiction and service of documents

17.1 Governing law

The BCN, including these Terms, are governed by, and shall be construed in accordance with, the laws of New South Wales, Australia.

17.2 Jurisdiction

- (a) The Issuer and MGL irrevocably agree for the benefit of the Holders that the courts of New South Wales, Australia are to have non-exclusive jurisdiction to settle any disputes which may arise out of or in connection with the BCN and accordingly has submitted to the non-exclusive jurisdiction of the courts of New South Wales.
- (b) The Holders may take any suit, action or proceeding arising out of or in connection with the BCN ("**Proceedings**") against the Issuer or MGL in any other court of competent jurisdiction and may take concurrent Proceedings in any number of jurisdictions.

17.3 Service of process

Without preventing any other method of service, any document in any action may be served on the Issuer or MGL by being delivered or left at its registered office or principal place of business.

18 Interpretation and definitions

18.1 Interpretation

Unless otherwise specified or the contrary intention appears:

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- (a) a reference to a clause or paragraph is a reference to a clause or paragraph of these Terms;
- (b) if a calculation is required under these Terms, the result of the calculation will be rounded to four decimal places (with 0.00005 being rounded to 0.0001);
- (c) headings and bold typeface are for convenience only and do not affect the interpretation of these Terms;
- (d) the singular includes the plural and vice versa;
- (e) a reference to a statute, ordinance, directive, code or law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them and references to law includes statutes, ordinances, codes, directives or common law and principles of equity having general application;
- (f) if under these Terms an event must occur on a stipulated day, or a day is stipulated, which is not a Business Day, then, except in the cases of an Automatic Exchange Event and an Automatic Exchange Date, the stipulated day will be taken to be the next Business Day;
- (g) a reference to **“Australian Dollars”**, **“AUD”** **“A\$”** or **“cents”** is a reference to the lawful currency of Australia;
- (h) calculations, elections and determinations made by or on behalf of the Issuer, MGL or the Directors under these Terms are binding on Holders in the absence of manifest error or fraud;
- (i) a reference to a party to an agreement, deed, authority or other instrument includes a reference to any successor, replacement, assignee, substitute or addition of the party according to that agreement, deed, authority or instrument;
- (j) any references to the requirements of APRA or any other prudential regulatory requirements will apply to the Issuer or MGL only if the Issuer or MGL is an entity, or the holding company of an entity, subject to regulation and supervision by APRA at the relevant time;
- (k) any requirement for APRA’s consent or approval will apply only if APRA requires that such consent or approval be given at the relevant time;
- (l) any requirements for the prior approval or consent of APRA for a particular course of action to be taken by the Issuer or MGL do not imply that APRA has given its consent or approval to the particular action as of the Issue Date;
- (m) a reference to accounting standards is a reference to the accounting standards as defined in the Corporations Act and a reference to an accounting term is a reference to that term as it is used in those accounting standards, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (n) a reference to an agreement, deed or other instrument includes a reference to that agreement, deed or instrument as amended, modified, added to or restated from time to time;

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- (o) the terms “**takeover bid**”, “**relevant interest**”, “**scheme of arrangement**”, “**buy-back**”, “**subsidiary**” and “**holding company**” when used in these Terms have the meaning given in the Corporations Act;
- (p) a reference to the “**interests of Holders as a whole**” will, if BCN are held beneficially by a Nominated Party, be a reference to the interests of Holders other than the Nominated Party;
- (q) the words “**includes**” or “**including**”, “**for example**” or “**such as**” do not exclude a reference to other items, whether of the same class or genus or not;
- (r) if the principal securities exchange on which the MGL Ordinary Shares are quoted is other than ASX, unless the context otherwise requires a reference to ASX shall be read as a reference to that principal securities exchange and a reference to the ASX Listing Rules, ASX Operating Rules or any term defined in any such rules, shall be read as a reference to the corresponding rules of that exchange or corresponding defined term in such rules (as the case may be);
- (s) a reference to any term defined by APRA shall, if that term is replaced or suspended in any of APRA’s applicable prudential regulatory requirements or standards, be taken to be a reference to the replacement or equivalent term; and
- (t) where these Terms refer to a person’s opinion or to a person’s regard or consideration or being satisfied with respect to any step, act, matter or thing, that opinion, regard, consideration or satisfaction may be held, formed or made by the person in the person’s absolute discretion.

18.2 Definitions

In these Terms, the following meanings apply unless the contrary intention appears:

Acquisition Event means:

- (a) a takeover bid is made to acquire all or some MBL Ordinary Shares or MGL Ordinary Shares and the offer is, or becomes, unconditional and as a result of the bid the bidder (and its associates as defined in section 12 of the Corporations Act) has a relevant interest in more than 50% of the MBL Ordinary Shares or MGL Ordinary Shares on issue;
- (b) a court approves a scheme of arrangement which, when implemented, will result in a person (and its associates as defined in section 12 of the Corporations Act) having a relevant interest in more than 50% of the MBL Ordinary Shares or MGL Ordinary Shares on issue; or
- (c) a person together with its associates as defined in section 12 of the Corporations Act;
 - (i) acquires or comes to hold beneficially more than 50% of the voting shares (as defined in the Corporations Act) in the capital of the Issuer or MGL;
 - (ii) enters into an agreement to beneficially acquire more than 50% of the voting shares (as defined in the Corporations Act) in the

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capital of the Issuer or MGL and the agreement to acquire is, or becomes, unconditional,

(for the purposes of this definition, each an “**event**”), other than:

- (d) as part of a solvent reorganisation of the relevant entity where the persons holding relevant interests in the ordinary equity capital (being listed on ASX) of the bidder or other person (“**Approved Acquirer**”) acquiring a relevant interest in more than 50% of the MBL Ordinary Shares or MGL Ordinary Shares on issue or beneficially acquiring more than 50% of the voting shares in the capital of the Issuer or MGL are, or will be, substantially the same, and in substantially the same proportions, as the persons who held relevant interests in the MBL Ordinary Shares or MGL Ordinary Shares or who held beneficially voting shares in the capital of the Issuer or MGL immediately prior to the event where:
 - (i) the event is initiated by the Directors or the directors of MGL or would not, in the Issuer’s reasonable opinion, otherwise be materially adverse to the interests of Holders as a whole; and
 - (ii) the Approved Acquirer agrees for the benefit of Holders to:
 - (A) issue listed ordinary share capital in all circumstances where MGL would have otherwise been obliged to issue MGL Ordinary Shares as contemplated by these Terms;
 - (B) use all reasonable endeavours to ensure continued quotation of the BCN on a Stock Exchange; and
 - (C) comply with the obligations and restrictions as apply to MGL in connection with the BCN (with all necessary and appropriate modifications); or
- (e) in the case of the Issuer, where the person acquiring the relevant interest in or acquiring voting shares in the Issuer is a wholly owned subsidiary of MGL;

Acquisition Exchange Date has the meaning given in clause 6.2;

Acquisition Exchange Notice has the meaning given in clause 6.2;

Additional Tier 1 Capital has the meaning determined for that term (or its equivalent) by APRA from time to time;

Adjustment Notice has the meaning given in clause 9.9;

Applicable Shareholding Law means each of:

- (a) Chapter 6 of the Corporations Act;
- (b) the Foreign Acquisitions and Takeovers Act 1975 (Cth);
- (c) the Financial Sector (Shareholdings) Act 1998 (Cth);
- (d) Part IV of the Competition and Consumer Act 2010 (Cth); and

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- (e) any other law in force in Australia or any relevant foreign jurisdiction which limits or restricts the number of shares in the Issuer, MGL or any of their respective Related Bodies Corporate in which a person may have an interest or over which it may have a right or power;

Appointed Person has the meaning given in clause 10.2;

Approved Acquirer has the meaning given in the definition of Acquisition Event;

Approved Nominee has the meaning given in clause 9.1(a);

APRA means the Australian Prudential Regulation Authority or any authority succeeding to its powers and responsibilities;

ASX means ASX Limited (ACN 008 624 691) or the Australian Securities Exchange, as the context requires;

ASX Listing Rules means the listing rules of ASX as amended, varied or waived (whether in respect of the Issuer, MGL or generally) from time to time;

ASX Operating Rules means the market operating rules of ASX as amended, varied or waived (whether in respect of the Issuer, MGL or generally) from time to time;

ASX Settlement Operating Rules means the settlement operating rules of ASX as amended, varied or waived (whether in respect of the Issuer, MGL or generally) from time to time;

ASX Trading Day means a business day within the meaning of the ASX Listing Rules on which trading in MGL Ordinary Shares takes place;

Attributable Proceeds means, in respect of a Holder to whom clause 9.13(f) applies, an amount equal to the Proceeds per Share multiplied by the number of MGL Ordinary Shares issued and sold in accordance with clause 9.13(f) in respect of that Holder.

Automatic Exchange Date means the date of occurrence of an Automatic Exchange Event;

Automatic Exchange Event has the meaning given in clause 4.1;

Automatic Exchange Notice has the meaning given in clause 4.7;

Authorised Officer means a person appointed by the party to act as an authorised officer for the purposes of these Terms by notice to the Issuer;

Banking Act means the Banking Act 1959 (Cth);

BCN has the meaning given in clause 1.1;

BCN Deed Poll means the deed poll entitled "Macquarie Bank Capital Notes Deed Poll" executed by the Issuer and MGL in respect of the BCN dated on or about 15 September 2014;

Bills has the meaning given in clause 2.1;

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Bookbuild means the process conducted prior to the opening of the Offer where brokers and investors bid for the BCN and, on the basis of those bids, the Issuer, in consultation with the joint lead managers to the Offer, determines the Margin;

Business Day means a day which is (i) a business day within the meaning of the ASX Listing Rules; and (ii) for the purpose of determining an Exchange Date (other than an Automatic Exchange Date) or the calculation or payment of a Distribution or of any other sum, a day on which banks are open for general business in Sydney, Australia;

Buy-Back means a transaction involving the acquisition by the Issuer of MBL Ordinary Shares pursuant to an offer made in its discretion in accordance with the provisions of Part 2J of the Corporations Act;

Capital Reduction means a reduction in capital initiated by the Issuer in its discretion in respect of MBL Ordinary Shares in any way permitted by the provisions of Part 2J of the Corporations Act;

Common Equity Tier 1 in respect of each of the MBL Level 1 Group and the MBL Level 2 Group has the meaning determined for that term (or its equivalent) by APRA from time to time;

Common Equity Tier 1 Ratio means:

- (a) in respect of the MBL Level 1 Group, the ratio of Common Equity Tier 1 in respect of the MBL Level 1 Group to risk weighted assets of the MBL Level 1 Group; and
- (b) in respect of the MBL Level 2 Group, the ratio of Common Equity Tier 1 in respect of the MBL Level 2 Group to risk weighted assets of the MBL Level 2 Group,

in each case as calculated by the methodology prescribed (or its equivalent ratio) by APRA from time to time;

Common Equity Tier 1 Trigger Event has the meaning given in clause 4.1(a);

CHES means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd (ACN 008 504 532);

Control has the meaning given in the Corporations Act;

Corporations Act means the Corporations Act 2001 (Cth);

CS Facility has the same meaning as "Prescribed CS Facility" in the Corporations Act;

CS Facility Operator means the operator of a CS Facility;

Cum Value has the meaning given in clause 9.3;

Daily VWAP means the volume weighted average sale price (rounded to the nearest full cent) of MGL Ordinary Shares sold on ASX on a day but does not include any "Crossing" transacted outside the "Open Session State", or any "Special Crossing" transacted at any time, each as defined in the ASX Operating Rules, or any overseas trades or trades pursuant to the exercise of options over MGL Ordinary Shares;

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Deferred Exchange Date has the meaning given in clause 5.5;

Deferred Exchange Notice has the meaning given in clause 5.5;

Deferred Mandatory Exchange Date has the meaning given in clause 3.2;

Delisted means, in respect of MGL and an Exchange Date:

- (a) that MGL Ordinary Shares have ceased to be listed or admitted to trading on ASX (and continue not to be listed or admitted to trading on that date); or
- (b) an Inability Event applies on the relevant date preventing the Exchange of the BCN of Holders generally;

Directors means some or all of the Voting Directors (as defined in the Issuer's constitution) of the Issuer acting as a board;

Distribution has the meaning given in clause 2.1;

Distribution Payment Date has the meaning given in clause 2.1;

Distribution Period means each period commencing on (and including) a Distribution Payment Date and ending on (but excluding) the next Distribution Payment Date. However:

- (a) the first Distribution Period commences on (and includes) the Issue Date; and
- (b) the final Distribution Period ends on (and excludes) the Exchange Date, Redemption Date or Resale Date, as applicable;

Distribution Rate has the meaning given in clause 2.1;

Dividend Restriction has the meaning given in clause 2.5;

ECS means the US\$250,000,000 10.25% junior subordinated notes issued by the Issuer in 2012;

Encumbrance means any mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement, any other security agreement or security arrangement (including any security interest under the Personal Property Securities Act 2009 (Cth)) and any other arrangement of any kind having the same effect as any of the foregoing;

Equal Ranking Obligations means any obligation of, or claim against, the Issuer that exists or may arise in connection with:

- (a) the MIPS Preference Shares;
- (b) the MIS Preference Shares;
- (c) the ECS; and
- (d) any other:

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- (i) preference share, security or capital instrument issued by the Issuer; or
- (ii) obligation of, or claim against, the Issuer in respect of a preference share, security or capital instrument issued by a member of the Macquarie Group,

which preference share, security, capital instrument of, or obligation or claim against, the Issuer ranks, or is expressed to rank, equally with the BCN or any other Equal Ranking Obligation;

Exchange means, in respect of a BCN, the transfer of that BCN in exchange for MGL Ordinary Shares in accordance with and subject to clause 9 and the performance of the Related Exchange Steps, and “**Exchangeable**”, “**Exchanged**” and “**Exchanging**” have corresponding meanings;

Exchange Conditions has the meaning given in clause 3.3;

Exchange Date means a Mandatory Exchange Date, Automatic Exchange Date, Optional Exchange Date or Acquisition Exchange Date on which the BCN must be Exchanged (any relevant Exchange Conditions applicable to that date having been met);

Exchange Date VWAP has the meaning given in clause 9.1;

Exchange Floor Price has the meaning given in clause 9.1;

Exchange Number has the meaning in clause 9.1;

FATCA means the Foreign Account Tax Compliance Act provisions set out in sections 1471 through to 1474 of the US Internal Revenue Code (“**Code**”) (and including any current or future regulations or official interpretations thereof issued in respect of these provisions, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices or similar laws implementing an inter-governmental approach on such provisions and any agreement entered into by the Issuer pursuant to or in connection with any of the foregoing);

First Exchange Condition has the meaning given in clause 3.3;

First Optional Exchange Restriction has the meaning given in clause 5.4;

First Scheduled Optional Exchange Date has the meaning given in clause 5.2;

Foreign Holder means a Holder whose address in the Register is a place outside Australia or who the Issuer otherwise believes may not be a resident of Australia;

Fourth Exchange Condition has the meaning given in clause 3.3;

Franking Adjustment Factor has the meaning given in clause 2.1;

Franking Rate means the franking percentage, as defined under Part 3-6 of the Tax Act, for a Distribution as at the relevant Distribution Payment Date (expressed as a decimal) multiplied by the proportion of the relevant Distribution that is frankable;

Holder means a person Registered as the holder of a BCN;

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Inability Event means any of the Issuer, MGL or any of their Related Bodies Corporate is prevented by applicable law, an order of any court, an action of any government authority (including regarding the insolvency, Winding Up or other external administration of the Issuer, MGL or a Related Body Corporate), or for any other reason, from observing and performing their obligations in respect of an Exchange (including in connection with the issue of MGL Ordinary Shares or the performance of any Related Exchange Steps);

Ineligible Holder has the meaning given in clause 9.13;

IRS means the Internal Revenue Service of the United States of America;

Issue Date means the date the BCN are issued, expected to be 8 October 2014;

Issue Date VWAP has the meaning given in clause 9.1;

Issue Price has the meaning given in clause 1.1;

Issuer means Macquarie Bank Limited (ACN 008 583 542), a company incorporated under the laws of Australia;

Liquidation Amount means an amount equal to the Issue Price;

Macquarie Group means MGL and each entity it Controls;

Mandatory Exchange Date has the meaning given in clause 3.2;

Margin has the meaning given in clause 2.1;

Maximum Exchange Number has the meaning given in clause 9.1;

MBL Level 1 Group means the Issuer and such other entities included by APRA from time to time in the calculation of MBL's Tier 1 Capital Ratio on a Level 1 basis (or its equivalent);

MBL Level 2 Group means the Issuer and such other entities included by APRA from time to time in the calculation of MBL's Tier 1 Capital Ratio on a Level 2 basis (or its equivalent);

MBL Ordinary Share means a fully paid ordinary share in the capital of the Issuer;

MBL Ordinary Share Dividend means any interim, final or special dividend payable in accordance with the Corporations Act and the constitution of the Issuer in respect of MBL Ordinary Shares;

MGL means Macquarie Group Limited (ACN 122 169 279), a company incorporated under the laws of Australia;

MGL Ordinary Share means a fully paid ordinary share in the capital of MGL;

MIPS Preference Shares means the preference shares issued by the Issuer in connection with the £350,000,000 6.177% Guaranteed Non-cumulative Step-up Perpetual Preferred Securities issued by Macquarie Capital Funding LP in 2004;

MIS Preference Shares means the preference shares comprised in the stapled security known as the Macquarie Income Securities issued by the Issuer in 1999;

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Nominated Party means, subject to clause 8.2, one or more third parties selected by the Issuer in its absolute discretion;

Non-Completing Nominated Party has the meaning given in clause 8.6;

Non-Exchange Test Date has the meaning given in clause 5.4;

Non-Viability Event has the meaning given in clause 4.1(b);

Offer means the invitation made under the Prospectus by the Issuer for persons to subscribe for the BCN;

Optional Exchange Date has the meaning given in clause 5.3;

Optional Exchange Notice has the meaning given in clause 5.1;

Optional Exchange Restrictions has the meaning given in clause 5.4;

Proceedings has the meaning given in clause 17.2;

Proceeds per Share means, in respect of MGL Ordinary Shares issued and sold in accordance with clause 9.13(f), an amount equal to the net proceeds of the sale of such MGL Ordinary Shares, actually received after deducting any applicable brokerage, stamp duties and other taxes, charges and expenses, divided by the number of such MGL Ordinary Shares issued and sold;

Prospectus means the prospectus for the Offer;

Reclassification means a division, consolidation or reclassification of MGL's share capital (not involving any cash payment or other distribution or compensation to or by holders of MGL Ordinary Shares or to or by any entity in the Macquarie Group);

Record Date has the meaning given in clause 2.1;

Redemption means, in respect of a BCN, the BCN is redeemed by payment of cash in accordance with and subject to clause 7 and "**Redeem**" and "**Redeemed**" have the corresponding meanings;

Redemption Date has the meaning given in clause 7.3;

Redemption Notice has the meaning given in clause 7.1;

Redemption Price has the meaning given to it in clause 7.4;

Reference Rate has the meaning given in clause 2.1;

Register means the register, including any branch register, of Holders established and maintained by, or on behalf of, the Issuer;

Registered means recorded in the Register;

Registrar means a person appointed by the Issuer to maintain the Register;

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Regulatory Event means:

- (a) a law or regulation applicable in the Commonwealth of Australia or any State or Territory of Australia or any directive, order, standard, requirement, guideline or statement of APRA (whether or not having the force of law), which applies to the Issuer, MGL or any other member of the Macquarie Group (a "**Regulation**") is introduced, amended, clarified or changed or its application changed; or
- (b) an announcement is made that a Regulation will be introduced, amended, clarified or changed or its application changed; or
- (c) a decision is made by any court or other authority interpreting, applying or administering any Regulation,

in each case, which event occurs on or at any time after the Issue Date and was not expected by the Issuer as at the Issue Date (each such event a "**Change in Law**") and the Directors determine that, as a result of that Change in Law:

- (i) any of the BCN are not eligible for inclusion as Additional Tier 1 Capital for the MBL Level 1 Group or the MBL Level 2 Group;
- (ii) that additional requirements (including regulatory, capital, financial, operational or administrative requirements) in connection with the BCN would be imposed on the Issuer, MGL or the Macquarie Group which the Directors determine, in their absolute discretion, might have a material adverse effect on the Issuer, MGL or the Macquarie Group or otherwise be unacceptable; or
- (iii) that to have any of the BCN outstanding would be unlawful or impractical or that the Issuer, MGL or the Macquarie Group would be exposed to a more than *de minimis* increase in its costs in connection with those BCN;

Related Bodies Corporate has the meaning given in the Corporations Act;

Related Entity has the meaning given to it by APRA from time to time;

Related Exchange Steps has the meaning given in clause 9.1(d);

Relevant Mandatory Exchange Date has the meaning given in clause 3.2;

Relevant Percentage has the meaning given in clause 9.1;

Relevant Tier 1 Security means a security forming part of the Tier 1 Capital of Issuer that, in accordance with its terms or by operation of law, is capable of being converted into MGL Ordinary Shares or written-off when an Automatic Exchange Event occurs (including the BCN and the ECS);

Resale has the meaning given in clause 8.1 and "**Resell**" and "**Resold**" have the corresponding meanings;

Resale Date has the meaning given in clause 8.1;

Resale Notice has the meaning given in clause 8.1;

Resale Price has the meaning given in clause 8.3;

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Sale Agent means person appointed by the Issuer to sell MGL Ordinary Shares in accordance with clause 9.13, and includes an agent of that person;

Scheduled Mandatory Exchange has the meaning given in clause 3.2;

Scheduled Mandatory Exchange Date has the meaning given in clause 3.2;

Scheduled Optional Exchange Date has the meaning given in clause 5.2;

Second Exchange Condition has the meaning given in clause 3.3;

Second Optional Exchange Restriction has the meaning given in clause 5.4;

Second Scheduled Optional Exchange Date has the meaning given in clause 5.2;

Senior Creditors means all present and future creditors of the Issuer whose claims are:

- (a) entitled to be admitted in the Winding Up of the Issuer; and
- (b) not expressed to rank equally with, or subordinate to, the claims of the Holders under these Terms;

Special Resolution means:

- (a) a resolution passed at a meeting of Holders duly convened and held (or by way of postal ballot) in accordance with the BCN Deed Poll by the affirmative vote of at least 75% of the votes validly cast by Holders in person or by proxy and entitled to vote on the resolution; or
- (b) the consent in writing of Holders holding at least 75% of the BCN then on issue;

Stock Exchange means ASX or such other stock or securities exchange on which the BCN may be listed from time to time;

Suspension Event means, in respect of a date, trading of MGL Ordinary Shares on ASX is suspended for a period of consecutive days which includes:

- (a) at least 5 consecutive Business Days prior to that date; and
- (b) that date;

Tax Act means the Income Tax Assessment Act 1936 (Cth) or the Income Tax Assessment Act 1997 (Cth), as the context requires;

Tax Event means that, on or after the Issue Date, the Issuer receives an opinion of nationally recognised legal counsel or other nationally recognised tax adviser in Australia experienced in such matters, that there is more than an insubstantial risk which the Directors determine, at their absolute discretion, to be unacceptable that, as a result of a Tax Event Trigger and in connection with the BCN:

- (a) a franking debit will arise in the franking account of MGL in respect of any Distribution (the terms "franking debit" and "franking account" being within the meaning of Division 205 of the Tax Act) in addition to any

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franking debit that would, or is expected to, arise from the relevant Distribution in the absence of the Tax Event Trigger;

- (b) the Issuer or another member of the Macquarie Group is or will become exposed to more than a *de minimis* increase in its costs (including without limitation through the imposition of any taxes, duties, assessments or other governmental charges); or
- (c) any Distribution would not be a frankable dividend or distribution within the meaning of Division 202 of the Tax Act;

Tax Event Trigger means:

- (a) an amendment to, change in or announcement that there will be a change in, any laws or regulations affecting taxation in Australia;
- (b) a judicial decision interpreting, applying or clarifying any laws or regulations affecting taxation in Australia;
- (c) an administrative pronouncement, ruling, confirmation, advice or action that represents an official position, including a clarification of an official position of the governmental authority or regulatory body making the administrative pronouncement or taking any action, in each case, affecting taxation in Australia; or
- (d) a challenge asserted or threatened in writing in connection with an audit or investigation of any member of the Macquarie Group by the Australian Tax Office in connection with BCN,

which amendment, change or announcement that there will be a change, or which action or clarification or challenge occurs, on or after the Issue Date and was not expected by the Issuer as at the Issue Date;

Tax Rate means the Australian corporate tax rate applicable to the franking account of MGL on the relevant Distribution Payment Date (expressed as a decimal);

Terms means these terms and conditions;

Third Exchange Condition has the meaning given in clause 3.3;

Third Scheduled Optional Exchange Date has the meaning given in clause 5.2;

Tier 1 Capital has the meaning determined for that term (or its equivalent) by APRA from time to time;

Tier 1 Capital Ratio means at any time that ratio (or its equivalent) as defined by APRA from time to time;

Transferee has the meaning given in clause 14.2;

VWAP has the meaning given in clause 9.1;

VWAP Period has the meaning given in clause 9.1;

Winding Up means, with respect to an entity, the winding up, termination or dissolution of the entity, but does not include any winding up, termination or dissolution for the purposes of a consolidation, amalgamation, merger or

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reconstruction (the terms of which have been approved by the shareholders of the entity or by a court of competent jurisdiction) under which the continuing or resulting entity effectively assumes the entire obligations of the entity in respect of the BCN; and

Written-Off means, in respect of a BCN, that the Holder's rights under that BCN (including to payment of the Liquidation Amount and Distributions) are immediately and irrevocably terminated for no consideration, and "**Write-Off**" has a corresponding meaning.

18.3 Inconsistency with ASX Listing Rules and ASX Settlement Operating Rules

So long as the BCN are quoted on ASX and in CHESS, these Terms as they relate to those BCN are to be interpreted in a manner consistent with applicable ASX Listing Rules and ASX Settlement Operating Rules (together, the "**Rules**"), except to the extent that an interpretation consistent with those Rules would affect the eligibility of the BCN as Tier 1 Capital for the MBL Level 1 Group or the MBL Level 2 Group.

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Schedule 2 - Meeting Provisions

1 Interpretation

1.1 Interpretation

- (a) If there is only one Holder of BCN that person must be treated as two persons for the purposes of any quorum requirements of a meeting.
- (b) The time and date for determining the identity of a Holder who may be counted for the purposes of determining a quorum or attend, speak and vote at a meeting (including any adjourned meeting) or sign a resolution in writing is at the close of business in the place where the Register is kept 7 days prior to the date of the meeting or, for a resolution made in writing, the Notification Date.
- (c) References to persons representing a proportion of the BCN are to Holders or proxies holding or representing in aggregate at least that proportion in principal amount of the BCN for the time being outstanding.
- (d) In determining whether the provisions relating to quorum, meeting and voting entitlements and procedures are complied with, any BCN beneficially held in the name of the Issuer, MGL or any of their Related Entities must be disregarded unless the Issuer, MGL, any such Related Entity or any of them together are the sole holders of the BCN.
- (e) Unless expressly stated otherwise in these Meeting Provisions, any notice required to be given under these provisions to Holders must be given in the manner set out in clause 13 of the Terms.
- (f) If a notice of meeting must be given within a certain period of days, the day on which the notice is given, and the day on which the meeting is to be held, are not to be counted in calculating that period.
- (g) A Holder will be taken to be present at a meeting (including an adjourned meeting) if that Holder (being an individual) is present in person or if the attorney, proxy or (in the case of a corporation) a duly appointed corporate representative (where evidence, satisfactory to the Registrar and the Issuer, of such appointment has been provided to the Registrar and the Issuer) of the Holder is present, and any vote cast or other action taken by the attorney, proxy or corporate representative on behalf of the Holder in respect of any matter put before the meeting will be taken to be the vote or (as the case may be) action of the Holder.

1.2 Definitions

Expressions and terms having a defined meaning in the Terms have the same meaning when used in these provisions and the following words have these meanings in these provisions, in each case unless the contrary intention appears

Meeting Provisions means these meeting provisions contained in Schedule 2 to the BCN Deed Poll.

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Notification Date means the date stated in the copies of a resolution to be made in writing sent for that purpose to Holders, which must be no later than the date on which such resolution is first notified to Holders in the manner provided in clause 13 of the Terms.

Ordinary Resolution means:

- (a) a resolution passed at a meeting of Holders duly convened and held (or by way of postal ballot) in accordance with these Meeting Provisions by the affirmative vote of at least 50% of the votes validly cast by Holders in person or by proxy and entitled to vote on the resolution; or
- (b) the consent in writing of Holders holding at least 50% of the BCN then on issue; and

Terms means the terms and conditions applicable to the BCN set out in Schedule 1 to the BCN Deed Poll.

1.3 Application

These Meeting Provisions apply equally to each BCN and a reference in these Meeting Provisions to "Holders" or "BCN" are to the Holders of BCN in respect of which the meeting is being held or that particular BCN as the case may be unless specified or the context requires otherwise.

2 Power to call meetings

A meeting of the Holders:

- (a) may be convened at any time by the Issuer, MGL or the Registrar at the place and time appointed by the convenor; and
- (b) must be convened by the Registrar at a place and time appointed by it:
 - (i) if requested to do so by the Issuer or MGL; or
 - (ii) if requested to do so in writing by Holders who together hold 10% or more of the outstanding principal amount of the BCN.

3 How to call meeting and period of notice

At least 28 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which it is given) of every meeting is to be given to the Issuer, MGL, the Registrar and the Holders.

3.1 Contents of notice

The notice must specify the place, day and hour of meeting and the general nature of the business to be transacted but it is not necessary to specify in the notice the precise terms of the resolutions to be proposed. The convenor of the meeting may amend or supplement the notice of meeting by any further information or materials it considers appropriate by further notice given in accordance with this paragraph at least 7 days prior to the time fixed for the meeting. A copy of the notice must be sent by post to the Registrar (unless the

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meeting is called by the Registrar), to the Issuer (unless the meeting is called by the Issuer) and to MGL (unless the meeting is called by MGL).

The notice must provide that the Holders may attend personally or through a proxy.

3.2 Omission to give notice

- (a) A meeting is duly convened and proceedings at it are valid notwithstanding:
 - (i) accidental omission to give notice to, or the non-receipt of notice by, a Holder or any amending or supplementary notice; or
 - (ii) the omission to give notice (or any amending or supplementary notice) to a Holder whose country of residence (as shown in the Register) is outside Australia and where the giving of notice to such Holder is not permitted by applicable law, or permitted only after compliance with conditions which the Issuer in its discretion considers unduly onerous.
- (b) An omission to give notice to, or the non-receipt of notice by, the Registrar, the Issuer or MGL under paragraph 3 of these Meeting Provisions, within the period specified in that clause, invalidates a meeting unless:
 - (i) the Registrar, the Issuer or MGL (as the case may be) refuses to accept delivery of that notice; or
 - (ii) the Registrar, the Issuer or MGL (as the case may be), by notice to the other, waives its right to compliance with to be provided with such notice.

3.3 Meeting in more than one place

A meeting of Holders may, if the Registrar (after consultation with the Issuer, where practicable) so determines, be held at two or more meeting venues linked together by audio-visual communication equipment which, by itself or in conjunction with other arrangements:

- (a) gives the Holders in the separate venues a reasonable opportunity to participate in the proceedings;
- (b) enables the Chairperson (as defined below) to be aware of proceedings in each such venue; and
- (c) enables the Holders in each such venue to vote on a show of hands and on a poll.

A Holder at one of the separate meeting venues is taken to be present at the meeting of the Holders and is entitled to exercise all rights which a Holder has under this deed and these Meeting Provisions in relation to a meeting of Holders. Where a meeting of Holders is held at two or more meeting venues pursuant to this clause that meeting will be regarded as having been held at the venue determined by the Chairperson (as defined below) of the meeting.

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3.4 Postal ballot

Any meeting of Holders may be conducted by postal ballot under such arrangements as the Issuer may determine reflecting, as closely as may be practicable, the provisions of these Meeting Provisions.

3.5 Location of meetings

All meetings of Holders must be held in Australia unless the Issuer and the Registrar agree otherwise.

4 Proceedings at meeting and quorum

The quorum for any meeting is two Holders or proxies (or one of each) and holding or representing Holders holding (in aggregate) BCN representing at least 10% of the outstanding principal amount of the BCN when the meeting begins. No business may be transacted at any meeting unless the requisite quorum is present at the commencement of business.

4.1 No quorum

If a quorum is not present within half an hour from the time appointed for the meeting then the meeting, if called upon the request of Holders, is dissolved. In any other case it stands adjourned to such day and time not being less than 14 days nor more than 42 days thereafter and to such place as may be directed by the Chairperson (as defined below). At such an adjourned meeting the Holders present and entitled to vote are a quorum for the transaction of business, regardless of the outstanding principal amount of the BCN held by them.

4.2 Adjournment

The Chairperson may with the consent of an Ordinary Resolution and must (if directed by an Ordinary Resolution on a poll) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. Any proxy provided to the Issuer, the Issuer's agents or the Registrar under paragraph 6 of these Meeting Provisions, remains valid and effective for a meeting adjourned under these provisions.

4.3 Chairperson

The Issuer may nominate a person to be the chairperson ("**Chairperson**") of any meeting of Holders, who need not be a Holder but who may be a representative of the Issuer or any other executive officer of the Issuer. If no such person is nominated, or if at any meeting the person nominated is not present within 15 minutes after the time appointed for holding the meeting, the Holders present may choose one of their number to be Chairperson.

4.4 Attendees

No person other than the Chairperson, the Registrar, the Issuer, MGL and the Holders (through their respective representatives) and their respective financial and legal advisers and the auditor of the Issuer and the auditor of MGL may attend or speak at any meeting.

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4.5 Minutes

Minutes of all resolutions and proceedings at every meeting (or resolutions otherwise passed in accordance with these Meeting Provisions) must be duly entered by the Registrar (failing which the Issuer) in minute books to be kept for that purpose by the Registrar (or the Issuer as the case may be) and any such minutes, if purported to be signed by the Chairman of the meeting at which such resolutions were passed or proceedings transacted or by the chairman of the next succeeding meeting (or, where the resolution is passed otherwise than at a meeting, if purporting to be signed by a director or secretary of the Registrar or Issuer as the case may be), are conclusive evidence of the matters contained in them.

Until the contrary is proved, every meeting (and every resolution passed in writing) in respect of which minutes have been so made and signed is deemed to have been duly convened and held (or copies of the proposed written resolution duly sent) and all resolutions passed or proceedings transacted at that meeting are deemed to have been duly passed and transacted (or, where a resolution is passed in writing, such resolution is deemed to have been duly passed).

5 Voting show of hands

At any meeting a resolution put to the vote of the meeting is decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairperson, the Registrar, the Issuer or MGL or by one or more Holders present or by attorney or proxy holding (in aggregate) BCN representing at least 5% of the outstanding principal amount of the BCN outstanding when the meeting begins.

Unless a poll is so demanded a declaration by the Chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

5.1 Poll

If a poll is duly demanded it must be taken in such manner as the Chairperson may direct and the result of such a poll is deemed to be the resolution of the meeting at which the poll was demanded.

5.2 Conduct of poll

A poll demanded on the election of the Chairperson or on a question of adjournment must be taken at the meeting without adjournment. A poll demanded on any other question must be taken either immediately or at such time and date (not being more than 30 days from the date of the meeting) and place as the Chairperson may direct. No notice need be given of a poll not taken immediately. The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

5.3 Number of votes

Except where these Meeting Provisions or the ASX Listing Rules provide otherwise:

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- (d) on a show of hands, every Holder who is present has one vote; and
- (e) on a poll every Holder of BCN who is present has one vote for every BCN with respect to which it is the registered holder.

A Holder entitled to more than one vote need not use all its votes or cast all the votes it uses in the same way.

5.4 Joint Holders

In the case of joint registered holders of BCN, the joint Holder first named in the Register (or if that person does not vote, the next named joint Holder) may exercise the voting rights of jointly held BCN.

5.5 Casting vote

If votes are equal, whether on a show of hands or on a poll, the Chairperson has a casting vote in addition to the vote or votes (if any) to which the Chairperson is otherwise entitled.

6 Proxies

6.1 Instrument appointing proxy

An instrument appointing a proxy must be in writing under the hand of the appointor or of its attorney duly authorised in writing or if the appointor is a corporation either under its common seal or under the hand of an officer or attorney so authorised.

6.2 Proxy need not be Holder

A person appointed to act as a proxy need not be a Holder.

6.3 Deposit of proxy

The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a duly certified copy of such power or authority must be deposited at such places in Australia as the Registrar or the Issuer may in the notice convening the meeting direct or if no such place is appointed then at the office of the Registrar in Australia not less than 48 hours before the time appointed for holding the meeting or adjourned meeting or for the taking of the poll at which the person named in the instrument proposes to vote and in default the instrument of proxy must not be treated as valid. A notice of revocation or amendment of a proxy must be received from the Holder not less than 24 hours before the time appointed for the holding of the relevant meeting or the taking of the relevant poll to revoke or amend the proxy. No instrument appointing a proxy is valid after the expiration of twelve months from the date named in it as the date of its execution. If the Registrar convenes a meeting of Holders, the Issuer or the Issuer's agents must as soon as reasonably practicable after receipt of the documents deposited with the Issuer under this paragraph 6, provide a copy of those documents to the Registrar.

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6.4 Form of proxy

An instrument of proxy may be in the usual common form or in such other form as the Issuer approves. A proxy is deemed to include the right to demand or join in demanding a poll. A proxy is (unless the contrary is stated on it) valid for any adjournment of the meeting as well as for the meeting to which it relates and need not be witnessed.

6.5 Validity of vote

A vote given under the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed or the transfer of the BCN in respect of which the proxy is given provided that no intimation in writing of such death insanity revocation or transfer has been received by the Issuer, at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

7 Passing of resolutions by instrument in writing

- (a) A resolution may be passed in writing:
- (i) if it is an Ordinary Resolution, where within one month from the Notification Date, Holders representing more than 50% of the aggregate outstanding principal amount of outstanding BCN as at the Notification Date have signed the resolution; or
 - (ii) if it is an Special Resolution, where within one month from the Notification Date stated in the copies of the resolution sent for that purpose to Holders, Holders representing at least 75% of the aggregate outstanding principal amount of outstanding BCN as at the Notification Date have signed the resolution,

and any such resolution is deemed to have been passed on the date on which the last Holder whose signature on the resolution caused it to be so passed signed it (as evidenced on its face).

- (b) A resolution in writing made pursuant to this paragraph 7 is valid notwithstanding:
- (i) accidental omission to give a copy of the resolution to, or the non-receipt of such a copy by, a Holder; or
 - (ii) the omission to give a copy of the resolution to a Holder whose country of residence (as shown in the Register) is outside Australia and where the giving of such copy to such Holder is not permitted by applicable law, or permitted only after compliance with conditions which the Issuer in its discretion considers unduly onerous.
- (c) A resolution in writing signed by Holders may be contained in one document or in several documents in like form each signed by one or more Holders.

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8 Powers of Holders

8.1 Use of Special Resolution

Without limiting the powers of the Holders under the Terms, the Holders may by Special Resolution:

- (f) sanction any proposal by the Issuer or MGL for any amendment to, or compromise of, or arrangement in respect of, the rights of the Holders against the Issuer or MGL whether such rights arise in respect of the BCN or otherwise;
- (g) sanction any proposal by the Issuer or MGL for the exchange or substitution for the BCN of, or the conversion of the BCN into, other obligations or securities of the Issuer or MGL or any other body corporate formed or to be formed (other than where such exchange, substitution or conversion is provided for in the Terms);
- (h) waive or authorise any breach or proposed breach by the Issuer or MGL of any of its obligations under the deed poll to which these provisions are a schedule or the BCN;
- (i) authorise any person to concur in and do anything necessary to carry out and give effect to a Special Resolution;
- (j) appoint any persons (whether Holders or not) as a committee or committees to represent the interests of the Holders and to confer upon such committee or committees any powers or discretions which the Holders could themselves exercise by Special Resolution; and
- (k) approve any proposal by the Issuer for the alteration of the majority required to pass a Special Resolution.

8.2 Use of Ordinary Resolution

Subject to paragraph 8.1 of these Meeting Provisions, the Holders have the power exercisable by Ordinary Resolution to do anything for which a Special Resolution is not required.

8.3 Action which affects Additional Tier 1 Capital Eligibility

An action which in any way affects the eligibility of the BCN as Additional Tier 1 Capital of the Issuer cannot be sanctioned or approved by Holders under paragraphs 8.1 and 8.2 of these Meeting Provisions unless prior written approval for the action has been obtained from APRA.

9 Holders bound

An Ordinary Resolution or a Special Resolution passed at a meeting of the Holders duly convened and held (or by way of postal ballot) under these Meeting Provisions is to be binding on all the Holders whether or not present at the meeting and each of the Holders is bound to give effect to the resolution.

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The Issuer must give notice to the Holders, in the manner provided in clause 13 of the Terms, of the result of the voting on a resolution within 14 days of such result being known but failure to do so will not invalidate the resolution.

Except where this deed, the Terms or any applicable law provides otherwise, a resolution of Holders is to be passed as an Ordinary Resolution.

10 Further procedures

The Issuer (with the approval of the Registrar) may prescribe further regulations for the holding of, attendance and voting at meetings as are necessary or desirable and do not adversely affect the interests of the Holders.

Macquarie Bank Capital Notes Deed Poll

Signing page

Dated: 15 September 2014

Issuer

EXECUTED as a deed

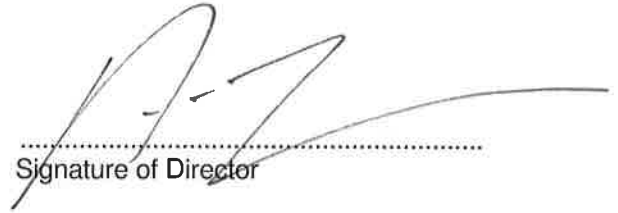
THE COMMON SEAL of
MACQUARIE BANK LIMITED was
affixed in accordance with the
company's constitution



Signature of Secretary / Director

PAULA WALSH

Name of Secretary / Director in full



Signature of Director

Name of Director in full

Anthony Lewis
Executive Director

Macquarie Bank Capital Notes Deed Poll

MGL

EXECUTED as a deed

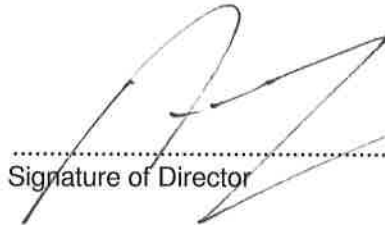
THE COMMON SEAL of
MACQUARIE GROUP LIMITED was
affixed in accordance with the
company's constitution



.....
Signature of Secretary / Director

PAULA WALSH

.....
Name of Secretary/ Director in full



.....
Signature of Director

.....
Name of Director in full

Anthony Lewis
Executive Director