

## TERMS AND CONDITIONS OF THE PERPETUAL CAPITAL SECURITIES

*The following is the text of the terms and conditions that, save for the words in italics and, subject to completion and amendment and as supplemented or varied in accordance with the provisions of the applicable Pricing Supplement, shall be applicable to the Perpetual Capital Securities in definitive form (if any) issued in exchange for the Global Certificate(s) representing each Series. Either: (i) the full text of these terms and conditions together with the relevant provisions of the applicable Pricing Supplement; or (ii) these terms and conditions as so completed, amended, supplemented or varied (and subject to simplification by the deletion of non-applicable provisions), shall be endorsed on the Certificates relating to such Perpetual Capital Securities. References in the Conditions to “Perpetual Capital Securities” are to the Perpetual Capital Securities of one Series only, not to all Perpetual Capital Securities that may be issued under the Programme.*

The Perpetual Capital Securities are constituted by a trust deed dated on or about 2 July 2019 (the “**Programme Date**”) (as may be amended or supplemented as at the date of issue of the Perpetual Capital Securities (the “**Issue Date**”), the “**Trust Deed**”) (and as may be further amended, restated, novated or supplemented) between Chong Hing Bank Limited (the “**Issuer**”) and The Hongkong and Shanghai Banking Corporation Limited (the “**Trustee**”, which expression shall include all persons for the time being the trustee or trustees under the Trust Deed) as trustee for the Securityholders (as defined below).

These terms and conditions (the “**Conditions**”) include summaries of, and are subject to, the detailed provisions of the Trust Deed, which includes the form of the Perpetual Capital Securities and Certificates referred to below. An agency agreement dated on or about 2 July 2019 (the “**Agency Agreement**”) (and as may be further amended, restated, novated or supplemented) has been entered into in relation to the Perpetual Capital Securities among the Issuer, the Trustee, The Hongkong and Shanghai Banking Corporation Limited as initial issuing and paying agent (except as otherwise described below), The Hongkong and Shanghai Banking Corporation Limited as the lodging and paying agent for Perpetual Capital Securities to be held in the Central Moneymarkets Unit Service operated by the Monetary Authority (the “**CMU Service**”), and the other agents named in it. The issuing and paying agent, the CMU lodging and paying agent, the other paying agents, the registrar, the transfer agents and the calculation agent(s) for the time being (if any) are referred to below respectively as the “**Issuing and Paying Agent**”, the “**CMU Lodging and Paying Agent**”, the “**Paying Agents**” (which expression shall include the Issuing and Paying Agent and the CMU Lodging and Paying Agent), the “**Registrar**”, the “**Transfer Agents**” (which expression shall include the Registrars) and the “**Calculation Agent(s)**”. For the purposes of these Conditions, all references (other than in relation to the determination of Distribution and other amounts payable in respect of the Perpetual Capital Securities) to the Issuing and Paying Agent shall, unless provided otherwise, with respect to a Series of Perpetual Capital Securities to be held in the CMU Service, be deemed to be a reference to the CMU Lodging and Paying Agent and all such references shall be construed accordingly. References in these Conditions to the “**Issuer**” are to the entity named as such in the applicable Pricing Supplement.

The Securityholders are entitled to the benefit of, are bound by, and are deemed to have notice of, these Conditions, (in respect of the holders of Perpetual Capital Securities) all the provisions of the Trust Deed, the applicable Pricing Supplement, and are deemed to have notice of those provisions applicable to them of (in respect of the holders of Perpetual Capital Securities) the Agency Agreement. The Pricing Supplement for this Perpetual Capital Security (or the relevant provisions thereof) is attached to or endorsed on this Perpetual Capital Security. References to “**applicable Pricing Supplement**” are to the Pricing Supplement (or relevant provisions thereof) attached to or endorsed on this Perpetual Capital Security.

All capitalised terms that are not defined in these Conditions will have the meanings given to them in the applicable Pricing Supplement or the Trust Deed, as the case may be.

As used in these Conditions, “**Tranche**” means Perpetual Capital Securities which are identical in all respects and “**Series**” means a series of Perpetual Capital Securities comprising one or more Tranches, whether or not issued on the same date, that (except in respect of the first payment of Distribution and their issue price) have identical terms on issue and are expressed to have the same series number.

## 1. Form, Denomination and Title

- (a) **Form and denomination:** The Perpetual Capital Securities are issued in registered form only (“**Registered Perpetual Capital Securities**”), as specified in the applicable Pricing Supplement, in the currency (the “**Specified Currency**”) and in the specified denomination(s) (the “**Specified Denomination(s)**”) shown hereon.

*All Perpetual Capital Securities shall have the same Specified Denomination. Unless otherwise permitted by the then current laws and regulations, Perpetual Capital Securities which have a maturity of less than one year and in respect of which the issue proceeds are to be accepted by the Issuer in the United Kingdom or whose issue otherwise constitutes a contravention of Section 19 of the Financial Services and Markets Act 2000 will have a minimum denomination of £100,000 (or its equivalent in other currencies). Notwithstanding any other regulatory or listing requirements in respect of specified denominations, the minimum specified denomination for any series or tranche of Perpetual Capital Securities intending to qualify as Additional Tier 1 capital under the Banking Capital Regulations (as specified in the applicable Pricing Supplement) shall be, if denominated in: (i) Hong Kong dollars, HKD2,000,000; (ii) United States dollars, U.S.\$250,000; (iii) Euros, €200,000; or (iv) any other currency, the equivalent in that currency to HKD2,000,000 with reference to the relevant exchange rate on the date of issue.*

Each Perpetual Capital Security may be a Fixed Rate Perpetual Capital Security, a Floating Rate Perpetual Capital Security, a combination of any of the foregoing or any other kind of Perpetual Capital Security, depending upon the Distribution Basis and Redemption basis shown thereon.

Perpetual Capital Securities are represented by registered certificates (“**Certificates**”) and, save as provided in Condition 2(b), each Certificate shall represent the entire holding of Perpetual Capital Securities by the same Securityholder.

- (b) **Title:** Title to the Perpetual Capital Securities shall pass by registration in the register that the Issuer shall procure to be kept by the relevant Registrar (the “**Register**”). Except as ordered by a court of competent jurisdiction or as required by law, the holder of any Perpetual Capital Security shall be deemed to be and shall be treated as its absolute owner for all purposes whether or not it is overdue and regardless of any notice of ownership, trust or an interest in it, any writing on it (or on the Certificate representing it) or its theft or loss (or that of the related Certificate) and no person shall be liable for so treating the holder.

*The Conditions are modified by certain provisions contained in the Global Certificate. The Perpetual Capital Securities are not issuable in bearer form.*

In these Conditions, “**Securityholder**” means the person in whose name a Perpetual Capital Security is registered, and capitalised terms have the meanings given to them hereon, the absence of any such meaning indicating that such term is not applicable to the Perpetual Capital Securities.

## 2. Transfers of Perpetual Capital Securities

- (a) **Transfer of Perpetual Capital Securities:** Subject to the Agency Agreement and Condition 2(e) and Condition 7, one or more Perpetual Capital Securities may be transferred upon the surrender (at the specified office of the Registrar or any Transfer Agent) of the Certificate representing such Perpetual Capital Security(ies) to be transferred, together with the form of transfer endorsed on such Certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer), duly completed and executed and any other evidence as the Registrar or such Transfer Agent may require without service charge and subject to payment of any taxes, duties and other governmental charges in respect of such transfer. In the case of a transfer of part only of a holding of Perpetual Capital Securities represented by one Certificate, a new Certificate shall be issued to the transferee in respect of the part transferred and a further new Certificate in respect of the balance of the holding not transferred shall be issued to the transferor. All transfers of Perpetual Capital Securities and entries on the Register will be made subject to the detailed regulations concerning transfers of Perpetual Capital Securities scheduled to the Agency Agreement. The regulations may be changed by the Issuer, with the prior written approval of the Trustee and the Registrar, or by the Registrar, with the prior written approval of the Trustee. A copy of the current regulations will be made available (free of charge to the Securityholders and at the Issuer's expense) by the Registrar to any Securityholder following prior written request and proof of holding satisfactory to the Registrar at all reasonable times during normal business hours at the specified office of the Registrar.

*Transfers of interests in the Perpetual Capital Securities evidenced by the Global Certificate will be effected in accordance with the rules of the relevant clearing systems.*

*Transfers of interests in any Perpetual Capital Securities that are the subject of a Non-Viability Event Notice issued in accordance with Condition 7 or notice of issue of a Resolution Notice shall not be permitted during any Suspension Period (as defined in Condition 2(e)).*

- (b) **Exercise of Options or Partial Redemption or Partial Write-off in Respect of Perpetual Capital Securities:** In the case of an exercise of an Issuer's option in respect of, or a partial redemption of or a partial Write-off of or cancellation, modification, conversion and/or change in form pursuant to a Resolution Notice of, a holding of Perpetual Capital Securities represented by a single Certificate, a new Certificate shall be issued to the Securityholder to reflect the exercise of such option or in respect of the balance of the holding not redeemed or Written-off in accordance with Condition 7 or subject to cancellation, modification, conversion and/or change in form pursuant to a Resolution Notice, as the case may be. In the case of a partial exercise of an option resulting in Perpetual Capital Securities of the same holding having different terms, separate Certificates shall be issued in respect of those Perpetual Capital Securities of that holding that have the same terms. New Certificates shall only be issued against surrender of the existing Certificates to the Registrar or any other Transfer Agent. In the case of a transfer of Perpetual Capital Securities to a person who is already a holder of Perpetual Capital Securities, a new Certificate representing the enlarged holding shall only be issued against surrender of the Certificate representing the existing holding.

- (c) **Delivery of New Certificates:** Each new Certificate to be issued pursuant to Condition 2(a) or (b) shall be available for delivery within seven business days of receipt of the request for transfer, exercise, redemption or exchange, form of transfer and surrender of the Certificate for exchange, except for any write-off pursuant to Condition 7(a) in which case any new Certificate to be issued shall be available for delivery as soon as reasonably practicable. Delivery of the new Certificate(s) shall be made at the specified office of the Transfer Agent or of the Registrar (as the case may be) to whom delivery or surrender of such request for transfer, exercise, redemption or exchange, form of transfer or Certificate shall have been made or, at the option of the Securityholder making such delivery or surrender as aforesaid and as specified in the relevant form of transfer or otherwise in writing, be mailed by uninsured post at the risk of the Securityholder entitled to the new Certificate to such address as may be so specified, unless such Securityholder requests otherwise and pays in advance to the relevant Transfer Agent or the Registrar the costs of such other method of delivery and/or such insurance as it may specify. In this Condition 2(c), “**business day**” means a day, other than a Saturday, Sunday or public holiday, on which banks are open for business in the place of the specified office of the relevant Transfer Agent or the Registrar (as the case may be).

In the case of an exercise of the Issuer’s option in respect of, or a partial Write-off of (as the case may be), Perpetual Capital Securities, and where a holding of Perpetual Capital Securities is represented by a single Certificate, a new Certificate shall be issued to the relevant Securityholder to reflect the exercise of such option, or such partial Write-off, or in respect of the balance of the holding not redeemed or Written-off (as the case may be). New Certificates shall only be issued against surrender of the existing Certificates to the Registrar or the Transfer Agent.

- (d) **Transfers Free of Charge:** Transfers of Perpetual Capital Securities and Certificates on registration, transfer, exercise of an option or partial redemption or partial write-off shall be effected without charge by or on behalf of the Issuer, the Registrar, or the Transfer Agents, but:
- (i) upon payment by the relevant Securityholder of any tax, duty or other governmental charges that may be imposed in relation to it (or the giving of such indemnity and/or security and/or prefunding as the Registrar, or the relevant Transfer Agent may require);
  - (ii) upon the Registrar or the relevant Transfer Agent being satisfied in its absolute discretion with the documents of title or identity of the person making the application; and
  - (iii) the relevant Agent being satisfied that the regulations (as mentioned in Condition 2(a)) concerning transfer of Perpetual Capital Securities have been complied.
- (e) **Closed Periods:** No Securityholder may require the transfer of a Perpetual Capital Security to be registered:
- (i) during the period of 15 days ending on the due date for redemption of that Perpetual Capital Security;
  - (ii) during the period of 15 days ending on (and including) any date on which payment is due; or
  - (iii) during the period commencing on the date of a Non-Viability Event Notice and ending on the effective date of the related Write-off.

*So long as any Perpetual Capital Securities are represented by a Global Certificate and such Global Certificate is held on behalf of Euroclear Bank SA/NV (“Euroclear”) and/or Clearstream Banking S.A. (“Clearstream, Luxembourg”) or any other clearing system, no Securityholder may require the transfer of a Perpetual Capital Security to be registered during the period of five Clearing System Business Days (or such other period as the relevant clearing systems shall determine in accordance with their rules and procedures) commencing on the Clearing System Business Day immediately following the date on which the Non-Viability Event Notice has been received by the relevant clearing systems (the “Suspension Period”). “Clearing System Business Day” means a weekday (Monday to Friday, inclusive except 25 December and 1 January).*

### **3. Status, Subordination and Qualification of the Perpetual Capital Securities**

#### **(a) Status and Qualification of Perpetual Capital Securities:**

- (i) *Status:* The perpetual capital securities (being any Perpetual Capital Securities specified as such in the applicable Pricing Supplement (the “**Perpetual Capital Securities**”)) constitute direct, unsecured and subordinated (pursuant to Condition 3(b)) obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves. The rights and claims of the Securityholders are subordinated as described below.
- (ii) *Qualification:* The applicable Pricing Supplement for any Perpetual Capital Securities shall specify if such Perpetual Capital Securities are intended to qualify as Additional Tier 1 Capital Instruments.

#### **(b) Subordination of Perpetual Capital Securities:** Subject to the insolvency laws of Hong Kong and other applicable laws, in the event of a Winding-Up (as defined below) of the Issuer (other than pursuant to a Permitted Reorganisation (as defined below)), the rights of the Securityholders to payment of principal and Distributions on the Perpetual Capital Securities, and any other obligations in respect of the Perpetual Capital Securities, shall rank:

- (i) subordinate and junior in right of payment to, and of all claims of:
  - (A) all unsubordinated creditors of the Issuer (including its depositors);
  - (B) any holders of Tier 2 Capital Instruments of the Issuer; and
  - (C) the holders of other subordinated instruments or other obligations issued, entered into, or guaranteed by the Issuer, and any other instrument or other obligation issued, entered into, or guaranteed by the Issuer that ranks or is expressed to rank senior to the Perpetual Capital Securities by operation of law or contract;
- (ii) *pari passu* in right of payment to and of all claims of the holders of Parity Obligations and as may be further specified in the applicable Pricing Supplement; and
- (iii) senior in right of payment to, and of all claims of the holders of Junior Obligations and as may be further specified in the applicable Pricing Supplement,

in each case in the manner provided in the Trust Deed and, to the extent that such Securityholders did not receive payment in full of such principal of and Distribution on such Perpetual Capital Securities, such unpaid amounts shall remain payable in full; **provided that** payment of such unpaid amounts shall be subject to the provisions under this Condition 3 and Condition 11 and Clause 5 and Clause 7 of the Trust Deed.

In the event of a Winding-Up that requires the Securityholders or the Trustee to provide evidence of their claim to principal or Distribution under the Perpetual Capital Securities, such claims of the Securityholders will only be satisfied after all senior ranking obligations of the Issuer have been satisfied in whole. No amount may be claimed in respect of any Distribution that has been cancelled pursuant to a Mandatory Distribution Cancellation Event (as defined below) or an Optional Distribution Cancellation Event.

- (c) **Set-off and Payment Void in respect of Perpetual Capital Securities:** Subject to applicable law, no holder of Perpetual Capital Securities may exercise, claim or plead any right of set-off, counter-claim or retention in respect of any amount owed to it by the Issuer arising under or in connection with the Perpetual Capital Securities and each Securityholder of the Perpetual Capital Securities shall, by virtue of being the Securityholder of any Perpetual Capital Securities be deemed to have waived all such rights of such set-off, counterclaim or retention to the fullest extent permitted by law. In the event that any holder of Perpetual Capital Securities nevertheless receives (whether by set-off or otherwise) directly in a Winding-Up Proceeding in respect of the Issuer any payment by, or distribution of assets of, the Issuer of any kind or character, whether in cash, property or securities, in respect of any amount owing to it by the Issuer arising under or in connection with the Perpetual Capital Securities, other than in accordance with this Condition 3(c), such Securityholder shall, subject to applicable law, immediately pay an amount equal to the amount of such payment or discharge to the liquidator for the time being in the winding-up of the Issuer for Distribution and each Securityholder, by virtue of becoming a Securityholder of any Perpetual Capital Securities, shall be deemed to have so agreed and undertaken with and to the Issuer and all depositors and other unsubordinated creditors of the Issuer for good consideration.

- (d) **Definitions:**

In these Conditions:

“**Additional Tier 1 Capital Instruments**” means any instrument issued or entered into by the Issuer that constitutes Additional Tier 1 capital of the Issuer pursuant to the Banking Capital Regulations;

“**Authorized Institution**” has the meaning given to that term in the Banking Ordinance (Cap. 155) of Hong Kong;

“**Banking Capital Regulations**” means the Banking (Capital) Rules (Cap. 155L) of Hong Kong or any other banking capital regulations from time to time applicable to the regulatory capital of Authorized Institutions incorporated in Hong Kong (as may be updated, amended or supplemented from time to time);

“**Junior Obligation**” means all classes of the Issuer’s ordinary share capital, any Tier 1 Capital Instruments which are not Additional Tier 1 Capital Instruments and any instrument or other obligation issued, entered into, or guaranteed by the Issuer that ranks or is expressed to rank junior to the Perpetual Capital Securities by operation of law or contract;

“**Monetary Authority**” means the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap 66.) of Hong Kong or any successor thereto;

“**Parity Obligation**” means any Additional Tier 1 Capital Instrument, and any other instrument or other obligation issued, entered into, or guaranteed by the Issuer that ranks or is expressed to rank *pari passu* with the Perpetual Capital Securities by operation of law or contract;

“**Permitted Reorganisation**” means a solvent reconstruction, amalgamation, reorganisation, merger or consolidation whereby all or substantially all the business, undertaking or assets of the Issuer are transferred to a successor entity which assumes all the obligations of the Issuer under the Perpetual Capital Securities;

“**Tier 1 Capital Instruments**” means any instrument issued or entered into by the Issuer that constitutes Tier 1 capital of the Issuer pursuant to the Banking Capital Regulations;

“**Tier 2 Capital Instruments**” means any instrument issued or entered into by the Issuer that constitutes Tier 2 capital of the Issuer pursuant to the Banking Capital Regulations;

“**Shares**” means the ordinary share capital of the Issuer;

“**Winding-Up**” means, with respect to the Issuer, a final and effective order or resolution by a competent judicial authority in the place of incorporation of the Issuer for the bankruptcy, winding up, liquidation, or similar proceeding in respect of the Issuer;

“**Winding-Up Proceedings**” means, with respect to the Issuer, proceedings for the bankruptcy, liquidation, winding-up, or other similar proceeding of the Issuer.

#### 4. Distribution and other Calculations

*The amount payable in respect of the aggregate nominal amount of Perpetual Capital Securities represented by a Global Certificate in accordance with the methods of calculation provided for in the Conditions and the applicable Pricing Supplement, save that the calculation is made in respect of the total aggregate amount of the Perpetual Capital Securities represented by a Global Certificate, together with such other sums and additional amounts (if any) as may be payable under the Conditions.*

- (a) **Distribution on Fixed Rate Perpetual Capital Securities:** Subject to Condition 5, each Fixed Rate Perpetual Capital Security confers a right to receive distribution (each a “**Distribution**”) on its outstanding nominal amount from and including the Distribution Commencement Date at the rate per annum (expressed as a percentage) equal to the Rate of Distribution, such Distribution being payable in arrear on each Distribution Payment Date.

The Rate of Distribution in respect of a Fixed Rate Perpetual Capital Security shall be:

- (i) (if no Reset Date is specified in the applicable Pricing Supplement) the Initial Distribution Rate; or
- (ii) (if a Reset Date is specified in the applicable Pricing Supplement):
- (A) for the period from, and including, the Distribution Commencement Date to, but excluding, the First Reset Date specified in the applicable Pricing Supplement, the Initial Distribution Rate; and
- (B) for the period from, and including, the First Reset Date and each Reset Date (as specified in the applicable Pricing Supplement) falling thereafter to, but excluding, the immediately following Reset Date, the Reset Distribution Rate.

The amount of Distribution payable shall be determined in accordance with Condition 4(f).

For the purposes of this Condition 4(a), “**Reset Distribution Rate**” means the Relevant Rate with respect to the relevant Reset Date plus the Initial Spread, each as specified in the applicable Pricing Supplement.

(b) **Distribution on Floating Rate Perpetual Capital Securities:**

(i) *Distribution Payment Dates:* Subject to Condition 5, each Floating Rate Perpetual Capital Security confers a right to receive distribution (each a “**Distribution**”) on its outstanding nominal amount from and including the Distribution Commencement Date at the rate per annum (expressed as a percentage) equal to the Rate of Distribution, such Distribution being payable in arrear on each Distribution Payment Date. The amount of Distribution payable shall be determined in accordance with Condition 4(f). Such Distribution Payment Date(s) is/are either shown hereon as Specified Distribution Payment Dates or, if no Specified Distribution Payment Date(s) is/are shown hereon, Distribution Payment Date shall mean each date which falls the number of months or other period shown hereon as the Distribution Period after the preceding Distribution Payment Date or, in the case of the first Distribution Payment Date, after the Distribution Commencement Date.

(ii) *Business Day Convention:* If any date referred to in these Conditions that is specified to be subject to adjustment in accordance with a Business Day Convention would otherwise fall on a day that is not a Business Day, then, if the Business Day Convention specified is:

(A) the Floating Rate Business Day Convention, such date shall be postponed to the next day that is a Business Day unless it would thereby fall into the next calendar month, in which event:

(x) such date shall be brought forward to the immediately preceding Business Day; and

(y) each subsequent such date shall be the last Business Day of the month in which such date would have fallen had it not been subject to adjustment;

(B) the Following Business Day Convention, such date shall be postponed to the next day that is a Business Day;

(C) the Modified Following Business Day Convention, such date shall be postponed to the next day that is a Business Day unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Business Day; or

(D) the Preceding Business Day Convention, such date shall be brought forward to the immediately preceding Business Day.



(iii) *Rate of Distribution for Floating Rate Perpetual Capital Securities*: The Rate of Distribution in respect of Floating Rate Perpetual Capital Securities for each Distribution Accrual Period shall be determined in the manner specified hereon and the provisions below relating to either ISDA Determination or Screen Rate Determination shall apply, depending upon which is specified hereon.

(A) ISDA Determination for Floating Rate Perpetual Capital Securities

Where ISDA Determination is specified hereon as the manner in which the Rate of Distribution is to be determined, the Rate of Distribution for each Distribution Accrual Period shall be determined by the Calculation Agent as a rate equal to the relevant ISDA Rate. For the purposes of this paragraph (A), “**ISDA Rate**” for a Distribution Accrual Period means a rate equal to the Floating Rate that would be determined by the Calculation Agent under a Swap Transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (x) the Floating Rate Option is as specified hereon;
- (y) the Designated Maturity is a period specified hereon; and
- (z) the relevant Reset Date is the first day of that Distribution Accrual Period unless otherwise specified hereon.

For the purposes of this paragraph (A), “**Floating Rate**”, “**Calculation Agent**”, “**Floating Rate Option**”, “**Designated Maturity**”, “**Reset Date**” and “**Swap Transaction**” have the meanings given to those terms in the ISDA Definitions.

(B) Screen Rate Determination for Floating Rate Perpetual Capital Securities

(x) Where Screen Rate Determination is specified hereon as the manner in which the Rate of Distribution is to be determined, the Rate of Distribution for each Distribution Accrual Period will, subject as provided below, be either:

- (I) the offered quotation; or
- (II) the arithmetic mean of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at either 11.00 a.m. (London time in the case of LIBOR or Brussels time in the case of EURIBOR or Hong Kong time in the case of HIBOR) on the Distribution Determination Date in question as determined by the Calculation Agent. If five or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Calculation Agent for the purpose of determining the arithmetic mean of such offered quotations.

If the Reference Rate from time to time in respect of Floating Rate Perpetual Capital Securities is specified hereon as being other than LIBOR, EURIBOR or HIBOR, the Rate of Distribution in respect of such Perpetual Capital Securities will be determined as provided hereon;

- (y) If the Relevant Screen Page is not available or if, paragraph (x)(I) above applies and no such offered quotation appears on the Relevant Screen Page or if paragraph (x)(II) above applies and fewer than three such offered quotations appear on the Relevant Screen Page in each case as at the time specified above, subject as provided below, the Issuer shall request, if the Reference Rate is LIBOR, the principal London office of each of the Reference Banks or, if the Reference Rate is EURIBOR, the principal Euro-zone office of each of the Reference Banks or, if the Reference Rate is HIBOR, the principal Hong Kong office of each of the Reference Banks, to provide the Issuer and the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time) or, if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time) or, if the Reference Rate is HIBOR, at approximately 11.00 a.m. (Hong Kong time) on the Distribution Determination Date in question. If two or more of the Reference Banks provide the Issuer with such offered quotations, the Rate of Distribution for such Distribution Accrual Period shall be the arithmetic mean of such offered quotations as determined by the Calculation Agent; and
  
- (z) If paragraph (y) above applies and the Issuer determines that fewer than two Reference Banks are providing offered quotations, subject as provided below, the Rate of Distribution shall be the arithmetic mean of the rates per annum (expressed as a percentage) as communicated at the request of the Issuer to the Issuer and the Calculation Agent by the Reference Banks or any two or more of them, at which such banks were offered, if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time) or, if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time) or, if the Reference Rate is HIBOR, at approximately 11.00 a.m. (Hong Kong time) on the relevant Distribution Determination Date, deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate by leading banks in, if the Reference Rate is LIBOR, the London interbank market or, if the Reference Rate is EURIBOR, the Euro-zone interbank market or, if the Reference Rate is HIBOR, the Hong Kong interbank market, as the case may be, or, if fewer than two of the Reference Banks provide the Issuer and the Calculation Agent with such offered rates, the offered rate for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, or the arithmetic mean of the offered rates for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, at which, if the Reference Rate is LIBOR, at approximately 11.00 a.m. (London time) or, if the Reference Rate is EURIBOR, at approximately 11.00 a.m. (Brussels time) or, if the Reference Rate is HIBOR, at approximately 11.00 a.m. (Hong Kong time), on the relevant Distribution Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Issuer suitable for such purpose) informs the Issuer and the Calculation Agent it is quoting to leading banks in,

if the Reference Rate is LIBOR, the London interbank market or, if the Reference Rate is EURIBOR, the Euro-zone interbank market or, if the Reference Rate is HIBOR, the Hong Kong interbank market, as the case may be, *provided that*, if the Rate of Distribution cannot be determined in accordance with the foregoing provisions, the Rate of Distribution shall be determined as at the last preceding Distribution Determination Date (though substituting, where a different Margin or Maximum Rate of Distribution or Minimum Rate of Distribution is to be applied to the relevant Distribution Accrual Period from that which applied to the last preceding Distribution Accrual Period, the Margin or Maximum Rate of Distribution or Minimum Rate of Distribution relating to the relevant Distribution Accrual Period, in place of the Margin or Maximum Rate of Distribution or Minimum Rate of Distribution relating to that last preceding Distribution Accrual Period).

- (c) **Determination and Publication of Reset Distribution Rate:** The Calculation Agent shall, on the second Business Day prior to each Reset Date, calculate the applicable Reset Distribution Rate and cause the Reset Distribution Rate to be notified to the Trustee, the Issuer, each of the Paying Agents, the Securityholders, any other Calculation Agent appointed in respect of the Perpetual Capital Securities that is to make a further calculation upon receipt of such information and, if the Perpetual Capital Securities are listed on a stock exchange and the rules of such exchange or other relevant authority so require, such exchange or other relevant authority as soon as possible after their determination but in no event later than:
- (i) the commencement of the relevant Distribution Period, if determined prior to such time, in the case of notification to such exchange of a Rate of Distribution and Distribution Amount; or
  - (ii) in all other cases, the fourth Business Day after such determination.

The determination of any rate, the obtaining of each quotation and the making of each determination or calculation by the Calculation Agent(s) shall (in the absence of manifest error) be final and binding upon all parties.

- (d) **Accrual of Distribution:** Subject to Condition 5, Distribution shall cease to accrue on each Perpetual Capital Security on the due date for redemption unless, upon due presentation, payment is improperly withheld or refused, in which event Distribution shall continue to accrue (both before and after judgment) at the Rate of Distribution in the manner provided in this Condition 4 to the Relevant Date (as defined in Condition 9).
- (e) **Margin, Maximum/Minimum Rates of Distribution and Redemption Amounts and Rounding:**
- (i) If any Margin is specified hereon (either (x) generally, or (y) in relation to one or more Distribution Accrual Periods), an adjustment shall be made to all Rates of Distribution, in the case of (x), or the Rates of Distribution for the specified Distribution Accrual Periods, in the case of (y), calculated in accordance with Condition 4(b) above by adding (if a positive number) or subtracting the absolute value (if a negative number) of such Margin, subject always to Condition 4(e)(ii).
  - (ii) If any Maximum Rate of Distribution or Minimum Rate of Distribution or Redemption Amount is specified hereon, then any Rate of Distribution or Redemption Amount shall be subject to such maximum or minimum, as the case may be.

- (iii) For the purposes of any calculations required pursuant to these Conditions (unless otherwise specified), (x) all percentages resulting from such calculations shall be rounded, if necessary, to the fifth decimal place (with halves being rounded up), (y) all figures shall be rounded to seven significant figures (with halves being rounded up) and (z) all currency amounts that fall due and payable shall be rounded to the nearest unit of such currency (with halves being rounded up), save in the case of yen, which shall be rounded down to the nearest yen. For these purposes, “**unit**” means the lowest amount of such currency that is available as legal tender in the country(ies) of such currency.
- (f) **Calculations:** The amount of Distribution payable per calculation amount specified hereon (or, if no such amount is so specified, the Specified Denomination) (the “**Calculation Amount**”) in respect of any Perpetual Capital Security for any Distribution Accrual Period shall be equal to the product of the Rate of Distribution, the Calculation Amount, and the Day Count Fraction for such Distribution Accrual Period, unless a Distribution Amount (or a formula for its calculation) is applicable to such Distribution Accrual Period, in which case the amount of Distribution payable per Calculation Amount in respect of such Perpetual Capital Security for such Distribution Accrual Period shall equal such Distribution Amount (or be calculated in accordance with such formula). Where any Distribution Period comprises two or more Distribution Accrual Periods, the amount of Distribution payable per Calculation Amount in respect of such Distribution Period shall be the sum of the Distribution Amounts payable in respect of each of those Distribution Accrual Periods. In respect of any other period for which Distributions are required to be calculated, the provisions above shall apply save that the Day Count Fraction shall be for the period for which Distributions are required to be calculated.
- (g) **Determination and Publication of Rates of Distribution, Distribution Amounts, Final Redemption Amounts, Early Redemption Amounts and Optional Redemption Amounts:** The Calculation Agent shall, as soon as practicable on each Distribution Determination Date, or such other time on such date as the Calculation Agent may be required to calculate any rate or amount or make any determination or calculation, determine such rate and calculate the Distribution Amounts for the relevant Distribution Accrual Period, calculate the Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount or make such determination or calculation, as the case may be, and cause the Rate of Distribution and the Distribution Amounts for each Distribution Accrual Period and the relevant Distribution Payment Date and, if required to be calculated, the Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount to be notified to the Trustee, the Issuer, each of the Paying Agents, the Securityholders, any other Calculation Agent appointed in respect of the Perpetual Capital Securities that is to make a further calculation upon receipt of such information and, if the Perpetual Capital Securities are listed on a stock exchange and the rules of such exchange or other relevant authority so require, subsequently notified by the Issuer to such exchange or other relevant authority as soon as possible after their determination but in no event later than:
- (i) the commencement of the relevant Distribution Period, if determined prior to such time, in the case of notification to such exchange of a Rate of Distribution and Distribution Amount; or
- (ii) in all other cases, the fourth Business Day after such determination.

Where any Distribution Payment Date or Distribution Period End Date is subject to adjustment pursuant to Condition 4(b)(ii), the Distribution Amounts and the Distribution Payment Date so published may subsequently be amended (or appropriate alternative arrangements made with the consent of the Trustee by way of adjustment) without notice in the event of an extension or shortening of the Distribution Period. If the Perpetual Capital Securities become due and payable under Condition 11, the accrued Distribution and the Rate of Distribution payable in respect of the Perpetual Capital Securities shall nevertheless continue to be calculated as previously in accordance with this Condition 4(g) but no publication of the Rate of Distribution or the Distribution Amount so calculated need be made unless the Trustee otherwise requires. The determination of any rate or amount and the making of each determination or calculation by the Calculation Agent(s) shall (in the absence of manifest error) be final and binding upon all parties.

- (h) **Determination or Calculation by an agent of the Issuer:** If the Calculation Agent does not at any time for any reason determine or calculate the Rate of Distribution for a Distribution Accrual Period or any Distribution Amount, Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount, the Issuer shall appoint an agent on its behalf to do so and such determination or calculation shall be deemed to have been made by the Calculation Agent. In doing so, such agent shall apply the foregoing provisions of this Condition 4(h), with any necessary consequential amendments, to the extent that, in its opinion, it can do so, and, in all other respects it shall do so in such manner as it shall deem fair and reasonable in all the circumstances. The determination of any rate or amount, the obtaining of each quotation and the making of each determination or calculation such agent pursuant to this Condition 4(h) shall (in the absence of manifest error) be final and binding upon all parties.
- (i) **Benchmark Discontinuation:** this Condition 4(i) shall apply to only those Perpetual Capital Securities for which this Condition 4(i) is specified as “*Applicable*” in the applicable Pricing Supplement.

Notwithstanding any other provision of this Condition 4(i), no Successor Rate or Alternative Rate (as applicable) will be adopted, and no other amendments to the terms of any Perpetual Capital Securities for will be made pursuant to this Condition 4(i), if and to the extent that, in the determination of the Issuer, the same could reasonably be expected to prejudice the qualification of any of the Perpetual Capital Securities for as Additional Tier 1 capital of the Issuer and/or the Group.

- (i) *Independent Adviser:* If a Benchmark Event occurs in relation to an Original Reference Rate when any Rate of Distribution (or any component part thereof) remains to be determined by reference to such Original Reference Rate, the Issuer shall use its reasonable endeavours to appoint an Independent Adviser, as soon as reasonably practicable, to determine a Successor Rate, or failing which, an Alternative Rate (in accordance with Condition 4(i)(ii)) and, in either case, an Adjustment Spread (if any, in accordance with Condition 4(i)(iii)) and any Benchmark Amendments (in accordance with Condition 4(i)(iv)).

In making such determination, the Independent Adviser appointed pursuant to this Condition 4(i) shall act in good faith as an expert and in consultation with the Issuer. In the absence of bad faith or fraud, the Independent Adviser shall have no liability whatsoever to the Issuer, the Trustee, the Paying Agents or the Securityholders for any determination made by it, pursuant to this Condition 4(i).

If (A) the Issuer is unable to appoint an Independent Adviser; or (B) the Independent Adviser fails to determine a Successor Rate or, failing which, an Alternative Rate, in accordance with this Condition 4(i)(i) prior to the relevant Distribution Determination Date, the Rate of Distribution applicable to the next succeeding Distribution Accrual Period shall be equal to the Rate of Distribution last determined in relation to the Perpetual Capital Securities in respect of the immediately preceding Distribution Accrual Period. If there has not been a first Distribution Payment Date, the Rate of Distribution shall be the initial Rate of Distribution. Where a different Margin or Maximum or Minimum Rate of Distribution is to be applied to the relevant Distribution Accrual Period from that which applied to the last preceding Distribution Accrual Period, the Margin or Maximum or Minimum Rate of Distribution relating to the relevant Distribution Accrual Period shall be substituted in place of the Margin or Maximum or Minimum Rate of Distribution relating to that last preceding Distribution Accrual Period. For the avoidance of doubt, this paragraph shall apply to the relevant next succeeding Distribution Accrual Period only and any subsequent Distribution Accrual Periods are subject to the subsequent operation of, and to adjustment as provided in, the first paragraph of this Condition 4(i)(i).

- (ii) *Successor Rate or Alternative Rate*: If the Independent Adviser determines that:
  - (A) there is a Successor Rate, then such Successor Rate and the applicable Adjustment Spread shall subsequently be used in place of the Original Reference Rate to determine the Rate of Distribution (or the relevant component part thereof) for all future payments of Distribution on the Perpetual Capital Securities (subject to the operation of this Condition 4(i)); or
  - (B) there is no Successor Rate but that there is an Alternative Rate, then such Alternative Rate and the applicable Adjustment Spread shall subsequently be used in place of the Original Reference Rate to determine the Rate of Distribution (or the relevant component part thereof) for all future payments of Distribution on the Perpetual Capital Securities (subject to the operation of this Condition 4(i)).
- (iii) *Adjustment Spread*: If the Independent Advisor determines that:
  - (A) an Adjustment Spread is required to be applied to the Successor Rate or the Alternative Rate (as the case may be); and
  - (B) the quantum of, or a formula or methodology for determining such Adjustment Spread,then the Adjustment Spread (or the formula or methodology for determining the Adjustment Spread) shall be applied to the Successor Rate or the Alternative Rate (as the case may be).
- (iv) *Benchmark Amendments*: If any Successor Rate or Alternative Rate and, in either case, the applicable Adjustment Spread is determined in accordance with this Condition 4(i) and the Independent Adviser determines:
  - (A) that amendments to these Conditions and/or the Trust Deed are necessary to ensure the proper operation of such Successor Rate or Alternative Rate and/or (in either case) the applicable Adjustment Spread (such amendments, the “**Benchmark Amendments**”); and
  - (B) the terms of the Benchmark Amendments,

then the Issuer shall, subject to giving notice thereof in accordance with Condition 4(i)(v), without any requirement for the consent or approval of Securityholders, the Trustee or the Agents, vary these Conditions and/or the Trust Deed to give effect to such Benchmark Amendments with effect from the date specified in such notice.

At the request of the Issuer, but subject to receipt by the Trustee of a certificate signed by two Authorised Signatories of the Issuer pursuant to Condition 4(i)(v), the Trustee shall (at the expense of the Issuer), without any requirement for the consent or approval of the Securityholders, be obliged to concur with the Issuer in effecting any Benchmark Amendments (including, *inter alia*, by the execution of a deed supplemental to or amending the Trust Deed), **provided that** the Trustee shall not be obliged so to concur if in the opinion of the Trustee doing so would impose more onerous obligations upon it or expose it to any additional duties, responsibilities or liabilities or reduce or amend the protective provisions afforded to the Trustee in these Conditions or the Trust Deed (including, for the avoidance of doubt, any supplemental trust deed) in any way.

For the avoidance of doubt, the Trustee and the Issuing and Paying Agent shall, at the direction and expense of the Issuer, effect such consequential amendments to the Trust Deed, the Agency Agreement and these Conditions as may be required in order to give effect to this Condition 4(i)(iv). Securityholders' consent shall not be required in connection with effecting of the Successor Rate or the Alternative Rate (as applicable) or such other changes, including the execution of any documents or any steps by the Trustee or the Issuing and Paying Agent (if required).

In connection with any such variation in accordance with this Condition 4(i)(iv), the Issuer shall comply with the rules of any stock exchange on which the Perpetual Capital Securities are for the time being listed or admitted to trading.

Notwithstanding any other provision of this Condition 4(i)(iv), no Successor Rate or Alternative Rate will be adopted, nor will the applicable Adjustment Spread be applied, nor will any Benchmark Amendments be made, if and to the extent that, in the determination of the Issuer, the same could reasonably be expected to prejudice the qualification of the Perpetual Capital Securities as Additional Tier 1 capital of the Issuer for the purposes of the Banking Capital Regulations.

- (v) *Notices:* Any Successor Rate, Alternative Rate, Adjustment Spread and the specific terms of any Benchmark Amendments, determined under this Condition 4(i) will be notified promptly by the Issuer to the Trustee, the Calculation Agent, the Paying Agents and, in accordance with Condition 16, the Securityholders. Such notice shall be irrevocable and shall specify the effective date of the Benchmark Amendments, if any.

No later than notifying the Trustee of the same, the Issuer shall deliver to the Trustee a certificate signed by two Authorised Signatories of the Issuer:

- (A) confirming (i) that a Benchmark Event has occurred, (ii) the Successor Rate or, as the case may be, the Alternative Rate, (iii) the applicable, Adjustment Spread and (iv) the specific terms of the Benchmark Amendments (if any), in each case as determined in accordance with the provisions of this Condition 4(i); and
- (B) certifying that the Benchmark Amendments (if any) are necessary to ensure the proper operation of such Successor Rate or Alternative Rate and (in either case) the applicable Adjustment Spread.

The Trustee shall be entitled to rely on such certificate (without liability to any person) as sufficient evidence thereof. The Successor Rate or Alternative Rate and the Adjustment Spread and the Benchmark Amendments (if any) specified in such certificate will (in the absence of manifest error or bad faith in the determination of the Successor Rate, Alternative Rate, the Adjustment Spread or the Benchmark Amendments (if any) and without prejudice to the Trustee's ability to rely on such certificate as aforesaid) be binding on the Issuer, the Trustee, the Calculation Agent, the Paying Agents, the Securityholders.

(vi) *Survival of Original Reference Rate*: Without prejudice to the obligations of the Issuer under Conditions 4(i)(i), 4(i)(ii), 4(i)(iii) and 4(i)(iv), the Original Reference Rate and the fallback provisions provided for in Condition 4(b)(iii)(B), as applicable, will continue to apply unless and until a Benchmark Event has occurred.

(vii) *Definitions*:

As used in this Condition 4(i):

“**Adjustment Spread**” means either:

- (a) a spread (which may be positive, negative or zero); or
- (b) a formula or methodology for calculating a spread,

in each case to be applied to the Successor Rate or the Alternative Rate (as the case may be) and is the spread, formula or methodology which:

- (i) in the case of a Successor Rate, is formally recommended in relation to the replacement of the Original Reference Rate with the Successor Rate by any Relevant Nominating Body; or (if no such recommendation has been made, or in the case of an Alternative Rate)
- (ii) the Independent Adviser determines as being customarily applied to the relevant Successor Rate or the Alternative Rate (as the case may be) in international debt capital markets transactions to produce an industry-accepted replacement rate for the Original Reference Rate; or (if the Independent Adviser determines that no such spread is customarily applied)
- (iii) the Independent Adviser (in consultation with the Issuer) determines, and which is recognised or acknowledged as being the industry standard for over-the-counter derivative transactions which reference the Original Reference Rate, where such rate has been replaced by the Successor Rate or the Alternative Rate (as the case may be).

“**Alternative Rate**” means an alternative benchmark or screen rate which the Independent Adviser, determines in accordance with Condition 4(i)(ii) as being customarily applied in market usage in the international debt capital markets transactions for the purposes of determining rates of Distribution (or the relevant component part thereof) in the same Specified Currency as the Perpetual Capital Securities.

“**Benchmark Amendments**” has the meaning given to it in Condition 4(i)(iv).



**“Benchmark Event”** means:

- (i) the Original Reference Rate ceasing to be published for a period of at least five Business Days or ceasing to exist; or
- (ii) a public statement by the administrator of the Original Reference Rate that it has ceased or that it will cease publishing the Original Reference Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue publication of the Original Reference Rate) and such cessation is reasonably expected by the Issuer to occur prior to the Maturity Date; or
- (iii) a public statement by the supervisor of the administrator of the Original Reference Rate, that the Original Reference Rate has been or will be permanently or indefinitely discontinued and such discontinuation is reasonably expected by the Issuer to occur prior to the Maturity Date; or
- (iv) a public statement by the supervisor of the administrator of the Original Reference Rate as a consequence of which the Original Reference Rate will be prohibited from being used either generally, or in respect of the Perpetual Capital Securities and such prohibition is reasonably expected by the Issuer to occur prior to the Maturity Date; or
- (v) it has become unlawful for any Paying Agent, the Calculation Agent, the Issuer or other party to calculate any payments due to be made to any Securityholder using the Original Reference Rate.

**“Independent Adviser”** means an independent financial institution of international or national repute or an independent financial adviser with appropriate expertise appointed by the Issuer under Condition 4(i)(i).

**“Original Reference Rate”** means the originally-specified benchmark or screen rate (as applicable) used to determine the Rate of Distribution (or any component part thereof) on the Perpetual Capital Securities.

**“Relevant Nominating Body”** means, in respect of a benchmark or screen rate (as applicable):

- (i) the central bank for the currency to which the benchmark or screen rate (as applicable) relates, or any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable); or
- (ii) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of:
  - (a) the central bank for the currency to which the benchmark or screen rate (as applicable) relates;
  - (b) any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable);

- (c) a group of the aforementioned central banks or other supervisory authorities;  
or
- (d) the Financial Stability Board or any part thereof.

“**Successor Rate**” means a successor to or replacement of the Original Reference Rate which is formally recommended by any Relevant Nominating Body.

- (j) **Definitions:** In these Conditions, unless the context otherwise requires, the following defined terms shall have the meanings set out below:

“**Business Day**” means:

- (i) in the case of Perpetual Capital Securities denominated in a currency other than Euro or Renminbi, a day (other than a Saturday or Sunday or public holiday) on which commercial banks and foreign exchange markets settle payments in the principal financial centre for such currency;
- (ii) in the case of Perpetual Capital Securities denominated in Euro, a day on which the TARGET System is operating (a “**TARGET Business Day**”) and a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments of Euro in Luxembourg;
- (iii) in the case of Perpetual Capital Securities denominated in Renminbi, a day (other than a Saturday, Sunday or public holiday) on which commercial banks in Hong Kong are generally open for business and settlement of Renminbi payments in Hong Kong; and/or
- (iv) in the case of a currency and/or one or more Financial Centres, a day (other than a Saturday, Sunday) on which commercial banks and foreign exchange markets settle payments in such currency in the Financial Centre(s) or, if no currency is indicated, generally in each of the Financial Centres.

“**Day Count Fraction**” means, in respect of the calculation of an amount of Distribution on any Perpetual Capital Security for any period of time (from and including the first day of such period to but excluding the last) (whether or not constituting a Distribution Period or a Distribution Accrual Period, the “**Calculation Period**”):

- (i) if “**Actual/Actual**” or “**Actual/Actual – ISDA**” is specified hereon, the actual number of days in the Calculation Period divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of:
  - (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and
  - (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (ii) if “**Actual/365 (Fixed)**” is specified hereon, the actual number of days in the Calculation Period divided by 365;
- (iii) if “**Actual/360**” is specified hereon, the actual number of days in the Calculation Period divided by 360;

- (iv) if “**30/360**”, “**360/360**” or “**Bond Basis**” is specified hereon, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Calculation Period, unless such number is 31, in which case D<sub>1</sub> will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number is 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30;

- (v) if “**30E/360**” or “**Eurobond Basis**” is specified hereon, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Calculation Period, unless such number is 31, in which case **D<sub>1</sub>** will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number is 31, in which case **D<sub>2</sub>** will be 30;

- (vi) if “**30E/360 (ISDA)**” is specified hereon, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

“**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Calculation Period, unless (i) that day is the last day of February or (ii) such number is 31, in which case **D<sub>1</sub>** will be 30; and

“**D<sub>2</sub>**” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number is 31, in which case **D<sub>2</sub>** will be 30;

- (vii) if “**Actual/Actual-ICMA**” is specified hereon:

(A) if the Calculation Period is equal to or shorter than the Determination Period during which it falls, the number of days in the Calculation Period divided by the product of:

(x) the number of days in such Determination Period; and

(y) the number of Determination Periods normally ending in any year; and

- (B) if the Calculation Period is longer than one Determination Period, the sum of:
- (x) the number of days in such Calculation Period falling in the Determination Period in which it begins divided by the product of:
    - (1) the number of days in such Determination Period; and
    - (2) the number of Determination Periods normally ending in any year; and
  - (y) the number of days in such Calculation Period falling in the next Determination Period divided by the product of:
    - (1) the number of days in such Determination Period; and
    - (2) the number of Determination Periods normally ending in any year,

where:

“**Determination Date**” means the date(s) specified as such hereon or, if none is so specified, the Distribution Payment Date(s); and

“**Determination Period**” means the period from and including a Determination Date in any year to but excluding the next Determination Date.

“**CNY**” or “**Renminbi**” means the lawful currency of the PRC.

“**Euro**” means the currency of the member states of the European Union that adopt the single currency in accordance with the treaty establishing the European Community, as amended from time to time.

“**Euro-zone**” means the region comprised of member states of the European Union that adopt the single currency in accordance with the treaty establishing the European Community, as amended.

“**HKD**” or “**Hong Kong dollars**” means the lawful currency of Hong Kong.

“**Distribution Accrual Period**” means the period beginning on (and including) the Distribution Commencement Date and ending on (but excluding) the first Distribution Period End Date and each successive period beginning on (and including) a Distribution Period End Date and ending on (but excluding) the next succeeding Distribution Period End Date.

“**Distribution Amount**” means:

- (i) in respect of a Distribution Accrual Period, the amount of Distribution payable per Calculation Amount for that Distribution Accrual Period and which, in the case of Fixed Rate Perpetual Capital Securities, and unless otherwise specified hereon, shall mean the Fixed Distribution Amount or Broken Amount specified hereon as being payable on the Distribution Payment Date ending the Distribution Period of which such Distribution Accrual Period forms part; and
- (ii) in respect of any other period, the amount of Distribution payable per Calculation Amount for that period.

**“Distribution Commencement Date”** means the Issue Date or such other date as may be specified hereon.

**“Distribution Determination Date”** means, with respect to a Rate of Distribution and Distribution Accrual Period, the date specified as such hereon or, if none is so specified:

- (i) the first day of such Distribution Accrual Period if the Specified Currency is Sterling or Hong Kong Dollars or Renminbi; or
- (ii) the day falling two Business Days in London prior to the first day of such Distribution Accrual Period if the Specified Currency is neither Sterling nor Hong Kong Dollars nor Euro nor Renminbi; or
- (iii) the day falling two TARGET Business Days prior to the first day of such Distribution Accrual Period if the Specified Currency is Euro.

**“Distribution Period”** means the period beginning on (and including) the Distribution Commencement Date and ending on (but excluding) the first Distribution Payment Date and each successive period beginning on (and including) a Distribution Payment Date and ending on (but excluding) the next succeeding Distribution Payment Date.

**“Distribution Period End Date”** means each Distribution Payment Date unless otherwise specified hereon.

**“ISDA Definitions”** means the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc., (as may be updated, amended or supplemented from time to time) unless otherwise specified hereon.

**“Rate of Distribution”** means the rate of Distribution payable from time to time in respect of this Perpetual Capital Security and that is either specified or calculated in accordance with the provisions hereon.

**“Reference Banks”** means:

- (i) in the case of a determination of LIBOR, the principal London office of four major banks in the London interbank market;
- (ii) in the case of a determination of EURIBOR, the principal Euro-zone office of four major banks in the Euro-zone interbank market; and
- (iii) in the case of a determination of HIBOR, the principal Hong Kong office of four major banks in the Hong Kong interbank market,

in each case selected by the Issuer or as specified hereon.

**“Reference Rate”** means the rate specified as such hereon or such other page, section, caption, column or other part as may replace it on that information service or such other information service, in each case, as may be nominated by the person providing or sponsoring the information appearing there for the purpose of displaying rates or prices comparable to the Reference Rate.

“**Relevant Screen Page**” means such page, section, caption, column or other part of a particular information service as may be specified hereon.

“**Specified Currency**” means the currency specified as such hereon or, if none is specified, the currency in which the Perpetual Capital Securities are denominated.

“**Sterling**” means the lawful currency of the United Kingdom.

“**TARGET System**” means the Trans-European Automated Real-Time Gross Settlement Express Transfer System which was launched on 19 November 2007 or any successor thereto.

- (k) **Calculation Agent:** The Issuer shall procure that there shall at all times be one or more Calculation Agents if provision is made for them hereon and for so long as any Perpetual Capital Security is outstanding (as defined in the Trust Deed). Where more than one Calculation Agent is appointed in respect of the Perpetual Capital Securities, references in these Conditions to the Calculation Agent shall be construed as each Calculation Agent performing its respective duties under the Conditions. If the Calculation Agent is unable or unwilling to act as such or if the Calculation Agent fails duly to establish the Rate of Distribution for a Distribution Accrual Period or to calculate any Distribution Amount, Final Redemption Amount, Early Redemption Amount or Optional Redemption Amount, as the case may be, or to comply with any other requirement, the Issuer shall (with the prior approval of the Trustee) appoint a leading bank or financial institution engaged in the interbank market (or, if appropriate, money, swap or over-the-counter index options market) that is most closely connected with the calculation or determination to be made by the Calculation Agent (acting through its principal London office or any other office actively involved in such market) to act as such in its place. The Calculation Agent may not resign its duties without a successor having been appointed as aforesaid.

## 5. Distribution Restrictions

- (a) **Optional Distribution Cancellation Event:** Unless a Distribution has already been cancelled in full pursuant to a Mandatory Distribution Cancellation Event, prior to any Distribution Payment Date the Issuer may, at its sole discretion, elect to cancel any payment of Distribution (an “**Optional Distribution Cancellation Event**”), in whole or in part, by giving a notice signed by two Authorised Signatories of the Issuer, which shall be conclusive and binding on the Securityholders (such notice, a “**Distribution Cancellation Notice**”) of such election to the Securityholders in accordance with Condition 16, and to the Trustee and the Agents in writing at least 10 Business Days prior to the relevant Distribution Payment Date. The Issuer shall have no obligation to pay any Distribution on any Distribution Payment Date if it validly elects not to do so in accordance with this Condition 5 and any failure to pay such Distribution shall not constitute a Default. Distributions are non-cumulative and any Distribution that is cancelled shall therefore not be payable at any time thereafter, whether in a Winding-Up or otherwise.

In this Condition 5 “**Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets are open for general business in Hong Kong.

(b) **Mandatory Distribution Cancellation Event:** Notwithstanding that a Distribution Cancellation Notice has not been given, the Issuer will not be obliged to pay, and will not pay, any Distribution on the applicable Distribution Payment Date, in whole or in part, as applicable, if and to the extent that:

- (A) the Distribution scheduled to be paid together with any dividends, distributions or other payments scheduled to be paid or made during the Issuer's then current fiscal year on any Parity Obligations or any instruments which effectively rank *pari passu* with any Parity Obligations shall exceed Distributable Reserves as at such Distribution Determination Date; or
- (B) the Monetary Authority so directs the Issuer to cancel such Distribution (in whole or in part) or applicable Hong Kong banking regulations or other requirements of the Monetary Authority prevent the payment in full of dividends or other distributions when due on Parity Obligations,

(each a "**Mandatory Distribution Cancellation Event**").

The Issuer shall have no obligation to pay a Distribution on any Distribution Payment Date if such non-payment is in accordance with this Condition 5(b) and any failure to pay such Distribution shall not constitute a Default. Distributions are non-cumulative and any Distribution which is cancelled shall therefore not be payable at any time thereafter whether in a Winding-Up or otherwise.

- (c) **Distributable Reserves:** Any Distribution may only be paid out of Distributable Reserves.
- (d) **Dividend Stopper:** If, on any Distribution Payment Date, payment of Distribution scheduled to be paid is not made in full by reason of this Condition 5, the Issuer shall not:
  - (A) declare or pay in cash any distribution or dividend or make any other payment in cash on, and will procure that no distribution or dividend in cash or other payment in cash is made on, any Shares; or
  - (B) purchase, cancel or otherwise acquire any Shares or permit any of its Subsidiaries to do so,

in each case, unless or until the earlier of:

- (i) the Distribution scheduled to be paid on any subsequent Distribution Payment Date (which, for the avoidance of doubt, shall exclude any Distribution that has been cancelled in accordance with these Conditions prior to such subsequent Distribution Payment Date) has been paid in full:
  - (I) to Securityholders; or
  - (II) irrevocably to a designated third party trust account for the benefit of the Securityholders pending payment by the trustee thereof to the Securityholders on such subsequent Distribution Payment Date;
- (ii) the redemption or purchase and cancellation of the Perpetual Capital Securities in full, or reduction of the principal amount of the Perpetual Capital Securities to zero; or
- (iii) the Issuer is permitted to do so by an Extraordinary Resolution.



- (e) **No Default:** Notwithstanding any other provision in these Conditions, the cancellation or non-payment of any Distribution in accordance with this Condition 5 shall not constitute a default for any purpose (including, without limitation, pursuant to Condition 11) on the part of the Issuer.

In these Conditions:

“**Auditors**” means the independent certified public accountants for the time being of the Issuer;

“**Distributable Reserves**” means the amounts for the time being available to the Issuer for distribution as a distribution in compliance with section 297 of the Companies Ordinance (Cap. 622) of Hong Kong, as amended or modified from time to time, as at the Issuer’s latest audited balance sheet, and subject to the Monetary Authority’s then current Banking Capital Regulations as applicable to the Issuer on the relevant Distribution Payment Date (the “**Available Amount**”); **provided that** if the Issuer reasonably determines that the Available Amount as at any Distribution Determination Date is lower than the Available Amount as at the date of the Issuer’s latest audited balance sheet and is insufficient to pay the Distributions and any payments on Parity Obligations on the relevant Distribution Payment Date, then on certification by two Authorised Signatories and the Auditors of such revised amount, the Distributable Reserves shall for the purposes of Distribution mean the Available Amount as set forth in such certificate; and

“**Subsidiary**” of the Issuer means any entity whose financial statements at any time are required by law or in accordance with generally accepted accounting principles to be fully consolidated with those of the Issuer.

*Pursuant to section 297(1) of the Companies Ordinance (Cap.622), the Issuer may only make a distribution out of profits available for distribution. For the purposes of section 297 of the Companies Ordinance (Cap.622), the Issuer’s profits available for distribution are its accumulated, realised profits, so far as not previously utilised by distribution or capitalisation, less its accumulated, realised losses, so far as not previously written off in a reduction or reorganisation of capital.*

## **6. Redemption, Purchase and Options**

- (a) **No Fixed Redemption Date:** The Perpetual Capital Securities are perpetual securities in respect of which there is no fixed redemption date. The Perpetual Capital Securities may not be redeemed at the option of the Issuer other than in accordance with this Condition 6.

*Any redemption of Perpetual Capital Securities intended to qualify as Additional Tier 1 Capital Instruments by the Issuer is subject to the Issuer obtaining the prior written approval of the Monetary Authority.*

- (b) **Early Redemption:** The Early Redemption Amount or Optional Redemption Amount payable in respect of any Perpetual Capital Security, upon redemption of such Perpetual Capital Security pursuant to this Condition 6 or upon it becoming due and payable as provided in Condition 11, shall be the Final Redemption Amount unless otherwise specified hereon.

- (c) **Redemption for Taxation and Tax Deductibility Reasons:** Subject to Condition 6(i), the Perpetual Capital Securities may be redeemed at the option of the Issuer in whole, but not in part, (the “**Optional Tax Redemption**”) on any Distribution Payment Date (if such Perpetual Capital Security is at the relevant time a Floating Rate Perpetual Capital Security) or at any time (if such Perpetual Capital Security is at the relevant time not a Floating Rate Perpetual Capital Security), on giving not less than 30 but not more than 60 days’ notice to the Securityholders (which notice shall be irrevocable) and to the Trustee and the Issuing and Paying Agent or, as the case may be, the CMU Lodging and Paying Agent in writing at, subject to adjustment following the occurrence of a Non-Viability Event in accordance with Condition 7, their Early Redemption Amount (as described in Condition 6(b)) together with Distribution accrued but unpaid (if any) to (but excluding) the date fixed for redemption and any Additional Amounts then due or which will become due on or before the date fixed for redemption or, if the Early Redemption Amount is not specified hereon, at their nominal amount, together with Distribution accrued but unpaid (if any) to (but excluding) the date fixed for redemption and any Additional Amounts then due or which will become due on or before the date fixed for redemption, if the Issuer satisfies the Trustee immediately before the giving of such notice that:
- (A) the Issuer has or will become obliged to pay Additional Amounts (as described under Condition 9); or
- (B) in respect of payments of Distribution on the Perpetual Capital Securities, the Issuer is no longer, or will no longer be, entitled to claim a deduction in respect of computing its taxation liabilities in Hong Kong,

in each case of paragraphs (A) and (B) above:

- (I) as a result of any change in, or amendment to, the laws or regulations of the Relevant Taxing Jurisdiction or any political subdivision or any authority thereof or therein having power to tax (or any taxing authority of any taxing jurisdiction in which the Issuer is a tax resident) or any change in the official application or interpretation of such laws or regulations, which change or amendment is announced and becomes effective on or after the date on which agreement is reached to issue the first Tranche of the Perpetual Capital Securities; and
- (II) the foregoing cannot be avoided by the Issuer taking reasonable measures available to it,

**provided that**, where the Issuer has or will become obliged to pay Additional Amounts, no such notice of redemption shall be given earlier than (a) if such Perpetual Capital Security is a Floating Rate Perpetual Capital Security, 60 days, or (b) if such Perpetual Capital Security is not a Floating Rate Perpetual Capital Security, 90 days, in each case, prior to the earliest date on which the Issuer would be obliged to pay such Additional Amounts were a payment in respect of the Perpetual Capital Securities then due and, in each case, **provided that** no notices of redemption shall be given prior to the compliance with the requirements in Condition 6(i). Prior to giving any notice of redemption pursuant to this Condition 6(c), the Issuer shall deliver to the Trustee:

- (x) a certificate signed by two Authorised Signatories of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer has or will become obliged to pay such Additional Amounts as a result of such change or amendment; and

(y) a copy of the written consent of the Monetary Authority as referred to in Condition 6(i),

and the Trustee shall be entitled without further enquiry to accept such certificate and opinion as conclusive evidence of the satisfaction of the condition precedent set out above, in which event it shall be conclusive and binding on Securityholders.

*Any redemption of Perpetual Capital Securities intended to qualify as Additional Tier 1 Capital Instruments by the Issuer is subject to the Issuer obtaining the prior written approval of the Monetary Authority.*

- (d) **Redemption at the option of the Issuer:** Subject to Condition 6(i), and unless otherwise specified in the applicable Pricing Supplement, if Call Option is specified hereon, the Issuer may, on giving not less than 30 nor more than 60 days' irrevocable notice to the Securityholders and to the Trustee and the Issuing and Paying Agent or, as the case may be, the CMU Lodging and Paying Agent in writing, elect to redeem all, but not some only, of the Perpetual Capital Securities on the relevant date(s) specified hereon (which shall not be less than five years from the Issue Date) (the "**Perpetual Capital Securities Optional Redemption Dates**") at, subject to adjustment following the occurrence of a Non-Viability Event in accordance with Condition 7, their Optional Redemption Amount specified hereon or, if no Optional Redemption Amount is specified hereon, at their nominal amount together with Distribution accrued but unpaid (if any) to (but excluding) the date fixed for redemption in accordance with these Conditions and **provided that** no such notice of redemption shall be given prior to the compliance with Condition 6(i).

All Perpetual Capital Securities in respect of which any such notice is given shall be redeemed on the date specified in such notice in accordance with this Condition 6(d).

*Any redemption of Perpetual Capital Securities intended to qualify as Additional Tier 1 Capital Instruments by the Issuer is subject to the Issuer obtaining the prior written approval of the Monetary Authority.*

- (e) **Redemption for Regulatory Reasons in respect of Perpetual Capital Securities:** Following the occurrence of a Capital Event, the Issuer may, having given not less than 30 but not more than 60 days' prior written notice to the Securityholders in accordance with Condition 16 (which notice shall be irrevocable) and to the Trustee and the Issuing and Paying Agent or, as the case may be, the CMU Lodging and Paying Agent in writing, redeem in accordance with these Conditions on any Distribution Payment Date (if this Perpetual Capital Security is at the relevant time a Floating Rate Perpetual Capital Security) or at any time (if this Perpetual Capital Security is at the relevant time not a Floating Rate Perpetual Capital Security) all, but not some only, of the relevant Perpetual Capital Securities, at, subject to adjustment following the occurrence of a Non-Viability Event in accordance with Condition 7, their Early Redemption Amount or, if no Early Redemption Amount is specified hereon, at their nominal amount together with Distribution accrued but unpaid (if any) to (but excluding) the date of redemption in accordance with these Conditions and **provided that** no such notice of redemption shall be given prior to the compliance with Condition 6(i).

For the purposes of this Condition 6(e), a "**Capital Event**" occurs if immediately before the Issuer gives the notice of redemption referred in this Condition 6(e), the Perpetual Capital Securities, after having qualified as such, will no longer qualify (in whole but not in part) as Additional Tier 1 capital (or equivalent) of the Issuer, as a result of a change or amendment in

(or any change in the application or official interpretation of) the relevant provisions of the Banking Capital Regulations, or any successor legislation or regulations made thereunder, or any supervisory guidance issued by the Monetary Authority in relation thereto. No such notice of redemption shall be given earlier than 90 days prior to the earliest date on which it is determined that a Capital Event has occurred.

Prior to the publication of any notice of redemption pursuant to this Condition 6(e), the Issuer shall deliver to the Trustee:

(x) a certificate signed by two Authorised Signatories of the Issuer stating that a Capital Event has occurred; and

(y) a copy of the written consent of the Monetary Authority,

and the Trustee shall accept such certificate without any further inquiry as conclusive evidence of the satisfaction of the conditions set out above without liability to any person in which event it shall be conclusive and binding on the Securityholders. Upon expiry of such notice, the Issuer shall redeem the Perpetual Capital Securities in accordance with this Condition 6(e).

- (f) **Purchases:** The Issuer and any of its Subsidiaries may at any time purchase Perpetual Capital Securities in the open market or otherwise at any price in accordance with all relevant laws and regulations and, for so long as the Perpetual Capital Securities are listed, the requirements of the relevant stock exchange and **provided that** no such purchase shall be made prior to the compliance with Condition 6(i). The Perpetual Capital Securities so purchased, while held by or on behalf of the Issuer or any such Subsidiary, shall not entitle the Securityholder to vote at any meetings of the Securityholders and shall not be deemed to be outstanding for, among other things, the purposes of calculating the quorums at meetings of Securityholders or the purposes of Condition 12(a). The Issuer or any such Subsidiary may, at its option, retain such purchased Perpetual Capital Securities for its own account and/or resell or cancel or otherwise deal with them at its discretion.
- (g) **Cancellation:** All Perpetual Capital Securities purchased by or on behalf of the Issuer or any of its Subsidiaries may be surrendered for cancellation by surrendering the Certificate representing such Perpetual Capital Securities to the Registrar and, if so surrendered, shall, together with all Perpetual Capital Securities redeemed by the Issuer, be cancelled forthwith. Any Perpetual Capital Securities so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Perpetual Capital Securities shall be discharged. Any Perpetual Capital Security that is Written-off in full in accordance with Condition 7 shall be automatically cancelled.
- (h) **No Obligation to Monitor:** In the case of Perpetual Capital Securities, the Trustee shall not be under any duty to monitor whether any event or circumstance has happened or exists within this Condition 6 and will not be responsible to the Securityholders for any loss arising from any failure by it to do so. Unless and until the Trustee has notice in writing of the occurrence of any event or circumstance within this Condition 6, it shall be entitled to assume that no such event or circumstance exists.

- (i) **Conditions for Redemption, Purchase of Perpetual Capital Securities:** Notwithstanding any other provision in these Conditions, the Issuer shall not redeem any of the Perpetual Capital Securities (other than pursuant to Condition 11) and neither the Issuer nor any of its Subsidiaries shall purchase any of the Perpetual Capital Securities unless the prior written consent of the Monetary Authority thereto shall have been obtained, to the extent such consent is required under the Banking Capital Regulations, or any successor legislation or regulations made thereunder, or any supervisory guidance issued by the Monetary Authority in relation thereto. This provision shall not apply to the Issuer or any of its Subsidiaries holding any Perpetual Capital Securities in a purely nominee capacity.

**7. Non-Viability Loss Absorption and Hong Kong Resolution Authority Power in respect of Perpetual Capital Securities**

*The ability to operationally effect any Write-off of any Perpetual Capital Securities or any cancellation, modification, conversion or change in form as a result of the exercise of the Monetary Authority's powers under this Condition 7 with respect to the clearing and/or settlement of any Perpetual Capital Securities in or through the relevant clearing system(s) is subject to the availability of procedures to effect any such Write-off or such cancellation, modification, conversion or change in form in the relevant clearing system(s).*

*However, (i) any Write-off of any Perpetual Capital Securities under Condition 7(a) will be effective upon the date that the Issuer specifies in the Non-Viability Event Notice and (ii) the exercise of the Hong Kong Resolution Authority Power under Condition 7(b) will be effective upon the date specified in the Resolution Notice (or as may otherwise be notified in writing to Securityholders, the Trustee and Agents by the Issuer) notwithstanding any inability to operationally effect any such Write-off or any cancellation, modification, conversion or change in form as a result of the exercise of the Hong Kong Resolution Authority Power under this Condition 7 in the relevant clearing system(s).*

*The Trust Deed and Agency Agreement may contain certain protections and disclaimers as applicable to the Trustee and Agents in relation to this Condition 7. Each Securityholder shall be deemed to have authorised, directed and requested the Trustee, the Registrar and the other Agents, as the case may be, to take any and all necessary action to give effect to any Write-off following the occurrence of the Non-Viability Event and/or the exercise of any Hong Kong Resolution Authority Power.*

**(a) Non-Viability Loss Absorption upon a Non-Viability Event in respect of Perpetual Capital Securities:**

- (i) If “**Write-off**” is specified as being applicable for the Loss Absorption Option in the applicable Pricing Supplement for any Perpetual Capital Securities and a Non-Viability Event occurs and is continuing, the Issuer shall, by the provision of a Non-Viability Event Notice, irrevocably (without the need for the consent of the Trustee or the holders of any Perpetual Capital Securities), reduce the then principal amount of, and cancel any accrued but unpaid Distribution in respect of, each Perpetual Capital Security (in each case, in whole or in part) by an amount equal to the Non-Viability Event Write-off Amount per Perpetual Capital Security (such reduction and cancellation, and the reduction and cancellation or conversion of any other Subordinated Capital Instruments so reduced and cancelled or converted upon the occurrence of a Non-Viability Event, where applicable, being referred to herein as the “**Write-off**”, and “**Written-off**” shall be construed accordingly) and such Write-off shall be effective on the date of such Non-Viability Event Notice.

- (ii) Concurrently with the giving of the Non-Viability Event Notice, the Issuer shall procure unless otherwise directed by the Monetary Authority that:
  - (A) a similar notice be given in respect of other Subordinated Capital Instruments in accordance with their terms; and
  - (B) concurrently and rateably with the Write-off of the Perpetual Capital Securities, the aggregate principal amount of such other Parity Capital Instruments is subject to a Write-off on a *pro rata* basis with the Perpetual Capital Securities.
- (iii) Any Write-off pursuant to this provision will not constitute a Default under the Perpetual Capital Securities.
- (iv) Any Perpetual Capital Security may be subject to one or more Write-offs in part (as the case may be), except where such Perpetual Capital Security has been Written-off in its entirety.
- (v) Once the principal amount of, and any accrued but unpaid Distribution under, a Perpetual Capital Security has been Written-off, the relevant amount(s) Written-off will not be restored in any circumstances including where the relevant Non-Viability Event ceases to continue. No Securityholder may exercise, claim or plead any right to any amount that has been Written-off, and each Securityholder shall, by virtue of its holding of any Perpetual Capital Securities, be deemed to have waived all such rights to such amount that has been Written-off.
- (vi) Any reference in these Conditions to principal in respect of the Perpetual Capital Securities shall refer to the principal amount of the Perpetual Capital Security(ies), reduced by any applicable Write-off(s).
- (vii) *Definitions:*

In these Conditions:

“**Non-Viability Event**” means the earlier of:

- (A) the Monetary Authority notifying the Issuer in writing that the Monetary Authority is of the opinion that a Write-off or conversion is necessary, without which the Issuer would become non-viable; and
- (B) the Monetary Authority notifying the Issuer in writing that a decision has been made by the government body, a government officer or other relevant regulatory body with the authority to make such a decision, that a public sector injection of capital or equivalent support is necessary, without which the Issuer would become non-viable;

“**Non-Viability Event Notice**” means the notice, which shall be given by the Issuer not more than two Business Days after the occurrence of a Non-Viability Event, to the Securityholders, in accordance with Condition 16, and to the Trustee and the Paying Agents in writing, and which shall state:

- (A) in reasonable detail the nature of the relevant Non-Viability Event; and

(B) the Non-Viability Event Write-off Amount for:

(x) each Perpetual Capital Security; and

(y) each other Subordinated Capital Instrument in accordance with its terms,

where “**Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets are open for general business in Hong Kong;

“**Non-Viability Event Write-off Amount**” means the amount of Distribution and/or principal to be Written-off as the Monetary Authority may direct or, in the absence of such a direction, as the Issuer shall (in consultation with the Monetary Authority) determine. For the avoidance of doubt:

(A) the full amount of the Perpetual Capital Securities will be Written-off in full in the event that the amount Written-off is not sufficient for the Non-Viability Event to cease to continue; and

(B) in the case of an event falling within paragraph (B) of the definition of Non-Viability Event, the Write-off will be effected in full before any public sector injection of capital or equivalent support.

Further, the Non-Viability Event Write-off Amount in respect of each Perpetual Capital Security will be calculated based on a percentage of the principal amount of that Perpetual Capital Security;

“**Parity Capital Instrument**” means any Parity Obligation and as may be further specified in the applicable Pricing Supplement which contains provisions relating to a write-down or conversion into ordinary shares in respect of its principal amount on the occurrence, or as a result, of a Non-Viability Event and in respect of which the conditions (if any) to the operation of such provisions are (or with the giving of any certificate or notice which is capable of being given by the Issuer, would be) satisfied;

“**Subordinated Capital Instrument**” means any Junior Obligation or Parity Obligation and as may be further specified in the applicable Pricing Supplement which contains provisions relating to a write-down or conversion into ordinary shares in respect of its principal amount on the occurrence, or as a result, of a Non-Viability Event and in respect of which the conditions (if any) to the operation of such provisions are (or with the giving of any certificate or notice which is capable of being given by the Issuer, would be) satisfied.

**(b) Hong Kong Resolution Authority Power in respect of Perpetual Capital Securities:**

- (i) Notwithstanding any other term of the Perpetual Capital Securities, including without limitation Condition 7(a), or any other agreement or arrangement, each holder of Perpetual Capital Securities and the Trustee shall be subject, and shall be deemed to agree, be bound by and acknowledge that they are each subject, to having the Perpetual Capital Securities being written off, cancelled, converted or modified, or to having the form of the Perpetual Capital Securities changed, in the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority without prior notice and which may include (without limitation) and result in any of the following or some combination thereof:
- (A) the reduction or cancellation of all or a part of the principal amount of, or Distribution on, the Perpetual Capital Securities;
- (B) the conversion of all or a part of the principal amount of, or Distribution on, the Perpetual Capital Securities into shares or other securities or other obligations of the Issuer or another person (and the issue to or conferral on the Securityholder of such shares, securities or obligations), including by means of an amendment, modification or variation of the terms of the Perpetual Capital Securities; and
- (C) the amendment or alteration of the maturity of the Perpetual Capital Securities or amendment or alteration of the amount of Distribution payable on the Perpetual Capital Securities, or the date on which the Distribution becomes payable, including by suspending payment for a temporary period, or any other amendment or alteration of these Conditions.
- (ii) With respect to (A), (B) and (C) above of Condition 7(b)(i), references to principal and Distribution shall include payments of principal and Distribution that have become due and payable (including principal that has become due and payable at the Maturity Date), but which have not been paid, prior to the exercise of any Hong Kong Resolution Authority Power. The rights of the holders of Perpetual Capital Securities and the Trustee under the Perpetual Capital Securities and these Conditions are subject to, and will be amended and varied, if necessary, solely to give effect to, the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority.
- (iii) No repayment of the principal amount of the Perpetual Capital Securities or payment of Distribution on the Perpetual Capital Securities shall become due and payable or be paid after the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority in relation to such Perpetual Capital Securities unless, at the time that such repayment or payment, respectively, is scheduled to become due, such repayment or payment would be permitted to be made by the Issuer under the laws and regulations applicable to the Issuer and the Group.



- (iv) Upon the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority with respect to the Perpetual Capital Securities, the Issuer shall provide a written notice (a “**Resolution Notice**”) not more than two Business Days after the occurrence of such exercise of the Hong Kong Resolution Authority Power to the Securityholders in accordance with Condition 16 and to the Trustee in writing.
- (v) Neither the reduction or cancellation, in part or in full, of the principal amount of, or Distribution on the Perpetual Capital Securities, the conversion thereof into another security or obligation of the Issuer or another person, or any other amendment or alteration of these Conditions as a result of the exercise of any Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority with respect to the Issuer nor the exercise of the Hong Kong Resolution Authority Power by the relevant Hong Kong Resolution Authority with respect to the Perpetual Capital Securities shall constitute a Default under Condition 11.
- (vi) *Definitions:*

In this Condition 7(b):

“**Group**” means the Issuer and its Subsidiaries;

“**Hong Kong Resolution Authority Power**” means any power which may exist from time to time under the Ordinance relating to financial institutions, including licensed banks, deposit-taking companies, restricted licence banks, banking group companies, insurance companies and/or investment firms incorporated in or authorised, designated, recognised or licensed to conduct regulated financial activities in Hong Kong in effect and applicable in Hong Kong to the Issuer or other members of the Group (including, for the avoidance of doubt, powers under Part 4 and Part 5 of the Ordinance) or any other laws, regulations, rules or requirements relating thereto, as the same may be amended from time to time (whether pursuant to the Ordinance or otherwise), and pursuant to which obligations of a licensed bank, deposit-taking company, restricted licence bank, banking group company, insurance company or investment firm or any of its affiliates can be reduced, cancelled, transferred, modified and/or converted into shares or other securities or obligations of the obligor or any other person;

“**Ordinance**” means the Financial Institutions (Resolution) Ordinance (Cap. 628) of Hong Kong, as amended or superseded from time to time; and “**relevant Hong Kong Resolution Authority**” means any authority with the ability to exercise a Hong Kong Resolution Authority Power in relation to the Issuer from time to time.

*Please see the risk factor entitled “The establishment of a resolution regime in Hong Kong may override the contractual terms of the Perpetual Capital Securities” for further information.*

## 8. Payments

### (a) **Perpetual Capital Securities not held in the CMU Service:**

- (i) Payments of principal shall be made against presentation and surrender of the relevant Certificates at the specified office of any of the Transfer Agents or of the Registrar and in the manner provided in paragraph (ii) below.
- (ii) Distribution shall be paid to the person shown on the Register at the close of business:
  - (A) in the case of a currency other than Renminbi, on the 15th day before the due date for payment thereof; and
  - (B) in the case of Perpetual Capital Securities denominated in Renminbi, on the fifth business day before the due date for payment (the “**Record Date**”).

Payments of Distribution on each Perpetual Capital Security shall be made:

- (x) in the case of a currency other than Renminbi, in the relevant currency by transfer to an account in the relevant currency maintained by the payee with a bank; and
- (y) in the case of Renminbi, by transfer to the registered account of the Securityholder. If a Securityholder does not maintain a registered account in respect of a payment to be made under the Perpetual Capital Securities, the Issuer reserves the right, in its sole discretion and upon such terms as it may determine, to make arrangements to pay such amount to that Securityholder by another means, **provided that** the Issuer shall not have any obligation to make any such arrangements.

In this Condition 8(a):

“**registered account**” means the Renminbi account maintained by or on behalf of the Securityholder with, in the case of Perpetual Capital Securities cleared through the CMU Service, a bank in Hong Kong, details of which appear on the Register at the close of business on the fifth Business Day before the due date for payment.

- (b) **Perpetual Capital Securities held in the CMU Service:** Payments of principal and Distribution in respect of Perpetual Capital Securities held in the CMU Service will be made to the person(s) for whose account(s) Distributions in the relevant Perpetual Capital Security are credited as being held with the CMU Service in accordance with the CMU Rules (as defined in the Agency Agreement) at the relevant time and payment made in accordance thereof shall discharge the obligations of the Issuer in respect of that payment.

*For so long as any of the Perpetual Capital Securities that are cleared through the CMU Service are represented by a Global Certificate, payments of Distribution or principal will be made to the persons for whose account a relevant interest in that Global Certificate is credited as being held by the operator of the CMU Service at the relevant time. Such payment will discharge the Issuer’s obligations in respect of that payment. Any payments by the CMU Service participants to indirect participants will be governed by arrangements agreed between the CMU Service participants and the indirect participants and will continue to depend on the interbank clearing system and traditional payment methods. Such payments will be the sole responsibility of such CMU Service participants.*

- (c) **Payments subject to fiscal laws:** Payments will be subject in all cases to:
- (i) any fiscal or other laws and regulations applicable thereto, but without prejudice to the provisions of Condition 9, in the place of payment; and
  - (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the “**Code**”) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or (without prejudice to the provisions of Condition 9) any law implementing an intergovernmental approach thereto.
- (d) **Appointment of Agents:** The Issuing and Paying Agent, the CMU Lodging and Paying Agent, the Paying Agents, the Registrars, the Transfer Agents and the Calculation Agent initially appointed by the Issuer and their respective specified offices are listed below. The Issuing and Paying Agent, the CMU Lodging and Paying Agent, the Paying Agents, the Registrar, the Transfer Agents and the Calculation Agent act solely as agents of the Issuer and do not assume any obligation or relationship of agency or trust for or with any Securityholder. The Issuer reserves the right at any time, with the approval of the Trustee to vary or terminate the appointment of the Issuing and Paying Agent, the CMU Lodging and Paying Agent, any other Paying Agent, the Registrar, any Transfer Agent or the Calculation Agent(s) and to appoint additional or other Paying Agents or Transfer Agents, **provided that** the Issuer shall at all times maintain:
- (i) an Issuing and Paying Agent;
  - (ii) a Registrar in relation to Perpetual Capital Securities;
  - (iii) a Transfer Agent in relation to Perpetual Capital Securities;
  - (iv) a CMU Lodging and Paying Agent in relation to Perpetual Capital Securities accepted for clearance through the CMU Service;
  - (v) one or more Calculation Agent(s) where the Conditions so require;
  - (vi) a Paying Agent in Hong Kong, where the Perpetual Capital Securities may be presented or surrendered for payment or redemption, in the event that the Global Perpetual Capital Securities are exchanged for Definitive Perpetual Capital Securities, for so long as the Perpetual Capital Securities are listed on the HKSE and the rules of the HKSE so require; and
  - (vii) such other agents as may be required by any other stock exchange on which the Perpetual Capital Securities may be listed, in each case as approved by the Trustee.

Notice of any such change or any change of any specified office shall promptly be given to the Securityholders.

- (e) **Non-Business Days:** If any date for payment in respect of any Perpetual Capital Security is not a business day, the Securityholder shall not be entitled to payment until the next following business day nor to any Distribution or other sum in respect of such postponed payment. In this paragraph, “**business day**” means a day (other than a Saturday or a Sunday) on which banks and foreign exchange markets are open for business in the relevant place of presentation, in such other jurisdictions as shall be specified as “**Financial Centres**” hereon and:
- (i) (in the case of a payment in a currency other than Euro or Renminbi) where payment is to be made by transfer to an account maintained with a bank in the relevant currency, on which foreign exchange transactions may be carried on in the relevant currency in the principal financial centre of the country of such currency; or
  - (ii) (in the case of a payment in Euro) which is a TARGET Business Day; or
  - (iii) (in the case of a payment in Renminbi) on which banks and foreign exchange markets are open for business and settlement of Renminbi payments in Hong Kong.

## 9. Taxation

All payments of principal and Distribution by or on behalf of the Issuer in respect of the Perpetual Capital Securities shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Hong Kong (the “**Relevant Taxing Jurisdiction**”) or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law. If the Issuer is required to make a deduction or withholding by or within Hong Kong, the Issuer shall pay such additional amounts (the “**Additional Amounts**”) as shall result in receipt by the Securityholders of such amounts as would have been received by them had no such withholding or deduction been required, except that no such Additional Amounts shall be payable with respect to any Perpetual Capital Security:

- (a) **Other connection:** to, or to a third party on behalf of, a Securityholder who is liable to such taxes, duties, assessments or governmental charges in respect of such Perpetual Capital Security by reason of his having some connection with the Relevant Taxing Jurisdiction other than the holding or ownership of the Perpetual Capital Security or receiving income therefrom, or the enforcement thereof; or
- (b) **Presentation more than 30 days after the Relevant Date:** where presentation is required or has occurred, presented (or in respect of which the Certificate representing it is presented) for payment more than 30 days after the Relevant Date except to the extent that the Securityholder of it would have been entitled to such Additional Amounts on presenting it for payment on or before the 30th such day.

Notwithstanding any other provision of the Conditions or the Trust Deed, any amounts to be paid on the Perpetual Capital Securities by, or on behalf of, the Issuer in respect of the Perpetual Capital Securities will be paid net of any deduction or withholding imposed or required pursuant to an agreement described in the Code, or otherwise imposed pursuant to Sections 1471 through 1474 of the Code (or any regulations thereunder or official interpretations thereof) or an intergovernmental agreement between the United States and another jurisdiction facilitating the implementation thereof (or any fiscal or regulatory legislation, rules or practices implementing such an intergovernmental agreement) (any such withholding or deduction, a “**FATCA Withholding**”). Neither the Issuer nor any other person will be required to pay any additional amounts in respect of FATCA Withholding.

As used in these Conditions, “**Relevant Date**” in respect of any Perpetual Capital Security means the date on which payment in respect of it first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date seven days after that on which notice is duly given to the Securityholders that, upon further presentation of the relevant Certificate representing the Perpetual Capital Security being made in accordance with the Conditions, such payment will be made, *provided that* payment is in fact made upon such presentation. References in these Conditions to: (i) “**principal**” shall be deemed to include any premium payable in respect of the Perpetual Capital Securities, all Final Redemption Amounts, Early Redemption Amounts, Optional Redemption Amounts, and all other amounts in the nature of principal payable pursuant to Condition 6 or any amendment or supplement to it; (ii) “**Distribution**” shall be deemed to include all Distribution Amounts and all other amounts payable pursuant to Condition 4 or any amendment or supplement to it; and (iii) “**principal**” and/or “**Distribution**” shall be deemed to include any Additional Amounts that may be payable under this Condition 9 or any undertaking given in addition to or in substitution for it under the Trust Deed.

Neither the Trustee nor any Agent shall be responsible for paying any tax, duty, charges, withholding or other payment referred to in this Condition 9 or for determining whether such amounts are payable or the amount thereof, and none of them shall be responsible or liable for any failure by the Issuer, any Securityholder or any third party to pay such tax, duty, charges, withholding or other payment in any jurisdiction or to provide any notice or information to the Trustee or any Agent that would permit, enable or facilitate the payment of any principal, premium (if any), interest or other amount under or in respect of the Perpetual Capital Securities without deduction or withholding for or on account of any tax, duty, charge, withholding or other payment imposed by or in any jurisdiction.

## 10. Prescription

Claims against the Issuer for payment in respect of the Perpetual Capital Securities shall be prescribed and will become void unless made within 10 years (in the case of principal) or five years (in the case of Distributions) from the appropriate Relevant Date in respect of them.

## 11. Default

### (a) Default and Winding-Up Proceedings:

- (i) *Default*: If default is made in the payment of any amount of principal or Distributions in respect of the Perpetual Capital Securities on the due date for payment thereof and such failure continues for a period of seven days in the case of principal or 14 days in the case of interest (each, a “**Default**”) then in order to enforce the obligations of the Issuer, the Trustee at its sole discretion may and, if so requested in writing by Securityholders of at least 25 per cent. in principal amount of the outstanding Perpetual Capital Securities or if so directed by an Extraordinary Resolution (as defined in the Trust Deed), shall (subject to the Trustee in any such case having been indemnified and/or provided with security and/or put in funds to its satisfaction) institute a Winding-Up Proceeding against the Issuer. Any Write-off pursuant to these Conditions will not constitute a Default under the Perpetual Capital Securities. For the avoidance of doubt, no Distribution will be due and payable if such Distribution has been cancelled or is deemed cancelled (in each case, in whole or in part) in accordance with these Conditions. Accordingly, no default in payment under the Perpetual Capital Securities will have occurred or be deemed to have occurred for the non-payment of any Distribution that has been so cancelled or deemed cancelled, including any Write-off pursuant to these Conditions.

- (ii) *Winding-Up*: If a Winding-Up of the Issuer has occurred (whether or not a Default has occurred and is continuing) then the Trustee at its sole discretion may and, if so requested in writing by Securityholders of at least 25 per cent. in principal amount of the outstanding Perpetual Capital Securities or if so directed by an Extraordinary Resolution, shall (subject to the Trustee in any such case having been indemnified and/or provided with security and/or put in funds to its satisfaction) give written notice to the Issuer declaring the Perpetual Capital Securities to be immediately due and payable, whereupon they shall become immediately due and payable at their Early Redemption Amount together (if appropriate) with interest accrued to (but excluding) the date of actual payment, subject to adjustments following the occurrence of a Non-Viability Event in accordance with Condition 7(a) and subject to the subordination provision in Condition 3, without further action or formality.

(b) **Enforcement, Remedies and Rights of Trustee and Securityholders:**

- (i) *Enforcement*: Without prejudice to this Condition 11(b)(i), the Trustee may subject as provided below, at its discretion and without further notice, take such steps and/or actions and/or institute such proceedings against the Issuer if the Issuer fails to perform, observe or comply with any obligation, condition or provision relating to the Perpetual Capital Securities binding on it under these Conditions or the Trust Deed (other than any obligation of the Issuer for the payment of any principal or interest in respect of the Perpetual Capital Securities), **provided that** the Issuer shall not as a consequence of such steps, actions or proceedings be obliged to pay any sum or sums representing or measured by reference to principal or interest in respect of the Perpetual Capital Securities sooner than the same would otherwise have been payable by it.
- (ii) *Trustee Rights*: The Trustee shall not be bound to take action as referred to in Conditions 10(b)(i) and 10(b)(ii) or any other action under these Conditions or the Trust Deed unless:
  - (A) it shall have been so requested in writing by Securityholders holding at least 25 per cent. in principal amount of the Perpetual Capital Securities then outstanding or if so directed by an Extraordinary Resolution of the Securityholders; and
  - (B) it shall have been indemnified and/or secured and/or pre-funded to its satisfaction.
- (iii) *Remedies*: Subject to applicable laws, no remedy (including the exercise of any right of set-off or analogous event) other than those provided for in Conditions 11(b)(i) and 11(b)(ii) above or submitting a claim in the Winding-Up of the Issuer will be available to the Trustee or the Securityholders.
- (iv) *Rights of Securityholders*: No Securityholder shall be entitled either to institute proceedings for the Winding-Up of the Issuer or to submit a claim in such Winding-Up, except that if the Trustee, having become bound to institute such proceedings as aforesaid, fails to do so, or, being able and bound to submit a claim in such Winding-Up, fails to do so, in each case within a reasonable period and such failure is continuing, then any such Securityholder may, on giving an indemnity and/or security and/or pre-funding satisfactory to the Trustee in its sole discretion, in the name of the Trustee (but not otherwise), himself institute Winding-Up Proceedings and/or submit a claim in the Winding-Up of the Issuer to the same extent (but not further or otherwise) that the Trustee would have been entitled to do.

## 12. Meetings of Securityholders, Modification and Waiver

(a) **Meetings of Securityholders:** The Trust Deed contains provisions for convening meetings of Securityholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution (as defined in the Trust Deed) of a modification of any of these Conditions or any provision of the Trust Deed and the Agency Agreement. Such a meeting may be convened by the Issuer or the Trustee and shall be convened by the Trustee if requested in writing to do so by Securityholders holding not less than 10 per cent., in nominal amount of the Perpetual Capital Securities for the time being outstanding and subject to the Trustee being indemnified and/or secured and/or pre-funded to its satisfaction. The quorum for any meeting convened to consider an Extraordinary Resolution shall be two or more persons holding or representing more than 50 per cent. in nominal amount of the Perpetual Capital Securities for the time being outstanding, or at any adjourned meeting two or more persons being or representing Securityholders whatever the nominal amount of the Perpetual Capital Securities held or represented, unless the business of such meeting includes consideration of proposals, *inter alia*:

- (i) to amend the dates of maturity or redemption of the Perpetual Capital Securities or any date for payment of Distribution or Distribution Amounts on the Perpetual Capital Securities;
- (ii) to reduce or cancel the nominal amount of, or any premium payable on redemption of, the Perpetual Capital Securities;
- (iii) to reduce the rate or rates of Distribution in respect of the Perpetual Capital Securities or to vary the method or basis of calculating the rate or rates or amount of Distribution or the basis for calculating any Distribution Amount in respect of the Perpetual Capital Securities (except as a result of any modification contemplated in Condition 4(i));
- (iv) if a Minimum and/or a Maximum Rate of Distribution or Redemption Amount is shown hereon, to reduce any such Minimum and/or Maximum;
- (v) to vary any method of, or basis for, calculating the Final Redemption Amount, the Early Redemption Amount or the Optional Redemption Amount;
- (vi) to vary the currency or currencies of payment or denomination of the Perpetual Capital Securities;
- (vii) to amend the subordination or loss absorption provisions in the Trust Deed or to modify Condition 3 in respect of the Perpetual Capital Securities;
- (viii) to take any steps that as specified hereon may only be taken following approval by an Extraordinary Resolution to which the special quorum provisions apply; or
- (ix) to modify the provisions concerning the quorum required at any meeting of Securityholders or the majority required to pass the Extraordinary Resolution,

in which case the necessary quorum shall be two or more persons holding or representing not less than  $66\frac{2}{3}$  per cent., or at any adjourned meeting not less than 25 per cent., in nominal amount of the Perpetual Capital Securities for the time being outstanding. Any Extraordinary Resolution duly passed shall be binding on Securityholders (whether or not they were present at the meeting at which such resolution was passed).

The Trust Deed provides that a resolution:

- (A) in writing signed by or on behalf of the Securityholders of not less than 90 per cent., in aggregate nominal amount of the Perpetual Capital Securities outstanding and who are entitled to receive notice of a meeting of the Securityholders pursuant to the Trust Deed; and
- (B) passed by Electronic Consent (as defined in the Trust Deed),

shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Securityholders duly convened and held. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Securityholders.

*These Conditions may be amended, modified or varied in relation to any Series of Perpetual Capital Securities by the terms of the applicable Pricing Supplement in relation to such Series.*

- (b) **Modification of the Trust Deed and waiver:** The Trustee may (but shall not be obliged to) agree, without the consent of the Securityholders, to:
  - (i) any modification of any of the provisions of the Trust Deed, the Agency Agreement and the Conditions which is, in its opinion, of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of applicable law or as required by the CMU Service and/or Euroclear and/or Clearstream, Luxembourg; and
  - (ii) any other modification (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach, of any of the provisions of the Trust Deed, the Agency Agreement and the Conditions that is in the opinion of the Trustee not materially prejudicial to the interests of the Securityholders.

Notwithstanding any other provision of these Conditions or the Trust Deed, no modification to any Condition or any provision of the Trust Deed may be made without the prior approval of the Monetary Authority, to the extent that such modification changes or otherwise affects the eligibility of the Perpetual Capital Securities as Tier 1 Capital Instruments. Any such modification, authorisation or waiver shall be binding on the Securityholders and, unless the Trustee agrees otherwise, such waiver or authorisation shall be notified to the Securityholders as soon as practicable.

- (c) **Substitution:** The Trust Deed contains provisions permitting (but not obliging) the Trustee to agree, subject to such amendment of the Trust Deed and such other conditions as the Trustee may require, but without the consent of the Securityholders, to the substitution of the Issuer's successor in business or any Subsidiary of the Issuer or its successor in business or any holding company of the Issuer or any other subsidiary of any such holding company or their respective successor in business in place of the Issuer, or of any previous substituted company, as principal debtor under the Trust Deed and the Perpetual Capital Securities. In the case of such a substitution the Trustee may agree, without the consent of the Securityholders, to a change of the law governing the Perpetual Capital Securities and/or the Trust Deed **provided that** such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Securityholders.



- (d) **Entitlement of the Trustee:** In connection with the exercise of its functions (including but not limited to those referred to in this Condition 12) the Trustee shall have regard to the interests of the Securityholders as a class and shall not have regard to the consequences of such exercise for individual Securityholders and the Trustee, acting for and on behalf of Securityholders, shall not be entitled to require, nor shall any Securityholder be entitled to claim, from the Issuer or the Trustee any indemnification or payment in each case in respect of any tax consequence of any such exercise upon individual Securityholders.

### 13. Indemnification of the Trustee

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility. The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit.

The Trustee may accept and rely without liability to Securityholders or any other person on a report, confirmation or certificate or any advice or opinion of any legal counsel, accountants, financial advisers, financial institution or any other expert, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee may conclusively (without liability) accept and shall be entitled to rely on such report, confirmation, certificate, advice or opinion, in which event and such report, confirmation, certificate, advice or opinion shall be binding on the Issuer, the Trustee, and the Securityholders.

Whenever the Trustee is required or entitled by these terms of the Trust Deed, the Agency Agreement or the Conditions to exercise any discretion or power, take any action, make any decision or give any direction, the Trustee is entitled, prior to exercising any such discretion or power, taking any such action, making any such decision or giving any such direction, to seek directions from the Securityholders by way of Extraordinary Resolution, and the Trustee shall not be responsible for any loss or liability incurred by the Issuer, the Securityholders or any other person as a result of any delay in it exercising such discretion or power, taking such action, making such decision or giving such direction as a result of seeking such direction from the Securityholders or in the event that no direction is given to the Trustee by the Securityholders. None of the Trustee or any Agent shall be liable to any Securityholder, the Issuer or any other person for any action taken by the Trustee or such Agent in accordance with the instructions of the Securityholders. The Trustee shall be entitled to rely on any direction, request or resolution of Securityholders given by Securityholders of the requisite principal amount of Perpetual Capital Securities outstanding or passed at a meeting of Securityholders convened and held in accordance with the Trust Deed.

None of the Trustee or any of the Agents shall be responsible for the performance by the Issuer and any other person appointed by the Issuer in relation to the Notes of the duties and obligations on their part expressed in respect of the same and, unless it has written notice from the Issuer to the contrary, the Trustee and each Agent shall be entitled to assume that the same are being duly performed. Neither the Trustee nor any of the Agents shall be under any obligation to ascertain whether any Event of Default, Potential Event of Default (as defined in the Trust Deed) has occurred or may occur or to monitor compliance by the Issuer with the provisions of the Trust Deed, the Agency Agreement and/or these Conditions.

Each Securityholder shall be solely responsible for making and continuing to make its own independent appraisal and investigation into the financial condition, creditworthiness, condition, affairs, status and nature of the Issuer and its Subsidiaries, and the Trustee shall not at any time have any responsibility for the same and each Securityholder shall not rely on the Trustee in respect thereof.

#### **14. Replacement of Certificates**

If a Certificate is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws, regulations and stock exchange or other relevant authority regulations, at the specified office of the Registrar or such other Paying Agent or Transfer Agent, as the case may be, as may from time to time be designated by the Issuer for the purpose and notice of whose designation is given to Securityholders, in each case on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security and indemnity (which may provide, *inter alia*, that if the allegedly lost, stolen or destroyed Certificate is subsequently presented for payment, there shall be paid to the Issuer on demand the amount payable by the Issuer in respect of such Certificates and otherwise as the Issuer and/or Agent may require in their sole discretion. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

#### **15. Further Issues**

The Issuer may from time to time, without the consent of the Securityholders, create and issue further securities either having the same terms and conditions as the Perpetual Capital Securities in all respects (or in all respects except for the first payment of Distribution on them) and so that such further issue shall be consolidated and form a single series with the outstanding securities of any series (including the Perpetual Capital Securities) or upon such terms as the Issuer may determine at the time of their issue. References in these Conditions to the Perpetual Capital Securities include (unless the context requires otherwise) any other securities issued pursuant to this Condition 15 and forming a single series with the Perpetual Capital Securities. Any further securities forming a single series with the outstanding securities of any series (including the Perpetual Capital Securities) constituted by the Trust Deed or any deed supplemental to it shall, and any other securities may (with the consent of the Trustee), be constituted by the Trust Deed. The Trust Deed contains provisions for convening a single meeting of the Securityholders and the holders of securities of other series where the Trustee so decides.

#### **16. Notices**

Notices to the Securityholders of Perpetual Capital Securities shall be mailed to them at their respective addresses in the Register and deemed to have been given on the fourth weekday (being a day other than a Saturday, Sunday or public holiday) after the date of mailing.

- (a) So long as the Perpetual Capital Securities are represented by the Global Certificate and the Global Certificate is held on behalf of:
  - (i) Euroclear or Clearstream, Luxembourg or the Alternative Clearing System (as defined in the form of the Global Certificate), notices to Securityholders shall be given by delivery of the relevant notice to Euroclear or Clearstream, Luxembourg or the Alternative Clearing System, for communication by it to entitled accountholders in substitution for notification as required by the Conditions; or
  - (ii) the CMU Service, notices to the Securityholders of Perpetual Capital Securities of that Series may be given by delivery of the relevant notice to the persons shown in a CMU Instrument Position Report issued by the Monetary Authority on the business day preceding the date of despatch of such notice,

except that if the Perpetual Capital Securities are listed on the HKSE, and the rules of the HKSE so require, notice will in any event be published as provided above.

- (b) A Non-Viability Event Notice or a Resolution Notice to the Securityholders of the relevant Perpetual Capital Securities shall be deemed to have been validly given on the date on which such notice is published in a daily newspaper of general circulation in Asia (which is expected to be Asian Wall Street Journal) or, so long as Perpetual Capital Securities are listed on the HKSE, published on the website of the HKSE. If any such publication is not practicable, notice shall be validly given if published in another leading daily English language newspaper with general circulation in Hong Kong. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the first date on which publication is made, as provided above.

## **17. Currency Indemnity**

Any amount received or recovered in a currency other than the currency in which payment under the relevant Perpetual Capital Security is due (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the insolvency, winding-up or dissolution of the Issuer or otherwise) by any Securityholder in respect of any sum expressed to be due to it from the Issuer shall only constitute a discharge to the Issuer to the extent of the amount in the currency of payment under the relevant Perpetual Capital Security that the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If the amount received or recovered is less than the amount expressed to be due to the recipient under any Perpetual Capital Security, the Issuer shall indemnify it against any loss sustained by it as a result. In any event, the Issuer shall indemnify the recipient against the cost of making any such purchase. For the purposes of this Condition, it shall be sufficient for the Securityholder, as the case may be, to demonstrate that it would have suffered a loss had an actual purchase been made. These indemnities constitute a separate and independent obligation from the Issuer's other obligations, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Securityholder and shall continue in full force and effect despite any other judgment, order, claim or proof for a liquidated amount in respect of any sum due under any Perpetual Capital Security or any other judgment or order.

## **18. Contracts (Rights of Third Parties) Act**

No person shall have any right to enforce any term or condition of the Perpetual Capital Securities under the Contracts (Rights of Third Parties) Act 1999 except and to the extent (if any) that the Perpetual Capital Securities expressly provide for such Act to apply to any of their terms.

## **19. Governing Law and Jurisdiction**

- (a) **Governing Law:** The Trust Deed, the Perpetual Capital Securities and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law, save that Condition 7 and the provisions in relation to subordination, set-off and payment void and default and enforcement are governed by and shall be construed in accordance with Hong Kong law.

- (b) **Jurisdiction:** The Courts of England are to have jurisdiction to settle any disputes that may arise out of or in connection with any Perpetual Capital Securities, save that the courts of Hong Kong shall have exclusive jurisdiction to settle any disputes that arise out of or are in connection with Condition 7 and the provisions in relation to subordination, set-off and payment void and default and enforcement, and accordingly any legal action or proceedings arising out of or in connection with any Perpetual Capital Securities (“**Proceedings**”) may be brought in such courts. The Issuer irrevocably submits to the jurisdiction of the courts of England and waives any objection to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of each of the Securityholders of the Perpetual Capital Securities and shall not affect the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).
- (c) **Service of Process:** The Issuer has in the Trust Deed irrevocably appointed an agent in England to receive, for it and on its behalf, service of process in any Proceedings in England. If for any reason such process agent ceases to be able to accept service of process in England, the Issuer shall immediately appoint a new agent to accept such service of process in England.