

BEN Capital Notes Deed Poll

Investments in BEN Capital Notes are an investment in BEN and may be affected by the ongoing performance, financial position and solvency of BEN. They are not deposit liabilities or protected accounts of BEN under the Banking Act 1959 (Cth).

*BEN Capital Notes have not been and will not be registered under the US Securities Act of 1933, as amended (the **Securities Act**), or the securities laws of any state in the United States. BEN Capital Notes may not be offered or sold at any time within the United States or to, or for the account of, U.S. persons (as defined in Regulation S under the Securities Act), unless such BEN Capital Notes are registered under the Securities Act or an exemption from the registration requirements thereof is available.*

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This Deed Poll is made on 28 October 2020

Parties

Bendigo and Adelaide Bank Limited (ABN 11 068 049 178) registered in Victoria of The Bendigo Centre, Bendigo VIC 3550 (**BEN**).

In favour of

Each person who is from time to time a Holder (as defined in the Terms).

Recitals

- A BEN proposes to issue Capital Notes on the terms of this Deed Poll.
- B Capital Notes will be constituted by, and owing under, this Deed Poll and take the form of entries in the Capital Notes Register.
- C BEN enters into this Deed Poll for the benefit, amongst others, of the holders from time to time of Capital Notes.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

In this Deed Poll, unless the contrary intention appears:

Capital Notes has the meaning given to the term 'Capital Notes' in the Terms.

Deed Poll means this deed poll including Schedule 1 (Terms) and Schedule 2 (Provisions for Meetings of Holders) to this deed poll.

Government Agency means any government or any governmental, semi governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Registrar means the person who is appointed by Capital Notes to maintain the Capital Notes Register.

Terms means the terms of issue of the Capital Notes as set out in Schedule 1.

1.2 Incorporation of defined terms

Words and expressions which are defined in the Terms or in the Prospectus have the same meaning when used in this Deed Poll unless the same term is defined in this Deed Poll, in which case the definition in this Deed Poll prevails.

1.3 Interpretation

In addition to the following rules of interpretation which apply in this Deed Poll, the interpretation provisions in the Terms apply in this Deed Poll, unless the contrary intention appears or the context otherwise requires.

- (a) A gender includes all genders.
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

- (d) A reference to a clause, annexure or schedule is a reference to a clause of, or annexure or schedule to, this Deed Poll.
- (e) A reference to a party to this Deed Poll or another agreement or document includes the party's successors and permitted substitutes or assigns.
- (f) A reference to an agreement or deed includes a reference to that agreement or deed as amended, novated, supplemented, replaced or restated from time to time.
- (g) A reference to writing includes any means of reproducing words in a tangible and permanently visible form.
- (h) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (i) Mentioning anything after include, includes or including does not limit what else might be included.
- (j) A reference to time in this Deed Poll is a reference to Melbourne, Victoria, Australia time.

1.4 Registration and transfer

References in this Deed Poll to:

- (a) registration or recording include inscription, and register and record have a corresponding meaning; and
- (b) transfer includes transmission.

2 The Capital Notes

2.1 Creation of the Capital Notes

- (a) Capital Notes are issued in uncertificated registered form. BEN will create the Capital Notes by procuring the Registrar to inscribe the details of those Capital Notes in the Capital Notes Register in accordance with the Terms.
- (b) No Capital Notes will be created or issued except in accordance with clause 2.2, and once created or issued, the information contained in the Capital Notes Register with respect to those Capital Notes will have the effect provided under the Terms.

2.2 Constitution and title

- (a) The Capital Notes are constituted by this Deed Poll and the Terms. Title to a Capital Note is conclusively evidenced for all purposes by inscription in the Capital Notes Register. No certificate or other evidence of title to a Capital Note will be issued by or on behalf of BEN unless BEN determines otherwise or is required to do so by law.
- (b) The making of, or giving effect to, a manifest error in an inscription in the Capital Notes Register will not void the constitution, issue or transfer of a Capital Note. BEN will procure the Registrar to rectify any manifest error of which it becomes aware.
- (c) A Capital Note in respect of which an entry is made in the Capital Notes Register is (subject to rectification for error or fraud) taken to have been validly issued under this Deed Poll, regardless of any non-compliance by BEN with the provisions of this Deed Poll. A Capital Note is regarded as issued or transferred to a person if and when the person's name is recorded in the Register as the holder of the Capital Note in accordance with this Deed Poll.
- (d) Title to a Capital Note vests in the Holder of that Capital Note. BEN may treat Holders as the absolute beneficial owners of Capital Notes held by them and are not bound by or

obliged to recognise any other person as having any right or interest in any Capital Notes whether or not they have notice of such right or interest.

2.3 Denomination

Each Capital Note must be denominated in Australian dollars in such amount or amounts as set out in the Terms.

2.4 Status

The ranking of Capital Notes is not affected by the date of inscription in the Capital Notes Register.

3 Rights and Obligations of Holders

3.1 Rights of Holders

A Holder is entitled, in respect of each Capital Note for which that person's name is inscribed in the Capital Notes Register, to the payments in accordance with the Terms, together with the other benefits given to Holders under this Deed Poll and the Terms, and is bound by the obligations under this Deed Poll and the Terms as contemplated in clause 3.3.

3.2 Deed poll and enforcement

This document is a deed poll. Each Holder has the benefit of this Deed Poll and can enforce it even though they may not be in existence at the time this Deed Poll is executed. Each Holder may enforce its rights under this Deed Poll independently from the Registrar and each other Holder, as the case may be.

3.3 Holders bound

- (a) Each Holder, and any person claiming through a Holder, who asserts an interest in a Capital Note is bound by this Deed Poll and the Terms. Capital Notes are issued on the condition that each Holder, and any person claiming through a Holder, is taken to have notice of, and be bound by this Deed Poll, the Terms and the Prospectus.
- (b) This Deed Poll must be read together with the Prospectus and the Terms.
- (c) Persons claiming interests in a Capital Note must do so in accordance with the rules of any clearing or other system for the holding of such interests, or in accordance with law and obtain the interests in a Capital Note provided by any such system or by law.

3.4 Schedules and conditions

The Capital Notes are issued upon and subject to:

- (a) Schedule 1 (Terms); and
- (b) Schedule 2 (Provisions for Meetings of Holders),

each of which are binding on BEN and the Holders and all persons claiming through or under them respectively.

4 Transfers

- (a) Capital Notes may be transferred in accordance with the Terms.
- (b) A transferor of a Capital Note remains the Holder until the transfer is registered and the name of the transferee is entered in the applicable Register in respect of the Capital Note.
- (c) If BEN accepts a transfer under this clause 4, BEN may issue a transaction advice for:

- (i) Capital Notes which have been transferred; and
 - (ii) the balance of any Capital Notes which were not transferred.
- (d) If Capital Notes are lodged or approved for entry on CHESS, then ASX Settlement Operating Rules prevail to the extent of any inconsistency with clause 5 or this clause 4.

5 The Registrar and Capital Notes Register

5.1 Appointment of Registrar

BEN may cause the Capital Notes Register to be maintained by a third party on its behalf and require that person to:

- (a) discharge BEN's obligations under this Deed Poll in connection with the Capital Notes Register and transfers of Capital Notes; and
- (b) assist it in the supply and delivery of the information, records and reports required by law or the ASX Listing Rules.

BEN is not liable for any act or omission of any person appointed by BEN under this clause 5.1, provided that BEN will be liable if it fails to take reasonable steps to select a person competent to perform the intended functions.

BEN may replace any person so appointed in its sole discretion, provided that if BEN is actually aware that such person is not performing their duties, BEN shall take reasonable steps to remove that person and replace them with a person it reasonably believes is competent to perform the intended functions.

5.2 Duties of Registrar

The Registrar has no duties or responsibilities except those expressly set out in any registry agreement between the Registrar and BEN, the Terms and this Deed Poll.

5.3 Establishment of Capital Notes Register

- (a) BEN agrees to establish and maintain, or procure the establishment and maintenance of, the Capital Notes Register.
- (b) BEN must enter, or procure the entry, into the Capital Notes Register in respect of each Holder of Capital Notes:
 - (i) the terms and conditions of Capital Notes;
 - (ii) the name and address of the Holder and the amount of Capital Notes held to be recorded in the Register;
 - (iii) any payment instructions or account details notified by the relevant Holder (or by BEN in respect of the relevant Holder) to the Registrar, for the purpose of receiving payments in relation to Capital Notes held by such Holder; and
 - (iv) any other particulars which BEN thinks fit or that it is required to include on the Register under this Deed Poll.

5.4 Directions to hold documents

Each Holder is taken to have irrevocably:

- (a) instructed BEN that an original of this Deed Poll is to be delivered to and held by the Registrar; and
- (b) appointed and authorised the Registrar to hold this Deed Poll in Sydney (or another place in Australia approved by BEN).

5.5 Copies of documents to Holders

- (a) Within ten Business Days of BEN receiving a written request from a Holder to do so, BEN must provide to that Holder a certified copy of this Deed Poll.
- (b) Any Holder may, in any proceedings relating to this Deed Poll, protect and enforce its rights arising out of this Deed Poll in respect of any rights to which it is entitled upon the basis of a copy of this Deed Poll certified as being a true copy by a duly authorised officer of BEN (or the Registrar) without the need for production in such proceedings or in any court of the actual records of this Deed Poll. Any such certification shall be binding, except in the case of fraud or manifest error, upon BEN and the Holder.
- (c) This clause 5.5 shall not limit any right of any Holder to the production of originals of such records or documents in evidence.

5.6 Location of Capital Notes Register

The Capital Notes Register will be kept in New South Wales or another place in Australia approved by BEN where the work involved in maintaining the Capital Notes Register is done.

5.7 No liability for mistakes

BEN is not liable for any mistake in the Capital Notes Register, or in any purported copy of the Capital Notes Register, except to the extent that the mistake is attributable to BEN's own fraud, negligence or wilful default.

5.8 Persons may accept correctness

In the absence of fraud or error, the Capital Notes Register is conclusive evidence of the ownership of Capital Notes and each person dealing with the Capital Notes Register is entitled to accept the correctness of all information contained in the Capital Notes Register without investigation and is not liable to any person for any error in it.

5.9 Inspection

The Capital Notes Register will be available for inspection by the persons, and at the times, required by law.

5.10 Closure of Capital Notes Register

On announcing the same to ASX or as required by law or the ASX Listing Rules, BEN may from time to time close the Capital Notes Register for any period or periods not exceeding in any one calendar year the maximum period permitted by law or the ASX Listing Rules.

5.11 Change in information

- (a) A Holder must advise BEN of any change to the information previously provided by the Holder for noting in the Capital Notes Register and provide to BEN any evidence which BEN may reasonably require. On receipt of such advice, BEN must (subject to clause 5.11(b)) promptly update, or procure the updating of, the information contained in the Capital Notes Register.
- (b) Notwithstanding clause 5.11(a), BEN is not obliged to update, or procure the updating of, the information contained in the Capital Notes Register while it is closed.

5.12 Rectification of Capital Notes Register

If:

- (a) an entry is omitted from the Capital Notes Register;

- (b) an entry is made in the Capital Notes Register otherwise than in accordance with this Deed Poll;
 - (c) an entry wrongly exists in the Capital Notes Register; or
 - (d) there is an error or defect in any entry in the Capital Notes Register,
- BEN may rectify the same.

5.13 Property in Capital Notes

The property in Capital Notes will for all purposes be regarded as situated at the place where the Capital Notes Register is for the time being situated and not elsewhere.

5.14 CHESS sub-register

If Capital Notes are approved for participation in CHESS and a sub-register is maintained by, or on behalf of, BEN under the Corporations Act, the ASX Listing Rules or the ASX Settlement Operating Rules, then the rules and regulations applicable to that sub-register prevail to the extent of any inconsistency with this clause 5.

5.15 Joint Holders

Where two or more persons are registered as the holders of a Capital Note (**Joint Holders**) they are deemed to hold the Capital Note as joint tenants, on the following conditions:

- (a) the Joint Holders are jointly and severally liable in respect of all payments, including payment of any Tax, which ought to be made in respect of a Capital Note;
- (b) on the death of a Joint Holder, the survivor or survivors are the only person or persons whom BEN will recognise as having any title to a Capital Note, but BEN may require any evidence of death which it thinks fit;
- (c) any one of the Joint Holders may give an effective receipt which will discharge BEN in respect of any payment;
- (d) the Joint Holders of a Capital Note are counted as a single holder of the Capital Note for the purposes of calculating the number of Holders or requisitioners who have applied for a Meeting;
- (e) only the person whose name appears first in the applicable Register as one of the Holders is entitled to delivery of any notices, cheques or other communications from BEN, and any notice, cheque or other communication given to that person is deemed to be given to all the Joint Holders;
- (f) if more than one address is notified to BEN, the address recorded in the Register will be the address of the Joint Holder whose name first appears in the Register; and
- (g) a payment to any one of the Joint Holders will discharge BEN's liability with respect to that payment.

5.16 Holding Statements

- (a) BEN or the Register (as applicable) must issue to each Holder a holding statement as soon as reasonably practicable after the issue of Capital Notes.
- (b) Any holding statement in respect of a Capital Note is no guarantee that any amounts will be paid to the Holder.

6 Terms

BEN agrees to its obligations as set out in the Terms and undertakes to perform its obligations in respect of Capital Notes under the Terms. To the extent there are any inconsistencies between the Terms and this Deed Poll, the Terms prevail.

7 Payments

- (a) Subject to all applicable laws, where BEN is unable to make a payment or is relieved from the obligation to make a payment to which a Holder is entitled under the Terms, BEN will send a notice to the registered address of the relevant Holder advising of the unsuccessful payment and the amount of the unsuccessful payment is to be held by BEN for the Holder in a non-interest bearing deposit with a bank selected by BEN until the first of the following to occur:
 - (i) the Holder or a legal representative of the Holder (or the person who was the Holder at the time the entitlement to the payment is determined under the Terms) claims the amount and provides evidence of its entitlement and details for payment to be effected to the satisfaction of BEN;
 - (ii) BEN pays the amount in accordance with the law relating to unclaimed money; and
 - (iii) the claim for payment of the amount becomes void under the Terms.No further interest or other additional amount is payable in respect of any delay in payment.
- (b) BEN's obligations to make payments in respect of Capital Notes are subject to all applicable laws. If a payment could not lawfully be made to a particular Holder due to any circumstance or matter affecting the Holder without the approval of a Government Agency or the satisfaction of some other condition then the Holder is not entitled to receive that payment, and BEN is not obliged to make that payment, unless that approval has been obtained or that other condition is satisfied. BEN is not obliged to pay any further interest or other additional amount to the affected Holder in such circumstances on account of the delay.
- (c) If BEN has determined that a person or persons other than the Holder is or may be entitled to be registered as Holder and receive a payment in respect of a Capital Note, BEN may withhold the payment until it has established the respective entitlements of that person or those persons to its satisfaction and (if applicable) the person or persons entitled have been registered as a Holder and provided details for the payment to be effected to the satisfaction of BEN. BEN is not obliged to pay any further interest or other additional amount on account of the delay.
- (d) BEN, in its absolute discretion, may withhold or deduct payments to a Holder (including, if applicable, any other person who beneficially derives Distributions under a Capital Note) where it is required to do so under or in connection with FATCA, or where it has reasonable grounds to suspect that the Holder or a beneficial owner of a Capital Note may be subject to FATCA, and may deal with such payment and the Holder's Capital Notes in accordance with FATCA. If any withholding or deduction arises under or in connection with FATCA, BEN will not be required to pay any further amounts on account of such withholding or deduction or otherwise reimburse or compensate, or make any payment to, a Holder or a beneficial owner of a Capital Note for or in respect of any such withholding or deduction.

- (e) For the avoidance of doubt, nothing in this clause 7 obliges BEN to make a payment it has not otherwise determined to make under clause 2 of the Terms.

8 Status and Subordination

Without limiting any other clause of this Deed Poll:

- (a) Capital Notes constitute subordinated unsecured notes of BEN;
- (b) BEN's obligation to pay amounts due on a Capital Note is subject to, and subordinated on the terms set out in, the applicable Terms; and
- (c) Capital Notes rank equally without any preference among themselves.

9 Undertaking by BEN

BEN undertakes to provide or procure the Registrar to provide to each Holder (upon request by that Holder) a certified copy of this Deed Poll.

10 Meetings of Holders

- (a) BEN may at any time convene a Meeting.
- (b) BEN must convene a Meeting on receipt of a direction in writing by Holders who hold 10% or more of the outstanding principal amount of the Capital Notes stating the object of the Meeting and any proposed resolution.
- (c) The provisions in Schedule 2 apply to any Meeting of Holders.

11 Appointment of Trustee

- (a) BEN may establish a trust and appoint a trustee (**Trustee**) to act as trustee for the benefit of Holders:
 - (i) when required by law to do so; or
 - (ii) at any time at BEN's sole discretion.
- (b) If BEN appoints a Trustee under this clause 11, the Trustee will hold the benefit of:
 - (i) the trust deed by which or under which it is appointed (**Trust Deed**);
 - (ii) the right to enforce BEN's obligation to make payments on the Capital Notes;
 - (iii) the right to enforce all other obligations of BEN under the Terms, and the provisions of the Trust Deed; and
 - (iv) any other right, power, authority, discretion or remedy conferred on the Trustee by the Trust Deed or by law and other property which the Trustee may receive or may be vested in the Trustee,in trust for the Holders subject to and in accordance with the Trust Deed and the Terms.
- (c) If BEN appoints a Trustee under this clause 11, the benefit which the Holder has under clause 3.2 of this Deed Poll will commence to be held on trust for it by the Trustee in accordance with the terms of the Trust Deed and the Terms.

12 Notices

12.1 To BEN

A notice or other communication in connection with a Capital Note to BEN must be in writing and signed by a person duly authorised by the sender and may be given by prepaid post or delivery to the address of the addressee as shown below:

Address: The Bendigo Centre, Bendigo VIC 3550

Attention: Company Secretary

Email: CorporateSecretariat@bendigoadelaide.com.au

or to any other address as notified to the Holders.

12.2 To the Registrar

A notice or other communication in connection with a Capital Note to the Registrar must be in writing and may be given by prepaid post or delivery to the address of the addressee specified:

- (a) in the Prospectus; or
- (b) otherwise as notified to the Holders.

12.3 To Holders

A notice or other communication in connection with a Capital Note to a Holder must be given in accordance with the notice provisions of the Terms.

12.4 When notice is effective

A notice under clause 12.1, 12.2 or 12.3 is deemed to be given by the sender and received by the addressee:

- (a) when delivered by hand, to the street address during the hours of 9.00 am to 5.00 pm on a Business Day;
- (b) if sent by post, within Australia, on the day following the day on which the envelope containing the same was posted with postage prepaid to the postal address and, outside Australia, on the seventh day following the day on which the envelope containing the same was posted with postage prepaid to the postal address;
- (c) if sent by email, on production of a report by the system by which the email is sent indicating that the email has been transmitted to the correct electronic address and without error.

However, if the time of the deemed receipt is after 5:00 pm local time on a Business Day at the address of the recipient it is deemed to have been received at the commencement of business on the next Business Day.

13 Governing law and jurisdiction

13.1 Governing law

This Deed Poll is governed by the laws of the State of Victoria, Australia.

13.2 Jurisdiction

Each person taking benefit of or bound by this Deed Poll irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the State of Victoria and courts of appeal from them in connection with any proceedings arising out of this Deed Poll. Each party waives any right it has to object to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

13.3 No immunity

To the extent that BEN is or becomes entitled to any immunity it does and will irrevocably agree not to plead or claim any such immunity with respect to its obligations under or arising out of or in connection with this Deed Poll.

14 Power of Attorney

Each attorney executing this Deed Poll states that he or she has no notice of revocation or suspension of his or her power of attorney.

Schedule 1

Terms

Terms of Bendigo and Adelaide Bank Capital Notes

Bendigo and Adelaide Bank Limited

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Terms of Bendigo and Adelaide Bank Limited Capital Notes**1 Form of Capital Notes and ranking****1.1 Form**

- (a) Capital Notes are perpetual, subordinated, unsecured notes of BEN, issued in registered form by entry in the Register.
- (b) Each entry in the Register evidences a separate and independent obligation which BEN owes to the relevant Holder, which that Holder may enforce without joining any other Holder or any previous Holder.
- (c) No certificates will be issued to Holders unless BEN determines that certificates should be available or if it is required to provide certificates by any applicable law, regulation or directive.

1.2 Initial Face Value

Each Capital Note is issued fully paid with an initial Face Value of A\$100.

1.3 CHESS

The Capital Notes will be registered in CHESS. While Capital Notes remain in CHESS, all dealings (including transfers and payments) in relation to Capital Notes within CHESS, and the rights and obligations of each Holder, are subject to the rules and regulations of CHESS. To the extent there are inconsistencies between the rules and regulations of CHESS and the Terms, the Terms prevail.

1.4 ASX quotation

BEN must use all reasonable endeavours to procure that Capital Notes are quoted on ASX on or as soon as possible after the Issue Date.

1.5 Payment and ranking in a winding up of BEN

- (a) If an order is made by a court of competent jurisdiction in Australia (other than an order successfully appealed or permanently stayed within 60 days), or an effective resolution is passed, for the winding up of BEN in Australia, BEN must redeem each Capital Note for its Face Value in accordance with this clause 1.5.
- (b) Holders do not have any right to prove in a winding up of BEN in respect of Capital Notes, other than a right to prove in a winding up of BEN in Australia as permitted under clauses 1.5(c) and 1.5(d).
- (c) Each Capital Note ranks for payment in a winding up of BEN in Australia:
 - (i) after the claims of all holders of Senior Ranking Obligations;
 - (ii) equally with each Holder and holders of Equal Ranking Securities; and
 - (iii) ahead of holders of Junior Ranking Securities.
- (d) In order to give effect to the ranking specified in clause 1.5(c), in any winding up of BEN in Australia, the claims of Holders are limited to the extent necessary to ensure that:
 - (i) all holders of Senior Ranking Obligations receive payment in full (including in respect of any entitlement to interest under section 563B of the Corporations Act) before any payment is made to Holders; and

- (ii) Holders of Capital Notes and holders of any Equal Ranking Securities receive payments on a pro-rata basis.
- (e) Holders may not exercise voting rights as a creditor in respect of Capital Notes in a winding up of BEN to defeat the subordination in this clause 1.5.
- (f) Capital Notes are perpetual and the Terms do not include events of default or any other provisions entitling the Holders to require that Capital Notes be Redeemed other than under this clause 1.5. Holders do not have any right to apply for the winding up or administration of BEN, or to cause a receiver, or receiver and manager, to be appointed in respect of BEN, on the ground of BEN's failure to pay Distributions or for any other reason.
- (g) Each Holder irrevocably agrees that:
 - (i) this clause 1.5 is a debt subordination for the purposes of section 563C of the Corporations Act;
 - (ii) it does not have, and waives to the maximum extent permitted by law, any entitlement to interest under section 563B of the Corporations Act to the extent that a holder of a preference share that is an Equal Ranking Security would not be entitled to such interest;
 - (iii) it must pay or deliver to the liquidator any amount or asset received on account of its claim in the winding up of BEN in respect of a Capital Note in excess of its entitlement under this clause 1.5; and
 - (iv) the debt subordination effected by this clause 1.5 is not affected by any act or omission of BEN or a holder of a Senior Ranking Obligation which might otherwise affect it at law or in equity.
- (h) To avoid doubt but subject to clause 4.6, if a Capital Trigger Event or Non-Viability Trigger Event has occurred, Holders will rank for payment in a winding up of BEN in Australia as holders of the number of Ordinary Shares to which they became entitled under clauses 4.1 or 4.2.

1.6 No set off

- (a) BEN has no right to set-off any amounts owing by it to a Holder in respect of Capital Notes against any claims owing by the Holder to it or to any member of the BEN Group.
- (b) No Holder has any right to set-off any amounts, merge accounts or exercise any other rights the effect of which is or may be to reduce the amount payable by BEN in respect of Capital Notes to the Holder.
- (c) No Holder has any rights of set-off or claims against BEN or any member of the BEN Group if BEN does not pay a Distribution when scheduled under these Terms.

1.7 Nature of obligations

- (a) Capital Notes are not deposit liabilities or "protected accounts" of BEN for the purpose of the Banking Act.
- (b) The Capital Notes are not obligations of the Australian Government or of any other government and, in particular, are not guaranteed or insured by the Commonwealth of Australia or any government, government agency or compensation scheme in any jurisdiction, by any member of the BEN Group or by any other person.

1.8 No other rights

Before Exchange, Capital Notes confer no rights on a Holder:

- (a) to attend or vote at any meeting of BEN members;
- (b) to subscribe for new securities of BEN or to participate in any bonus issues of securities of BEN; or
- (c) to otherwise participate in the profits or property of BEN, except by receiving payments as set out in these Terms.

1.9 No limitations on dealing with other securities

Nothing in these Terms limits the ability of BEN or any other member of the BEN Group, in its absolute discretion from time to time, from:

- (a) allotting or issuing notes, shares or other securities of any kind, whether ranking equally with, in priority to or junior to or having different rights from, the Capital Notes;
- (b) redeeming, converting, buying back, returning or distributing capital in respect of any share capital or any other securities of any kind, whether ranking equally with, in priority to or junior to or having different rights from, the Capital Notes; or
- (c) incurring or guaranteeing any indebtedness upon such terms as BEN or any other member of the BEN Group thinks fit in its sole discretion.

2 Distributions

2.1 Distributions

- (a) Each Capital Note bears interest on its Face Value during each Distribution Period from (and including) the Issue Date to (but excluding) the Exchange Date or Redemption Date for that Capital Note, at the Distribution Rate.
- (b) Interest on each Capital Note is payable in cash in arrears on each Distribution Payment Date.
- (c) Payment of interest on each Capital Note is subject to clauses 2.5, 2.6 and 11.

2.2 Distribution Rate determination

- (a) The Distribution Rate (expressed as a percentage per annum) for each Distribution Period is the rate calculated according to the following formula:

$$\text{Distribution Rate} = (\text{Market Rate} + \text{Margin}) \times (1 - \text{Tax Rate})$$

- (b) For the purposes of this clause 2.2:

- (i) **Market Rate** means:

- (A) subject to paragraph (B), the Bank Bill Swap Reference Rate administered by ASX Benchmarks Pty Limited (or any other person that takes on the administration of that rate) expressed as a percentage per annum for a term of 3 months as displayed on the "BBSW" page published through information vendors (or any page that replaces that page) on the first Business Day of the Distribution Period, provided that where Capital Notes are Resold, Exchanged or Redeemed on a day which is not a scheduled Distribution Payment Date, and a Distribution is payable, then the Market Rate for the Distribution Period commencing on the Resale Date, Exchange Date or Redemption Date (as applicable) in respect of such Capital Notes shall be the Market Rate for the Distribution

Period preceding the relevant Resale Date, Exchange Date, or Redemption Date; and

- (B) if BEN determines that a Market Rate Disruption Event has occurred, then, BEN shall:
 - (1) use as the Market Rate such Alternative Market Rate as it may determine; and
 - (2) make such adjustments to the Terms as it determines to be reasonably necessary to calculate Distributions in accordance with such Alternative Market Rate;

provided that APRA's prior written approval will be required in respect of such adjustment arising from an event that is specified in paragraph (C) or (D) of the definition of "Market Rate Disruption Event" in clause 2.2(b)(ii); and
- (C) in making the above determinations in paragraph (B), BEN:
 - (1) shall act in good faith and in a commercially reasonable manner;
 - (2) may consult such sources of market practice as it considers appropriate; and
 - (3) may otherwise make such determination in its discretion.

(ii) **Market Rate Disruption Event** occurs when, in BEN's opinion, the rate in paragraph (A) of the definition of "Market Rate" in clause 2.2(b)(i):

- (A) is not published by 10:30am or such other time that BEN considers appropriate on that day;
- (B) is published but is affected by an obvious error;
- (C) has been discontinued or otherwise ceased to be calculated or administered; or
- (D) is no longer generally accepted in the Australian market as a reference rate appropriate to floating rate debt securities of a tenor and interest period comparable to that of Capital Notes.

(iii) **Alternative Market Rate** means a rate other than the rate described in paragraph (A) of the definition of "Market Rate" in clause 2.2(b)(i), that is, in BEN's opinion, generally accepted in the Australian market as the successor to the Market Rate, or if there is no such rate:

- (A) a reference rate that is, in BEN's opinion, appropriate to floating rate debt securities of a tenor and interest period most comparable to Capital Notes; or
- (B) such other reference rate as BEN considers appropriate having regard to available comparable indices, and

provided that, BEN reserves the discretion to incorporate an adjustment (which may be positive or negative) or a formula or methodology for calculating such an adjustment in order to reduce or eliminate, to the extent reasonably practicable in the circumstances, any economic prejudice or benefit to Holders as a result of the use of an Alternative Market Rate. APRA's prior written approval will be required in respect of the Alternative Market Rate or any such adjustment arising from an event that is specified in paragraph (C) or (D) of the definition of "Market Rate

Disruption Event" in clause 2.2(b)(ii). Holders should note that APRA's approval may not be given for any Alternative Market Rate it considers to have the effect of increasing the Distribution Rate contrary to APRA's prudential standards.

- (iv) **Margin** means the rate (expressed as a percentage per annum) determined under the Bookbuild; and
- (v) **Tax Rate** means the Australian corporate tax rate on the relevant Distribution Payment Date (expressed as a decimal).

2.3 Calculation of Distributions

The Distribution payable on each Capital Note for each Distribution Period is calculated according to the following formula:

$$\text{Distribution payable} = \frac{\text{Distribution Rate} \times \text{Face Value} \times N}{365}$$

where:

N means, in respect of a Distribution Period, the number of days in that Distribution Period.

2.4 Adjustment to calculation of Distributions if not fully franked

If any Distribution is not franked to 100% under Part 3-6 of the Tax Act (and any provisions that revise or replace that Part), the Distribution will be calculated according to the following formula:

$$\text{Distribution payable} = \frac{D}{1 - [T \times (1 \times F)]}$$

where:

D means the Distribution calculated under clause 2.3;

T means the Australian corporate tax rate on the relevant Distribution Payment Date (expressed as a decimal); and

F means the franking percentage (as defined in Part 3-6 of the Tax Act, and any provisions that revise or replace that Part) applicable to the franking account of BEN on the relevant Distribution Payment Date (expressed as a decimal).

2.5 Distribution payment conditions

- (a) The payment of any Distribution on any Distribution Payment Date is subject to:
 - (i) the Directors of BEN, in their absolute discretion, resolving to pay the Distribution to Holders;
 - (ii) the payment of the Distribution not resulting in a breach of BEN's capital requirements under APRA's prudential standards as they are applied to the BEN Level 1 Group or the BEN Level 2 Group or both at the time of the payment, or of the Corporations Act;
 - (iii) the payment of the Distribution not resulting in BEN becoming, or being likely to become, Insolvent; and
 - (iv) APRA not otherwise objecting to the payment of the Distribution.
- (b) No Distribution will be paid on Exchange where Exchange occurs due to a Capital Trigger Event or Non-Viability Trigger Event.

- (c) BEN must notify ASX at least five Business Days before the relevant Record Date (or, if later, as soon as it decides not to make the Distribution) if payment of any Distribution will not be made because of this clause 2.5.

2.6 Distributions are discretionary and non-cumulative

Distributions are discretionary and non-cumulative. If payment of any Distribution is not made for any reason, BEN has no liability to pay that unpaid Distribution, no interest accrues on any unpaid Distributions, a Holder has no claim or entitlement in respect of any such Distribution or interest on any such Distribution and any such non-payment does not constitute an event of default under these Terms.

2.7 Dividend and capital restrictions in the event of non-payment

- (a) Subject to clause 2.7(b), if any Distribution is not paid to Holders in full on the relevant Distribution Payment Date, then BEN must not, without the approval of a Special Resolution:
 - (i) declare, determine to pay or pay a dividend; or
 - (ii) return any capital or undertake any buy-backs or repurchases,(together **Restricted Actions**) in relation to any Ordinary Shares, unless the amount of any unpaid Distribution is paid in full within five Business Days of that date. If, on a subsequent Distribution Payment Date, a Distribution is paid in full, or if all Capital Notes have been Exchanged, Redeemed or otherwise terminated, then these restrictions cease to apply.
- (b) Clause 2.7(a) does not apply to:
 - (i) Restricted Actions which BEN is legally obliged to pay or complete at the time any Distribution is not paid in full to Holders on a relevant Distribution Payment Date; or
 - (ii) Restricted Actions in connection with:
 - (A) any employment contract, employee share scheme, employee rights or option plan, or similar arrangement with, or for the benefit of, any one or more employees, officers, directors or consultants of BEN or its Related Bodies Corporate; or
 - (B) BEN or any of its Related Bodies Corporate purchasing Ordinary Shares in connection with transactions for the account of customers of BEN or customers of any of its Related Bodies Corporate.

2.8 Notification of Distribution Rate, Distribution payable and other items

- (a) BEN must notify ASX of the Distribution Rate, amount of Distribution payable and Distribution Payment Date for each Distribution Period.
- (b) BEN must give notice under this clause 2.8 as soon as practicable after it makes its calculations and by no later than the fourth Business Day of the relevant Distribution Period.
- (c) BEN may amend its calculation or determination of any date, rate or amount (or make appropriate alternative arrangements by way of adjustment) including as a result of the extension or reduction of the Distribution Period or calculation period without prior notice but must notify ASX promptly after doing so.

2.9 Determination final

BEN's determination of all dates, rates and amounts under these Terms is, in the absence of wilful default, bad faith or manifest error, final and binding on BEN, the Registry and each Holder.

2.10 Calculations

For the purposes of any calculations required under these Terms:

- (a) all percentages resulting from the calculations must be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with 0.000005% being rounded up to 0.00001%);
- (b) all figures must be rounded to four decimal places (with 0.00005 being rounded up to 0.0001); and
- (c) all amounts that are due and payable must be rounded to the nearest one Australian cent (with one half of an Australian cent being rounded up to one Australian cent).

3 Mandatory Exchange

3.1 Mandatory Exchange

Subject to clauses 4.1, 4.2, 4.5, 4.6, 4.7, 5 and 6, BEN must Exchange all (but not some) Capital Notes on issue on the date that is the earlier of:

- (a) 15 June 2029 (**Scheduled Mandatory Exchange Date**); and
- (b) the first Distribution Payment Date after the Scheduled Mandatory Exchange Date, (each a **Mandatory Exchange Date**) on which the Mandatory Exchange Conditions are satisfied.

3.2 Mandatory Exchange Conditions

- (a) The Mandatory Exchange Conditions for each Mandatory Exchange Date are:
 - (i) the VWAP on the 25th Business Day on which trading in Ordinary Shares took place immediately preceding (but not including) the Mandatory Exchange Date (or, if trading in Ordinary Shares did not occur on that date, the last Business Day prior to that date on which trading in Ordinary Shares occurred) is greater than 55% of the Issue Date VWAP (**First Mandatory Exchange Condition**);
 - (ii) the VWAP during the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the Mandatory Exchange Date is greater than 50.51% of the Issue Date VWAP (**Second Mandatory Exchange Condition**); and
 - (iii) Ordinary Shares have not been Delisted as at the Mandatory Exchange Date (**Third Mandatory Exchange Condition**).
- (b) If the First Mandatory Exchange Condition is not satisfied, BEN will announce to ASX between the 25th and the 21st Business Day before the Mandatory Exchange Date that Exchange will not proceed on the Mandatory Exchange Date.
- (c) If the Second Mandatory Exchange Condition or the Third Mandatory Exchange Condition is not satisfied, BEN will notify Holders on or as soon as practicable after the Mandatory Exchange Date that Exchange did not occur.

4 Early Exchange

4.1 Capital Trigger Event

- (a) A **Capital Trigger Event** occurs when:
- (i) BEN determines; or
 - (ii) APRA notifies BEN in writing that it believes,
that either or both the BEN Level 1 Common Equity Tier 1 Capital Ratio or BEN Level 2 Common Equity Tier 1 Capital Ratio is equal to or less than 5.125%. BEN must immediately notify APRA in writing if it makes a determination under clause 4.1(a)(i).
- (b) If a Capital Trigger Event occurs, BEN must Exchange such number of Capital Notes (or, if it so determines, such percentage of the Face Value of each Capital Note) as is sufficient (taking into account any exchange, conversion or write down of Relevant Securities as referred to in clause 4.1(c)) to return either or both the BEN Level 1 Common Equity Tier 1 Capital Ratio or BEN Level 2 Common Equity Tier 1 Capital Ratio, as the case may be, to above 5.125%.
- (c) In determining the number of Capital Notes, or percentage of the Face Value of each Capital Note, which must be Exchanged in accordance with this clause 4.1, BEN will:
- (i) firstly, exchange, convert or write down the face value of any Relevant Securities whose terms require or permit, or are taken by law to require or permit, them to be exchanged, converted or written down before Exchange of Capital Notes; and
 - (ii) secondly, if exchange, conversion or write down of those Relevant Securities is not sufficient, Exchange (in the case of Capital Notes) or exchange, convert or write down (in the case of any other Relevant Securities) on a pro-rata basis or in a manner that is otherwise, in the opinion of BEN, fair and reasonable, Capital Notes and any Relevant Securities whose terms require or permit, or are taken by law to require or permit, them to be Exchanged, converted or written down in that manner (subject to such adjustment as BEN may determine to take into account the effect on marketable parcels and whole numbers of Ordinary Shares and any Capital Notes or other Relevant Securities remaining on issue),

but such determination will not impede the immediate Exchange of the relevant number of Capital Notes or percentage of the Face Value of each Capital Note (as the case may be).
- (d) For the purposes of clauses 4.1(b) and 4.1(c), where the specified currency of the face value of Relevant Securities and/or Capital Notes is not the same, BEN may treat them as if converted into a single currency of BEN's choice at such rate of exchange as BEN in good faith considers reasonable.
- (e) If a Capital Trigger Event occurs:
- (i) the relevant number of Capital Notes, or percentage of the Face Value of each Capital Note, must be Exchanged immediately upon occurrence of the Capital Trigger Event in accordance with clauses 4.5 and 9 and the Exchange will be irrevocable;
 - (ii) BEN must give notice as soon as practicable that Exchange has occurred to ASX and the Holders;
 - (iii) the notice must specify the date on which the Capital Trigger Event occurred; and

- (iv) the notice must specify the details of the Exchange process, including any details which were taken into account in relation to the effect on marketable parcels and whole numbers of Ordinary Shares, and the impact on any Capital Notes remaining on issue.
- (f) Failure to undertake any of the steps in clauses 4.1(e)(ii) to 4.1(e)(iv) does not prevent, invalidate or otherwise impede Exchange.
- (g) BEN may make such decisions with respect to the identity of Holders as at the date of the occurrence of the Capital Trigger Event as may be necessary or desirable to ensure Exchange occurs in an orderly manner, including disregarding any transfers of Capital Notes that have not been settled or registered at that time and date, provided that any such decision does not prevent, impede or delay the immediate Exchange of the relevant number of Capital Notes.

4.2 Non-Viability Trigger Event

- (a) A **Non-Viability Trigger Event** occurs when APRA notifies BEN in writing that it believes:
 - (i) Exchange of all or some Capital Notes, or exchange, conversion or write down of capital instruments of the BEN Group, is necessary because, without it, BEN would become non-viable; or
 - (ii) a public sector injection of capital, or equivalent support, is necessary because, without it, BEN would become non-viable.

APRA may specify an aggregate face value of capital instruments which must be Exchanged, converted or written down (as applicable).
- (b) If a Non-Viability Trigger Event occurs, BEN must Exchange such number of Capital Notes (or, if it so determines, such percentage of the Face Value of each Capital Note) as is equal (taking into account any exchange, conversion or write down of Relevant Securities as referred to in clause 4.2(c)) to the aggregate face value of capital instruments which APRA has notified BEN must be Exchanged, converted or written down (or, if APRA has not so notified BEN, such number or, if BEN so determines, such percentage of the Face Value of each Capital Note, as is necessary to satisfy APRA that BEN will no longer be non-viable). If a Non-Viability Trigger Event occurs under clause 4.2(a)(ii), BEN must Exchange all Capital Notes.
- (c) In determining the number of Capital Notes, or percentage of the Face Value of each Capital Note, which must be Exchanged in accordance with this clause 4.2, BEN will:
 - (i) firstly, exchange, convert or write down the face value of any Relevant Securities whose terms require or permit, or are taken by law to require or permit, them to be exchanged, converted or written down before Exchange of Capital Notes; and
 - (ii) secondly, if exchange, conversion or write down of those securities is not sufficient, Exchange (in the case of Capital Notes) or exchange, convert or write down (in the case of any other Relevant Securities), on a pro-rata basis or in a manner that is otherwise, in the opinion of BEN, fair and reasonable, Capital Notes and any Relevant Securities whose terms require or permit, or are taken by law to require or permit, them to be Exchanged, converted or written down in that manner (subject to such adjustments as BEN may determine to take into account the effect on marketable parcels and whole numbers of Ordinary Shares and any Capital Notes or other Relevant Securities remaining on issue),

but such determination will not impede the immediate Exchange of the relevant number of Capital Notes or percentage of the Face Value of each Capital Note (as the case may be).

- (d) For the purposes of clauses 4.2(b) and 4.2(c), where the specified currency of the face value of Relevant Securities and/or Capital Notes is not the same, BEN may treat them as if converted into a single currency of BEN's choice at such rate of exchange as BEN in good faith considers reasonable.
- (e) If a Non-Viability Trigger Event occurs:
 - (i) the relevant number of Capital Notes, or percentage of the Face Value of each Capital Note, must be Exchanged immediately upon occurrence of the Non-Viability Trigger Event in accordance with clauses 4.5 and 9 and the Exchange will be irrevocable;
 - (ii) BEN must give notice as soon as practicable that Exchange has occurred to ASX and the Holders;
 - (iii) the notice must specify the date on which the Non-Viability Trigger Event occurred; and
 - (iv) the notice must specify the details of the Exchange process, including any details which were taken into account in relation to the effect on marketable parcels and whole numbers of Ordinary Shares, and the impact on any Capital Notes remaining on issue.
- (f) Failure to undertake any of the steps in clauses 4.2(e)(ii) to 4.2(e)(iv) does not prevent, invalidate or otherwise impede Exchange.
- (g) BEN may make such decisions with respect to the identity of Holders as at the date of the occurrence of the Non-Viability Trigger Event as may be necessary or desirable to ensure Exchange occurs in an orderly manner, including disregarding any transfers of Capital Notes that have not been settled or registered at that time and date, provided that any such decision does not prevent, impede or delay the immediate Exchange of the relevant number of Capital Notes.

4.3 Mandatory Exchange Conditions do not apply to Capital Trigger Event or Non-Viability Trigger Event

For the avoidance of doubt, the Mandatory Exchange Conditions do not apply to Exchange as a result of a Capital Trigger Event or Non-Viability Trigger Event occurring.

4.4 Priority of Early Exchange Obligations

An Exchange required because of a Capital Trigger Event or a Non-Viability Trigger Event takes place notwithstanding anything in clause 3.

4.5 Automatic Exchange upon the occurrence of a Capital Trigger Event or Non-Viability Trigger Event

If a Capital Trigger Event or Non-Viability Trigger Event has occurred and all or some Capital Notes (or percentage of the Face Value of each Capital Note) are required to be Exchanged in accordance with clauses 4.1 or 4.2, then:

- (a) Exchange of the relevant Capital Notes or percentage of the Face Value of each Capital Note will occur in accordance with clause 9 immediately upon the date of occurrence of the Capital Trigger Event or Non-Viability Trigger Event; and

- (b) the entry of the corresponding Capital Notes in each relevant Holder's holding in the Register will constitute an entitlement of that Holder to the relevant number of Ordinary Shares (and, if applicable, also to any remaining balance of Capital Notes or remaining percentage of the Face Value of each Capital Note), and BEN will recognise the Holder as having been issued the relevant Ordinary Shares for all purposes,

in each case without the need for any further act or step by BEN, the Holder or any other person (and BEN will, as soon as possible thereafter and without delay on the part of BEN, take any appropriate procedural steps to record such Exchange, including updating the Register and the Ordinary Share register and seek quotation of Ordinary Shares issued on Exchange), however, for the avoidance of doubt:

- (c) nothing in this clause 4.5 allows a payment to be made to a Holder upon Exchange; and
- (d) Exchange under this clause 4.5 takes priority over a notice for Redemption issued under clauses 5.1, 5.2, 5.3 or 5.4, an Optional Exchange Notice issued under clause 6.1 and a Resale Notice under clause 7.1.

4.6 No further rights if Exchange cannot occur

If, for any reason, Exchange of any Capital Notes (or a percentage of the Face Value of any Capital Note) required to be Exchanged under clauses 4.1 or 4.2 fails to take effect under clauses 4.5(a) and 4.5(b) and BEN has not otherwise issued the Ordinary Shares required to be issued in respect of such Exchange within five Business Days after the date of the occurrence of the Capital Trigger Event or Non-Viability Trigger Event, then the relevant Holders' rights (including to payment of the Face Value and Distributions, and the right to receive Ordinary Shares) in relation to such Capital Notes or percentage of the Face Value of Capital Notes are immediately and irrevocably terminated and such termination will be taken to have occurred immediately on the date of the occurrence of the Capital Trigger Event or Non-Viability Trigger Event. BEN must give notice as soon as practicable that such termination has occurred to the Holders and such notice must be announced on ASX, and the notice must specify the date on which the Capital Trigger Event or Non-Viability Trigger Event occurred.

4.7 Change of Control Event

- (a) A **Change of Control Event** occurs when:
 - (i) a takeover bid is made for Ordinary Shares:
 - (A) acceptance of which is recommended by the Board and which is or has become unconditional; or
 - (B) which is or has become unconditional and the voting power of the offeror in BEN is or has become greater than 50%; or
 - (ii) in respect of a scheme of arrangement under Part 5.1 of the Corporations Act which would result (if implemented) in a person having voting power in more than 50% of BEN, the earlier of:
 - (A) a court approving the scheme; and
 - (B) the Board determining that such event should be treated as a Change of Control Event for the purposes of this clause 4.7,

provided that this clause 4.7(a)(ii) does not include a scheme of arrangement which would result in a NOHC Event.
- (b) If a Change of Control Event occurs, then:
 - (i) BEN must Exchange all (but not some) Capital Notes;

- (ii) BEN must give notice as soon as practicable and in any event within ten Business Days after becoming aware of that event occurring to ASX and the Holders;
- (iii) the notice must specify a date on which it is proposed Exchange will occur (**proposed Exchange Date**) being:
 - (A) in the case of a Change of Control Event under clause 4.7(a)(i), no later than the Business Day prior to the then announced closing date of the relevant takeover bid;
 - (B) in the case of a Change of Control Event under clause 4.7(a)(ii)(A), a date no later than the record date for participation in the relevant scheme of arrangement;
 - (C) in the case of a Change of Control Event under clause 4.7(a)(ii)(B), a date no later than:
 - (1) 25 Business Days following the date the notice is given; or
 - (2) the record date for participation in the relevant scheme of arrangement,
 whichever is earlier; or
 - (D) such later date as APRA may require; and
- (iv) the notice must specify the details of the Exchange process including any details to take into account the effect on marketable parcels and whole numbers of Ordinary Shares; and
- (v) on the proposed Exchange Date, all Capital Notes will Exchange in accordance with clause 9.
- (c) The Second Mandatory Exchange Condition and the Third Mandatory Exchange Condition apply if a Change of Control Event occurs as though the proposed Exchange Date were a Mandatory Exchange Date for the purposes of clause 3 (except that in the case of a Change of Control Event, the Second Mandatory Exchange Condition will apply as if it referred to 20.20% of the Issue Date VWAP).
- (d) If either the Second Mandatory Exchange Condition or the Third Mandatory Exchange Condition is not satisfied on the proposed Exchange Date:
 - (i) Capital Notes must Exchange on the next Distribution Payment Date on which the Second Mandatory Exchange Condition and the Third Mandatory Exchange Condition are satisfied; and
 - (ii) BEN will notify Holders as soon as practicable after the proposed Exchange Date that Exchange did not occur.

4.8 No Exchange at the option of the Holders

Holders do not have a right to request Exchange of their Capital Notes at any time.

5 Early Redemption

5.1 Early Redemption at the option of BEN on the Call Date

- (a) Subject to clauses 5.1(b) and 5.5, BEN may at its option Redeem all or some Capital Notes on the Call Date for their Face Value.

- (b) However, BEN may only Redeem under this clause 5.1 if BEN has given notice of its election to do so at least ten Business Days (and no more than 60 Business Days) before the Call Date to ASX and the Holders.
- (c) If only some (but not all) Capital Notes are to be Redeemed under this clause 5.1, those Capital Notes to be Redeemed will be specified in the notice and selected:
 - (i) in a manner that is, in the opinion of BEN, fair and reasonable; and
 - (ii) in compliance with any applicable law, directive or requirement of ASX.

5.2 Early Redemption for inability to frank Distributions

- (a) Subject to clauses 5.2(b) and 5.5, if there is a material risk that as a result of any change in, or amendment to, the laws of Australia, or their application or official or judicial interpretation or administration (including any announcement of a prospective change or amendment which has been or will be introduced), which change or amendment was not expected by BEN as at the Issue Date and has or is expected to become effective on or after the Issue Date, any Distribution would not be a frankable distribution within the meaning of Division 202 of the Tax Act (a **Franking Event**), BEN may Redeem all (but not some) Capital Notes for their Face Value.
- (b) However, BEN may only Redeem under this clause 5.2 if:
 - (i) BEN has given notice of its election to do so at least ten Business Days (and no more than 60 Business Days) before the proposed Redemption Date to ASX and the Holders;
 - (ii) the proposed Redemption Date is a Distribution Payment Date; and
 - (iii) the notice of Redemption is not given earlier than 60 Business Days before the Distribution Payment Date occurring immediately before the earliest date on which a Distribution would not be a frankable Distribution.

5.3 Early Redemption for other taxation reasons

- (a) Subject to clauses 5.3(b) and 5.5, if BEN receives an opinion from reputable legal counsel or other tax adviser in Australia, experienced in such matters, to the effect that there is a material risk that as a result of a change in, or amendment to, the laws of Australia, or their application or official or judicial interpretation or administration (including any announcement of a prospective change or amendment which has been or will be introduced), which change or amendment was not expected by BEN at the Issue Date and becomes or is expected to become effective on or after the Issue Date:
 - (i) BEN would be required to pay an increased amount under clause 11.6; or
 - (ii) BEN would be exposed to a more than de minimis adverse tax consequence in relation to Capital Notes other than a tax consequence that BEN expected as at the Issue Date,(a **Tax Event**), BEN may Redeem all (but not some) Capital Notes for their Face Value.
- (b) BEN may only Redeem under this clause 5.3 if:
 - (i) BEN has given notice of its election to do so at least ten Business Days (and no more than 60 Business Days) before the proposed Redemption Date to ASX and the Holders;
 - (ii) the proposed Redemption Date is a Distribution Payment Date; and

- (iii) the notice of Redemption is not given earlier than 60 Business Days before the Distribution Payment Date occurring immediately before the earliest date on which BEN would be subject to the adverse tax consequence.

5.4 Early Redemption for regulatory reasons

- (a) Subject to clauses 5.4(b) and 5.5, if, at any time after the Issue Date, BEN determines that as a result of a change in, or amendment to, the laws of Australia or APRA's prudential standards or guidelines, or in their application or official or judicial interpretation or administration (including any announcement of a prospective change or amendment which has been or will be introduced):
 - (i) all, some or a proportion of all or some Capital Notes are not or will not be treated as Additional Tier 1 Capital of the BEN Group under APRA's prudential standards (as amended from time to time), other than as a result of a change of treatment expected by BEN as at the Issue Date;
 - (ii) additional requirements would be imposed on BEN or the BEN Group in relation to or in connection with the Capital Notes (which were not expected by BEN at the Issue Date) which BEN determines in its absolute discretion might have a material adverse effect on BEN; or
 - (iii) to have the Capital Notes outstanding would be unlawful or impractical or that BEN or the BEN Group would be exposed to a more than de minimis increase in its costs in connection with those Capital Notes,
 (a **Regulatory Event**), BEN may Redeem all (but not some) Capital Notes for their Face Value.
- (b) BEN may only Redeem under this clause 5.4 if:
 - (i) BEN has given notice of its election to do so at least ten Business Days (and no more than 60 Business Days) before the proposed Redemption Date to ASX and the Holders;
 - (ii) the proposed Redemption Date is a Distribution Payment Date; and
 - (iii) the notice of Redemption is not given earlier than 60 Business Days before the Distribution Payment Date occurring immediately before the earliest date on which (as applicable):
 - (A) all, some or a proportion of all or some Capital Notes will cease to be treated as Additional Tier 1 Capital;
 - (B) additional requirements will be imposed on BEN or the BEN Group; or
 - (C) to have the Capital Notes outstanding will be unlawful or impractical or BEN or the BEN Group will be exposed to a more than de minimis increase in its costs.

5.5 APRA approval to Redeem

BEN may only Redeem under this clause 5 if:

- (a) either:
 - (i) before or concurrently with Redemption, BEN replaces Capital Notes with a capital instrument which is of the same or better quality (for the purposes of APRA's prudential standards as they are applied to the BEN Group at the relevant time) than Capital Notes and the replacement of Capital Notes is done under conditions that are sustainable for the income capacity of BEN; or

- (ii) BEN obtains confirmation from APRA that APRA is satisfied, having regard to the capital position of the BEN Level 1 Group and BEN Level 2 Group, that BEN does not have to replace Capital Notes; and
- (b) APRA has given its prior written approval to the Redemption. Approval is at the discretion of APRA and may or may not be given.

5.6 Final Distribution

For the avoidance of doubt, Redemption may occur even if BEN, in its absolute discretion, does not make the Distribution for the final Distribution Period.

5.7 No Redemption at the option of the Holders

Holders do not have a right to request Redemption of their Capital Notes at any time.

5.8 Effect of notice of Redemption

Any notice of Redemption given under this clause 5 is irrevocable and BEN must (subject to clauses 1.5, 4.5(d) and 11.3) Redeem Capital Notes on the Redemption Date specified in that notice.

5.9 Redemption mechanics

On the Redemption Date the only right a Holder will have in respect of a Capital Note will be to be paid the Face Value payable in accordance with these Terms and any Distribution BEN has determined is payable on that date. Upon the Face Value being paid (or taken to be paid in accordance with clause 11), all other rights conferred, or restrictions imposed, by the Capital Notes will no longer have effect and the Capital Note will be cancelled.

6 Optional Exchange

6.1 Exchange by BEN

- (a) BEN may, with APRA's prior written approval, by notice to ASX and the Holders (an **Optional Exchange Notice**) elect to Exchange:
 - (i) all or some Capital Notes on an Optional Exchange Date following the occurrence of a Franking Event, a Tax Event or a Regulatory Event; and
 - (ii) all or some of the Capital Notes on the Call Date.
- (b) APRA's approval for an Exchange of Capital Notes under this clause 6 is given in its absolute discretion and Holders should not expect that APRA's approval will be given.

6.2 When Optional Exchange Notice may be Given

An Optional Exchange Notice may be given under clause 6.1:

- (a) in the case of clause 6.1(a)(i), on any day following the occurrence of the Franking Event, Tax Event or Regulatory Event; or
- (b) in the case of clause 6.1(a)(ii), at least ten Business Days (and no more than 60 Business Days) before the Call Date.

6.3 Contents of the Optional Exchange Notice

An Optional Exchange Notice must specify:

- (a) in the case of an Optional Exchange Notice given following the occurrence of a Franking Event, a Tax Event or a Regulatory Event, the details of the Franking Event, a Tax Event or a Regulatory Event to which the Optional Exchange Notice relates;

- (b) the date on which Exchange is to occur (the **Optional Exchange Date**), which:
 - (i) in the case of an Exchange occurring under clause 6.1(a)(i), is the next Distribution Payment Date that is at least ten Business Days after the date of the Optional Exchange Notice, unless BEN determines an earlier date having regard to the best interests of Holders as a whole and the relevant event; or
 - (ii) in the case of an Exchange occurring under clause 6.1(a)(ii), is the Call Date;
- (c) if less than all Capital Notes are subject to the Exchange, the proportion of the Capital Notes that are to be Exchanged; and
- (d) whether any distribution will be paid in respect of the Capital Notes the subject of the Optional Exchange Notice on the Optional Exchange Date.

6.4 Restrictions on election of Exchange

BEN may not elect to Exchange the Capital Notes under this clause 6 if:

- (a) on the second Business Day before the date on which an Optional Exchange Notice is to be sent by BEN (or, if trading in Ordinary Shares did not occur on that date, the last Business Day prior to that date on which trading in Ordinary Shares occurred) (**Non-Exchange Test Date**), the VWAP on that date is less than or equal to 22% of the Issue Date VWAP (**First Optional Exchange Restriction**); or
- (b) Ordinary Shares have been Delisted as at the Non-Exchange Test Date (**Second Optional Exchange Restriction**), and together with the First Optional Exchange Restriction, the **Optional Exchange Restrictions**).

6.5 Conditions to Exchange occurring once elected by BEN

If BEN has given an Optional Exchange Notice but, if the Optional Exchange Date were a Mandatory Exchange Date for the purposes of clause 3, any one or more of the Second Mandatory Exchange Condition (applied as if it referred to 20.20% of the Issue Date VWAP) or the Third Mandatory Exchange Condition would not be satisfied in respect of that date, then, notwithstanding any other provision of these Terms:

- (a) the Optional Exchange Date will be deferred until the first Distribution Payment Date on which the Mandatory Exchange Conditions (applied as if the percentage of the Issue Date VWAP was 22% for the First Mandatory Exchange Condition and 20.20% for the Second Mandatory Exchange Condition) would be satisfied if that Distribution Payment Date were a Mandatory Exchange Date for the purposes of clause 3 (the **Deferred Exchange Date**);
- (b) BEN must Exchange the Capital Notes on the Deferred Exchange Date (unless the Capital Notes are Exchanged, Redeemed or Resold earlier in accordance with these Terms); and
- (c) until the Deferred Exchange Date, all rights attaching to the Capital Notes will continue as if the Optional Exchange Notice had not been given.

BEN will notify the Holders on or as soon as practicable after an Optional Exchange Date in respect of which this clause 6.5 applies that Exchange did not occur on that Exchange Date.

6.6 Effect of Optional Exchange Notice

Any Optional Exchange Notice given under this clause 6 is irrevocable and BEN must (subject to clauses 1.5 and 4.5(d)) Exchange Capital Notes on the Optional Exchange Date specified in that notice.

7 Resale

7.1 Resale by BEN

- (a) BEN may, with APRA's prior written approval, by notice to ASX and the Holders (a **Resale Notice**) elect to Resell:
 - (i) all or some Capital Notes on a Resale Date following the occurrence of a Franking Event, a Tax Event or a Regulatory Event; or
 - (ii) all or some of the Capital Notes on the Call Date.
- (b) APRA's approval for a Resale of Capital Notes under this clause 6 is given in its absolute discretion and Holders should not expect that APRA's approval will be given.

7.2 When Resale Notice may be Given

A Resale Notice may be given under clause 7.1:

- (a) in the case of clause 7.1(a)(i), on any day following the occurrence of the Franking Event, Tax Event or Regulatory Event (as applicable); or
- (b) in the case of clause 7.1(a)(ii), at least ten Business Days (and no more than 60 Business Days) before the Call Date.

7.3 Contents of Resale Notice

A Resale Notice must specify:

- (a) the date on which Resale is to occur (the **Resale Date**), which:
 - (i) in the case of a Resale occurring under clause 7.1(a)(i), will be a day no earlier than ten Business Days and nor more than 60 Business Days after the date of the Resale Notice; or
 - (ii) in the case of a Resale occurring under clause 7.1(a)(ii), is the Call Date;
- (b) if less than all Capital Notes are subject to Resale, the proportion of the Capital Notes that are to be Resold;
- (c) the identity of the Nominated Purchasers for that Resale and the Resale Price; and
- (d) whether any distribution will be paid in respect of the Capital Notes the subject of the Resale Notice on the Resale Date.

7.4 Resale of less than all Capital Notes

If only some (but not all) Capital Notes are to be Resold under this clause 6, the number of Capital Notes to be Resold will be specified in the notice and selected:

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

7.5 No Resale at the option of the Holders

Holders do not have a right to request Resale of their Capital Notes at any time.

7.6 Effect of Resale Notice

Any Resale Notice given under this clause 7 is irrevocable and BEN must (subject to clauses 1.5, 4.5(d), 8.2, 8.5 and 11.3) Resell Capital Notes on the Resale Date specified in that notice.

8 Resale Mechanics

8.1 Resale Mechanics

If BEN elects to Resell Capital Notes in accordance with these Terms, the provisions of this clause 8 apply to that Resale.

8.2 Appointment of Nominated Purchaser

- (a) BEN must appoint one or more Nominated Purchasers for the Resale on such terms as may be agreed between BEN and the Nominated Purchasers (and, to the extent any such conditions may cause the Capital Notes to cease to be Additional Tier 1 Capital, with the prior written approval of APRA) including:
 - (i) as to the conditions of any Resale, the procedures for settlement of such Resale and the circumstances in which the Resale Notice may be amended, modified, added to or restated;
 - (ii) as to the substitution of another entity (not being BEN or a Related Body Corporate of BEN) as Nominated Purchaser if, for any reason, BEN is not satisfied that the Nominated Purchaser will perform its obligations under this clause 8; and
 - (iii) as to the terms (if any) on which any Capital Notes acquired by a Nominated Purchaser may be Redeemed, Exchanged or otherwise dealt with.
- (b) If BEN appoints more than one Nominated Purchaser in respect of a Resale, all or any of the Capital Notes held by a Holder which are being Resold may be purchased by any one or any combination of the Nominated Purchasers, as determined by BEN, for the Resale Price.

8.3 Irrevocable offer to sell Capital notes

- (a) Each Holder is taken irrevocably to offer to sell the relevant number of the Capital Notes the subject of a Resale Notice to the Nominated Purchaser or Nominated Purchasers on the Resale Date for the Resale Price.
- (b) Clause 11 applies to the payment of the Resale Price as if references in clause 11 to BEN were references to the Nominated Party.

8.4 Effect of Resale

On the Resale Date, subject to payment by the applicable Nominated Purchaser of the Resale Price to the Holders, all right, title and interest in the Capital Notes the subject of the Resale will be transferred from the Holders to the applicable Nominated Purchaser free from any Encumbrances.

8.5 Effect of failure by Nominated Purchaser or Nominated Purchasers to pay

If a Nominated Purchaser does not pay the Resale Price to the Holders on the Resale Date (a **Defaulting Nominated Purchaser**):

- (a) the Resale Notice as it relates to the Defaulting Nominated Purchaser will be void and any obligations of the Holder and the Defaulting Nominated Purchaser in respect of the Resale of the Capital Notes that are the subject of the Resale Notice will terminate;
- (b) the Capital Notes referable to the Defaulting Nominated Purchaser will not be transferred to the Defaulting Nominated Purchaser on the Resale Date; and

- (c) Holders will continue to hold the Capital Notes referable to the Defaulting Nominated Purchaser until they are otherwise Redeemed, Exchanged or Resold in accordance with these Terms.

9 General provisions applicable to Exchange

9.1 Exchange

On the Exchange Date, subject to clauses 4.6 and 9.10, the following will apply:

- (a) BEN will allot and issue the Exchange Number of Ordinary Shares for each Capital Note held by the Holder. The **Exchange Number** is calculated according to the following formula, and subject always to the Exchange Number being no greater than the Maximum Exchange Number:

$$\text{Exchange Number for each Capital Note} = \frac{\text{Face Value}}{0.99 \times \text{VWAP}}$$

where:

VWAP (expressed in dollars and cents) means the VWAP during the VWAP Period.

Maximum Exchange Number means a number calculated according to the following formula:

$$\text{Maximum Exchange Number} = \frac{\text{Face Value}}{\text{Relevant Percentage} \times \text{Issue Date VWAP}}$$

where:

Relevant Percentage means:

- (i) if Exchange is occurring on a Mandatory Exchange Date, 0.50; and
 - (ii) if Exchange is occurring at any other time, 0.20.
- (b) Each Holder's rights (including to payment of Distributions, other than the Distribution, if any, payable on an Exchange Date where the Exchange is not as a result of a Capital Trigger Event or a Non-Viability Trigger Event) in relation to each Capital Note that is being Exchanged will be immediately and irrevocably terminated for an amount equal to the Face Value and BEN will apply the Face Value of each Capital Note by way of payment for the subscription for the Ordinary Shares to be allotted and issued under clause 9.1(a). Each Holder is taken to have irrevocably directed that any amount payable under this clause 9.1 is to be applied as provided for in this clause 9.1 and no Holder has any right to payment in any other way.
- (c) If the total number of additional Ordinary Shares to be allotted and issued in respect of a Holder's aggregate holding of Capital Notes includes a fraction of an Ordinary Share, that fraction of an Ordinary Share will be disregarded.

9.2 Adjustments to VWAP generally

For the purposes of calculating VWAP under clause 9.1:

- (a) where, on some or all of the Business Days in the relevant VWAP Period, Ordinary Shares have been quoted on ASX as *cum* dividend or *cum* any other distribution or entitlement and Capital Notes will be Exchanged for Ordinary Shares after that date and those Ordinary Shares will no longer carry that dividend or any other distribution or

entitlement, then the VWAP on the Business Days on which those Ordinary Shares have been quoted *cum* dividend or *cum* any other distribution or entitlement will be reduced by an amount (**Cum Value**) equal to:

- (i) in the case of a dividend or other distribution, the amount of that dividend or other distribution, including, if the dividend or other distribution is franked, the amount that would be included in the assessable income of a recipient of the dividend or other distribution who is both a resident of Australia and a natural person under the Tax Act;
 - (ii) in the case of any other entitlement that is not a dividend or other distribution under clause 9.2(a)(i) which is traded on ASX on any of those Business Days, the volume weighted average price of all such entitlements sold on ASX during the VWAP Period on the Business Days on which those entitlements were traded (excluding trades of the kind that would be excluded in determining VWAP under the definition of that term); or
 - (iii) in the case of any other entitlement which is not traded on ASX during the VWAP Period, the value of the entitlement as reasonably determined by the Board; and
- (b) where, on some or all of the Business Days in the VWAP Period, Ordinary Shares have been quoted as ex dividend or ex any other distribution or entitlement, and Capital Notes will be Exchanged for Ordinary Shares which would be entitled to receive the relevant dividend, distribution or entitlement, the VWAP on the Business Days on which those Ordinary Shares have been quoted ex dividend or ex any other distribution or entitlement will be increased by the Cum Value.

9.3 Adjustments to VWAP for capital reconstruction

- (a) Where during the relevant VWAP Period there is a change to the number of Ordinary Shares on issue because the Ordinary Shares are reconstructed, consolidated, divided or reclassified (not involving any payment or other compensation to or by the holders of Ordinary Shares) (**Reclassification**) into a lesser or greater number, the daily VWAP for each day in the VWAP Period which falls before the date on which trading in Ordinary Shares is conducted on a post Reclassification basis will be adjusted by multiplying the applicable VWAP by the following formula:

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

where:

A means the aggregate number of Ordinary Shares immediately before the Reclassification; and

B means the aggregate number of Ordinary Shares immediately after the Reclassification.

- (b) Any adjustment made by BEN in accordance with clause 9.3(a) will be effective and binding on Holders under these Terms and these Terms will be construed accordingly.
- (c) For the avoidance of doubt, nothing in this clause 9.3 allows a cash payment or other distribution to be made to or by a Holder as part of a Reclassification or as a result of a Reclassification.

9.4 Adjustments to Issue Date VWAP generally

For the purposes of determining the Issue Date VWAP under clause 9.1, adjustments will be made in accordance with clauses 9.2 and 9.3 during the VWAP Period for the Issue Date VWAP. On and from the Issue Date, adjustments to the Issue Date VWAP:

- (a) may be made by BEN in accordance with clauses 9.5 to 9.7 (inclusive);
- (b) if so made, will correspondingly affect the application of the Mandatory Exchange Conditions and the Optional Exchange Restrictions and cause an adjustment to the Maximum Exchange Number; and
- (c) if so made, will be effective and binding on Holders under these Terms and these Terms will be construed accordingly.

9.5 Adjustments to Issue Date VWAP for bonus issues

- (a) Subject to clauses 9.5(b) and 9.5(c), if BEN makes a pro-rata bonus issue of Ordinary Shares to holders of Ordinary Shares generally, the Issue Date VWAP will be adjusted immediately in accordance with the following formula:

$$V = V_o \times RD / (RD + RN)$$

where:

V means the Issue Date VWAP applying immediately after the application of this formula;

V_o means the Issue Date VWAP applying immediately prior to the application of this formula;

RD means the number of Ordinary Shares on issue immediately prior to the allotment of new Ordinary Shares pursuant to the bonus issue; and

RN means the number of Ordinary Shares issued pursuant to the bonus issue.

- (b) Clause 9.5(a) does not apply to Ordinary Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top up plan, share purchase plan or a dividend reinvestment plan.
- (c) For the purposes of this clause 9.5, an issue will be regarded as a bonus issue notwithstanding that BEN does not make offers to some or all holders of Ordinary Shares with registered addresses outside Australia (or to whom an offer is otherwise subject to foreign securities laws), provided that in so doing BEN is not in contravention of ASX Listing Rules.

9.6 Adjustments to Issue Date VWAP for capital reconstruction

If at any time after the Issue Date there is a change to the number of Ordinary Shares on issue because of a Reclassification into a lesser or greater number, the Issue Date VWAP will be adjusted by multiplying the Issue Date VWAP applicable on the Business Day immediately before the date of any such Reclassification by the following formula:

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

where:

A means the aggregate number of Ordinary Shares on issue immediately before the Reclassification; and

B means the aggregate number of Ordinary Shares on issue immediately after the Reclassification.

9.7 No adjustment to Issue Date VWAP in certain circumstances

Despite the provisions of clauses 9.5 and 9.6, no adjustment will be made to the Issue Date VWAP where any such adjustment (rounded if applicable) would be less than one percent of the Issue Date VWAP then in effect.

9.8 Announcement of adjustments to Issue Date VWAP

BEN will notify any adjustment to the Issue Date VWAP under this clause 9 to ASX and the Holders within ten Business Days of BEN determining the adjustment (or such shorter period as is required by ASX Listing Rules) and the adjustment will be final and binding.

9.9 Status and listing of Ordinary Shares

- (a) Ordinary Shares issued or arising from Exchange will rank equally with all other fully paid Ordinary Shares provided that the rights attaching to the Ordinary Shares issued or arising from Exchange do not take effect until 5.00pm (Melbourne time) on the Exchange Date (or such other time required by APRA).
- (b) BEN will use all reasonable endeavours to list the Ordinary Shares issued on Exchange of Capital Notes on ASX.
- (c) Holders acknowledge that any ASX trades in Capital Notes that have not settled on the Exchange Date will continue to settle in accordance with the normal ASX settlement process, although the seller will be treated as having delivered and the buyer will be treated as having acquired, the number of Ordinary Shares into which Capital Notes have been Exchanged.

9.10 Exchange where the Holder does not wish to receive Ordinary Shares or is an Ineligible Holder

- (a) If Capital Notes (or percentage of the Face Value of each Capital Note) of a Holder are required to be Exchanged and:
 - (i) the Holder has notified BEN that it does not wish to receive Ordinary Shares as a result of Exchange, which notice may be given at any time on or after the Issue Date and prior to the Exchange Date;
 - (ii) the Holder is an Ineligible Holder; or
 - (iii) BEN has not received (for any reason whether or not due to the fault of that Holder) any information required by it in accordance with the Terms so as to impede BEN issuing the Ordinary Shares to a Holder on the Exchange Date,

then, on the Exchange Date, the Holder's rights (including to payment of Distributions) in relation to each such Capital Notes being Exchanged are immediately and irrevocably terminated and BEN will issue the Exchange Number of Ordinary Shares to a Nominee for no additional consideration to hold on trust for sale for the benefit of the relevant Holder (unless, because the Holder is an Ineligible Holder, the Nominee is deemed to be an Ineligible Holder, in which case such issue shall occur as soon as practicable after the Nominee ceases to be an Ineligible Holder). At the first opportunity to sell the Ordinary Shares, the Nominee will arrange for their sale and pay the proceeds less selling costs to the relevant Holder subject to and in accordance with the provisions of the Deed Poll.
- (b) If Exchange is occurring because of the occurrence of a Capital Trigger Event or Non-Viability Trigger Event and the Exchange fails to take effect and BEN has not otherwise

issued Ordinary Shares to the Nominee within five Business Days after the date of the occurrence of the Capital Trigger Event or Non-Viability Trigger Event, then Holders' rights will be immediately and irrevocably terminated under clause 4.6.

- (c) Without prejudice to the express obligations of BEN and a Nominee under this clause 9.10:
 - (i) BEN has no duty to enquire into the law of a Foreign Holder's country of residence; and
 - (ii) neither BEN nor any Nominee owes any obligations or duties to Holders in relation to the price at which Ordinary Shares are sold or has any liability for any loss suffered by a Holder as a result of the sale of Ordinary Shares where required by this clause 9.10.

9.11 Final Distribution

For the avoidance of doubt, Exchange may occur even if BEN, in its absolute discretion, does not make the Distribution for the final Distribution Period.

9.12 No Exchange after winding up commences

If before the Exchange Date an order is made by a court, or an effective resolution is passed, for the winding up of BEN in Australia, then Exchange will not occur and clause 1.5 will apply, except where Exchange is required for a Capital Trigger Event or Non-Viability Trigger Event (in which case such Exchange shall occur (subject to clause 4.6) in accordance with clauses 4.1 or 4.2 (as applicable) and clause 4.5).

9.13 Exchange of a percentage of Face Value

If under these Terms it is necessary to Exchange a percentage of the Face Value, this clause 9 will apply to the Exchange as if references to the Face Value were references to the relevant percentage of the Face Value to be Exchanged.

10 Title and transfer of Capital Notes

10.1 Effect of entries in Register

Each entry in the Register of a person as a Holder constitutes:

- (a) conclusive evidence of that person's:
 - (i) absolute ownership of that Capital Notes;
 - (ii) entitlement to the other benefits given to Holders under these Terms and the Deed Poll in respect of Capital Notes; and
- (b) an undertaking by BEN to pay Distributions and any other amount in accordance with these Terms,

subject to correction of the Register for fraud or error.

10.2 Non-recognition of interests

- (a) Except as required by law or directive, BEN and the Registry must treat the person whose name is entered in the Register as a Holder as the absolute owner of that Capital Note. This clause 10.2 applies despite any notice of ownership, trust or interest in that Capital Note. No recognition of any trust, Encumbrance or interest shall be entered on the Register.

- (b) Neither BEN nor the Registry need take any notice of any trust, Encumbrance or other interest in, or claim to, any Capital Note, except as ordered by a court of competent jurisdiction or required by law.
- (c) This clause 10.2 applies whether or not a payment has been made when scheduled on a Capital Note and despite any notice of ownership, notice, trust, Encumbrance or other interest in the Capital Note.

10.3 Joint holders

Where two or more persons are entered in the Register as joint Holders, they are taken to hold that Capital Notes as joint tenants with rights of survivorship and subject to the terms of the Deed Poll but the Registry is not bound to register more than three persons as joint Holders of any Capital Notes.

10.4 Transfers

- (a) A Holder may transfer Capital Notes:
 - (i) while Capital Notes are registered with CHESS, in accordance with the rules and regulations of CHESS; or
 - (ii) at any other time:
 - (A) by a proper transfer under any other applicable computerised or electronic system recognised by the Corporations Act; or
 - (B) by any proper or sufficient instrument of transfer of marketable securities under applicable law, provided such instrument is delivered to the Registry with any evidence the Registry reasonably requires to prove title to or the right to transfer Capital Notes.
- (b) Title to Capital Notes passes when details of the transfer are entered in the Register.
- (c) Capital Notes may be transferred in whole but not in part.
- (d) BEN must comply with all Applicable Regulations and any other relevant obligations imposed on it in relation to the transfer of Capital Notes.
- (e) BEN must not charge any fee on the transfer of Capital Notes.
- (f) The Holder is responsible for any stamp duty or other similar taxes which are payable in any jurisdiction in connection with a transfer, assignment or other dealing with Capital Notes.
- (g) Upon registration and entry of the transferee in the Register, the transferor ceases to be entitled to future benefits under these Terms and the Deed Poll in respect of the transferred Capital Notes.
- (h) Subject to Applicable Regulations, BEN may determine that transfers of some or all Capital Notes will not be registered during any period reasonably specified by it prior to the Exchange Date, Redemption Date or Resale Date of such Capital Notes.

10.5 Refusal to register

- (a) BEN may only refuse to register a transfer of Capital Notes if permitted by, or if such registration would contravene or is forbidden by, Applicable Regulations or the Terms.
- (b) If BEN refuses to register a transfer, BEN must give the lodging party notice of the refusal and the reasons for it within five Business Days after the date on which the transfer was delivered to the Registry.

10.6 Transmission

A person becoming entitled to Capital Notes as a consequence of the death, bankruptcy, liquidation or a winding-up of a Holder or of a vesting order by a court or other body with power to make the order, or a person administering the estate of a Holder, may, upon providing evidence as to that entitlement or status, and if BEN so requires an indemnity in relation to the correctness of such evidence, as BEN considers sufficient, become registered as the Holder of those Capital Notes.

10.7 No liability to persons other than Holders

BEN is not liable to pay any amount to any person claiming an interest in a Capital Note in connection with that Capital Note other than the Holder.

11 Payments

11.1 Payments to registered Holder

- (a) Payment of Distributions will be made to the person registered at 7.00pm on the Record Date as the Holder.
- (b) Payment of any other amount in accordance with these Terms will be made to the person registered as the Holder on the relevant date for payment.
- (c) A payment to any one of joint Holders will discharge BEN's liability in respect of the payment.

11.2 Payments subject to law

All payments are subject to applicable law.

11.3 Payments on Business Days

- (a) If any payment:
 - (i) is due on a day which is not a Business Day, then the due date for payment will be the next Business Day; or
 - (ii) is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment will be the next day on which banks are open for general banking business in that place,and no additional amount is payable in respect of any delay in payment.
- (b) Nothing in this clause 11.3 applies to any payment referred to in clause 9.1(b).

11.4 Payments to accounts

Monies payable by BEN to a Holder may be paid by crediting an Australian dollar bank account maintained in Australia with a financial institution and nominated in writing by the Holder by close of business on the relevant Record Date or in any other manner BEN decides.

11.5 Unsuccessful attempts to pay

- (a) If the Holder has not notified the Registry of a bank account for the purposes of payment under clause 11.4 or the transfer of any amount does not complete for any reason (other than an error made by or on behalf of BEN), BEN will be treated as having paid the amount on the date on which it would otherwise have made the payment.
- (b) BEN will send a notice to the registered address of the Holder advising of the unsuccessful payment and the amount of the unsuccessful payment will be held on

deposit in a non-interest bearing bank account maintained by BEN or the Registry until the Holder nominates an Australian dollar bank account maintained in Australia for crediting with the payment (or nominates a new bank account as the case may be), the claim becomes void under clause 14.1 or BEN pays the amount in accordance with the law relating to unclaimed monies.

- (c) No additional amount is payable in respect of any delay in payment.
- (d) For the avoidance of doubt, nothing in this clause 11.5 obliges BEN to make a payment it has not otherwise determined to make under clause 2.

11.6 Withholdings and Deductions

- (a) All payments in respect of Capital Notes must be made without any withholding or deduction in respect of Taxes, unless the withholding or deduction is required by law or permitted by this clause 11.6. BEN shall pay the full amount deducted to the relevant revenue authority within the time allowed for such payment without incurring penalty under the applicable law and shall, if required by any Holder, deliver to that Holder the relevant receipt issued by the revenue authority without delay after it is received by BEN.
- (b) BEN, in its absolute discretion, may withhold or deduct payments to a Holder (including, if applicable, any other person who beneficially derives Distributions under Capital Notes) where it is required to do so under or in connection with FATCA, or where it has reasonable grounds to suspect that the Holder or a beneficial owner of Capital Notes may be subject to FATCA, and may deal with such payment and the Holder's Capital Notes in accordance with FATCA. If any withholding or deduction arises under or in connection with FATCA, BEN will not be required to pay any further amounts on account of such withholding or deduction or otherwise reimburse or compensate, or make any payment to, a Holder or a beneficial owner of Capital Notes for or in respect of any such withholding or deduction.
- (c) Each Holder (including, if applicable, any other person who beneficially derives Distributions under Capital Notes) will, within ten Business Days of request by BEN, supply to BEN such forms, documentation and other information relating to its status under FATCA as BEN reasonably requests for the purposes of the BEN Group's compliance with FATCA.

12 Tax File Number withholdings

- (a) BEN will withhold an amount from payments of Distributions on Capital Notes at the highest marginal tax rate plus the highest Medicare levy if a Holder has not supplied an appropriate tax file number, Australian business number or exemption details.
- (b) If a Holder supplies exemption details and BEN subsequently determines that the relevant exemption was not available, BEN may recover the amount that should have been deducted from the relevant Holder and may deduct that amount from any subsequent payment due to that Holder in respect of Capital Notes.

13 Substitution of BEN

13.1 Substitution

BEN may, in connection with a NOHC Event, without the consent of Holders and provided that the Substitution Conditions are satisfied, by giving notice to ASX and the Holders:

- (a) substitute for itself a NOHC as the debtor in respect of Capital Notes and as the issuer of Ordinary Shares on Exchange (**Full Successor**); or

- (b) substitute for itself a NOHC as the issuer of Ordinary Shares on Exchange (**Partial Successor**),

and a reference to the **Successor** shall be a reference to the Full Successor or the Partial Successor, as applicable. The notice shall specify the date on which the substitution is to take effect (**Date of Substitution**).

13.2 Substitution Conditions

The Substitution Conditions are:

- (a) in the case of the Full Successor:
 - (i) the Full Successor or another entity (which is a parent entity) subscribes for Ordinary Shares or other capital instruments acceptable to APRA in such amount as may be necessary, or takes other steps acceptable to APRA, to ensure that the capital position of the BEN Level 1 Group and BEN Level 2 Group will not be adversely affected;
 - (ii) the Full Successor will expressly assume BEN's obligations under these Terms and the Deed Poll by entering into a deed poll for the benefit of Holders (**Successor Deed Poll**) under which it agrees (among other things):
 - (A) to comply with the restrictions in clause 2.7 of these Terms (with all necessary modifications); and
 - (B) to deliver fully paid ordinary shares in its capital under all circumstances when BEN would otherwise have been required to deliver Ordinary Shares, subject to the same terms and conditions as set out in these Terms (with all necessary modifications);
- (b) in the case of the Partial Successor:
 - (i) the Partial Successor agrees with effect on and from the Date of Substitution, by entering into a Successor Deed Poll, to deliver fully paid ordinary shares in its capital under all circumstances when BEN would otherwise have been required to deliver Ordinary Shares, subject to the same terms and conditions as set out in these Terms (with all necessary modifications); and
 - (ii) the Partial Successor agrees that in all circumstances where the Partial Successor delivers fully paid ordinary shares in its capital under the Successor Deed Poll in clause 13.2(b)(i), the Partial Successor or another entity (which is a parent entity) will subscribe for Ordinary Shares in such amount as may be necessary, or take other steps acceptable to APRA, to ensure that the capital position of the BEN Level 1 Group and BEN Level 2 Group is equivalent to the position if the Successor Deed Poll had not been entered into and BEN was required to issue the Ordinary Shares; and
- (c) in the case of either the Full Successor or the Partial Successor (as applicable):
 - (i) the Successor's ordinary shares are or are to be quoted on ASX, and the Successor agrees to use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure quotation of ordinary shares issued under these Terms on the securities exchanges on which the Successor's ordinary shares are quoted at the time of delivery;
 - (ii) the Successor and BEN have obtained APRA approval and all other necessary authorisations, regulatory and governmental approvals and consents for such

- substitution and for the performance by the Successor of its obligations under Capital Notes and the documents effecting substitution;
- (iii) if the Successor does not have a place of business in Victoria, the Successor has appointed a process agent in Victoria to receive service of process on its behalf in relation to any legal proceedings arising out of or in connection with Capital Notes;
 - (iv) the Successor has, in the reasonable opinion of BEN, the financial capacity to satisfy its obligations under the Successor Deed Poll;
 - (v) BEN has used all reasonable endeavours to give an irrevocable notice to the Holders as soon as practicable before a NOHC Event occurs specifying the amendments to Capital Notes which will be made under these Terms in connection with the substitution of a NOHC as the issuer of ordinary shares on Exchange; and
 - (vi) BEN may, by an instrument in writing and without the authority, assent or approval of Holders, amend these Terms if such amendment is necessary or expedient to effect the substitution in the manner contemplated by these Terms (including, without limitation, for the purposes of complying with the provisions of Chapter 2L of the Corporations Act).

13.3 Effect of Substitution of Full Successor

If the relevant requirements set out in clauses 13.1 and 13.2 relating to a substitution under clause 13.1(a) have been completed, on and from the Date of Substitution:

- (a) the Full Successor will assume all of the obligations of, succeed to, and be substituted for, and may exercise every right and power of, BEN under these Terms (as may be amended from time to time) with the same effect as if the Successor had been named as BEN in these Terms and the Deed Poll;
- (b) BEN (or any corporation which has previously assumed the obligations of BEN) will be released from its liability under the Terms and the Deed Poll;
- (c) if BEN gives a notice to Holders under clause 13.2(c)(v), the amended terms will have effect on and from the date specified in the notice; and
- (d) references to BEN in these Terms and the Deed Poll will be taken to be references to the Full Successor.

13.4 Effect of Substitution of Partial Successor

If the relevant requirements set out in clauses 13.1 and 13.2 relating to a substitution under clause 13.1(b) have been completed, on and from the Date of Substitution:

- (a) BEN (or any corporation which has previously assumed the obligations of BEN) will be released from any obligation it would otherwise have under these Terms to issue Ordinary Shares to Holders upon Exchange; and
- (b) if BEN gives a notice to Holders under clause 13.2(c)(v), the amended terms will have effect on and from the date specified in the notice.

14 General

14.1 Time limit for claims

A claim against BEN for a payment under Capital Notes is void unless made within five years from the date on which payment became due.

14.2 Voting

- (a) The Deed Poll contains provisions for convening meetings of Holders to consider any matter affecting their interests including certain variations of these Terms which require the Holders' consent. Resolutions passed in accordance with such provisions will be binding on all Holders.
- (b) A Capital Note does not entitle its Holder to attend or vote at a general meeting of BEN.
- (c) Subject to applicable law, Holders are not entitled to be provided with copies of:
 - (i) any notices of general meetings of BEN; or
 - (ii) other documents (including annual reports and financial statements) sent by BEN to holders of ordinary shares or other securities (if any) in BEN.

14.3 Amendments without consent

At any time, but subject to compliance with the Corporations Act and all other applicable laws, BEN may by deed poll, without the consent of the Holders, amend these Terms or the Deed Poll, from the date specified by BEN, if BEN is of the opinion that such alteration is:

- (a) of a formal, technical or minor nature;
- (b) made to cure any ambiguity, correct any manifest error or correct or supplement any defective provision of the Terms or amend any provision of the Deed Poll;
- (c) to amend the Terms to adopt an Alternative Market Rate as the new Market Rate following the occurrence of a Market Rate Disruption Event, and to make any consequential amendments, subject to APRA's prior written approval as required under clause 2.2(b)(i)(B) and BEN acting in good faith and in a commercially reasonable manner;
- (d) necessary or expedient for the purpose of:
 - (i) enabling Capital Notes to be listed for quotation, or to retain quotation, on any securities exchange, or any system that replaces it relevant to the Capital Notes (including in respect of the transfer or Exchange of Capital Notes) or to be offered for subscription or for sale under the laws for the time being in force in any place;
 - (ii) complying with the provisions of any statute, the requirements of any statutory authority, ASX Listing Rules or the listing or quotation requirements of any securities exchange on which BEN may propose to seek a listing or quotation of Capital Notes; or
 - (iii) facilitating a substitution in accordance with clause 13.1 (including satisfying any requirement of APRA in connection with such a substitution);
- (e) made to amend any date or time period stated, required or permitted in connection with any Exchange, Resale or Redemption (including, without limitation, when the proceeds of Resale or Redemption are to be reinvested in a new security to be issued by BEN or a Related Body Corporate);
- (f) made to:
 - (i) amend the terms of the Capital Notes to align them with any Relevant Tier 1 Capital Instruments issued after the Issue Date;
 - (ii) amend the definition of Relevant Tier 1 Capital Instruments on account of the issue after the Issue Date of any capital instruments of any member of the BEN Group; or

- (iii) give effect to any agreement with the Nominated Purchaser to which Capital Notes have been Resold;
- (g) not materially prejudicial to the interests of Holders as a whole. For the purposes of determining whether the amendment is not materially prejudicial to the interests of Holders as a whole, the taxation and regulatory capital consequences to Holders (or any class of Holders) and other special consequences which are personal to a Holder (or any class of Holders) do not need to be taken into account.

14.4 Amendments with consent

Without limiting clause 14.3, BEN may by deed poll amend these Terms or the Deed Poll if such alteration is approved by a Special Resolution. In this case, the Terms will be amended from the date specified in the Special Resolution or otherwise notified to the Holders (provided such date is permitted by the terms of the Special Resolution).

14.5 Meaning of amend

In clauses 14.3 and 14.4, **amend** includes modify, cancel, alter or add to and **amendment** has a corresponding meaning.

14.6 APRA approval of amendments

Prior to any amendment under clauses 14.3 and 14.4 being effective, where required BEN must obtain APRA's prior written approval (APRA approval is required where the proposed amendment may affect the eligibility of Capital Notes as Relevant Tier 1 Capital Instruments at the relevant time) and any consent or approval required under any applicable law, regulation or ASX Listing Rule.

14.7 Ranking with respect to Distributions:

Capital Notes rank in respect of payment of Distributions:

- (a) senior to Ordinary Shares;
- (b) equally and without preference among Capital Notes; and
- (c) equally with all Equal Ranking Securities and other securities that BEN has or may issue that by their terms rank equally with respect to priority of payment in a winding up of BEN.

14.8 Notices

(a) To Holders

Subject to clauses 4.1(e) and 4.2(e), unless otherwise specified, all notices and other communications to Holders must be in writing and either:

- (i) sent by prepaid post (airmail if appropriate) to or left at the address of the Holders (as shown in the Register at the close of business on the day which is three Business Days before the date of the notice or communication);
- (ii) (if available) issued to Holders through CHESS in accordance with any applicable rules and regulations of CHESS;
- (iii) so long as the Capital Notes are quoted on ASX, by publication of an announcement on ASX;
- (iv) given by an advertisement published in the Australian Financial Review, The Australian or in any other newspaper nationally circulated within Australia;
- (v) sent by email or electronic message to the electronic address (if any) of the Holder as shown on the Register; or

- (vi) given in any other way agreed between BEN and any Holder (and in agreeing in such way, BEN and such Holders may have regard to the dates by which the notice is to be given under these terms.

An accidental or inadvertent failure to give notice to a particular Holder will not invalidate a notice otherwise properly given to Holders.

(b) **To BEN and Registry**

Subject to clauses 4.1(e) and 4.2(e), all notices and other communications to all or any of BEN and the Registry must be in writing and sent by prepaid post (airmail if appropriate) to or left at the address of BEN and the Registry, as applicable.

(c) **When effective**

Subject to clauses 4.1(e) and 4.2(e), notices and other communications take effect from the time they are taken to be received under clause 14.8(d) unless a later time is specified in them.

(d) **Receipt**

- (i) If sent by post, notices or other communications are taken to be received three Business Days after posting (or five Business Days after posting if sent to or from a place outside Australia).
- (ii) If left at the address, notices or other communications are taken to be received when given unless received after 5.00 pm in the place of receipt or on a non-Business Day, in which case they are taken to be received at 9.00 am on the next Business Day.
- (iii) If sent by e-mail to the electronic address in respect of the Holder as specified in accordance with clause 14.8(a), on the day following its transmission to that electronic address.
- (iv) If issued to Holders through CHESS, on the date of the issuance unless the sender receives an automated message that the e-mail has not been delivered.
- (v) Notices given to Holders by being announced to ASX are taken to be received on the date of announcement.
- (vi) If published in a newspaper, on the first date that publication has been made in the required newspaper.

14.9 Power of attorney

- (a) Each Holder appoints each of BEN, its directors, officers and authorised delegates of the Board, and any External Administrator of BEN (each an **Attorney**) severally to be the attorney of the Holder with power in the name and on behalf of the Holder to sign all documents and transfers and do any other thing as may in the Attorney's opinion be necessary or desirable to be done in order for the Holder to observe or perform the Holder's obligations under these Terms, including, but not limited to, any transfers of Capital Notes, making any entry in the Register or the register of any Ordinary Shares or exercising any voting power in relation to any consent or approval required for Exchange, Redemption or Resale.
- (b) The power of attorney given in this clause 14.9(b) is given for valuable consideration and to secure the performance by the Holder of the Holder's obligations under these Terms and is irrevocable.

14.10 Ability to trade

BEN or any member of the BEN Group may, to the extent permitted by applicable laws and regulations and with APRA's prior written approval (where required), at any time buy or sell Capital Notes in the open market, by tender to all or some of the Holders, by private agreement or in any other manner, at any price.

14.11 Governing law

These Terms are governed by and must be governed in accordance with the law in force in Victoria, Australia.

14.12 Jurisdiction

BEN submits, and each Holder is taken to have irrevocably and unconditionally submitted, to the non-exclusive jurisdiction of the courts of Victoria and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to these Terms.

14.13 Deed Poll

BEN's obligations in respect of Capital Notes are constituted by and subject to the Deed Poll. Each Holder is taken to have notice of, and be bound by, the provisions of the Deed Poll.

14.14 Waiver of immunity

BEN irrevocably and unconditionally waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 14.12.

14.15 Consent acknowledgement

Each Holder, by subscribing for, and purchasing or otherwise acquiring a Capital Notes upon Exchange, consents to becoming a member of BEN and agrees to be bound by the constitution of BEN.

15 Interpretation and definitions**15.1 Interpretation**

In these Terms, except where the contrary intention appears:

- (a) a reference to:
 - (i) an agreement or instrument includes any variation, supplement, replacement or novation of that agreement or instrument;
 - (ii) a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
 - (iii) any thing is a reference to the whole and each part of it;
 - (iv) one gender includes every other gender;
 - (v) a document includes all schedules or annexes to it;
 - (vi) a clause or paragraph is to a clause or paragraph of these Terms;
 - (vii) "Australian dollars", "A\$" or "Australian cent" is a reference to the lawful currency of Australia; and

- (viii) a statute, ordinance, code, rule, directive or law (however described) includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (b) the singular includes the plural and vice versa;
- (c) the word "person" includes a firm, body corporate, an unincorporated association, or governmental or local authority or agency or other entity;
- (d) the word "law" includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) any reference to time is to Sydney time;
- (f) headings are inserted for convenience and do not affect the interpretation of these Terms;
- (g) another grammatical form of a defined word or expression has a corresponding meaning;
- (h) other than in relation to a Capital Trigger Event or a Non-Viability Trigger Event (including an Exchange of the Capital Notes on the occurrence of a Capital Trigger Event or a Non-Viability Trigger Event and a termination of rights under clause 4.6) and other than as otherwise expressly specified in these Terms, if any act or event under these Terms must be done or must occur on a stipulated day that is not a Business Day then that act or event will be done or will occur on the next Business Day;
- (i) the meaning of general words is not limited by specific examples introduced by "including", "for example" or similar expressions;
- (j) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (k) any provisions which refer to APRA requirements or any other prudential regulatory requirements will apply to BEN only if BEN is an entity, or the holding company of an entity, or is a direct or indirect subsidiary of an entity (including a NOHC) subject to regulation and supervision by APRA at the relevant time;
- (l) any provisions which require APRA's consent or approval (written or otherwise) will apply only if APRA requires that such consent or approval be given at the relevant time; and
- (m) any provisions in these Terms requiring prior APRA approval for a particular course of action to be taken by BEN do not imply that APRA has given its consent or approval to the particular action as of the Issue Date.

15.2 Definitions

In these Terms, except where the contrary intention appears:

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| ADI | means an Authorised Deposit-taking Institution under the Banking Act; |
| Additional Tier 1 Capital | means the Additional Tier 1 Capital of the BEN Level 1 Group or the BEN Level 2 Group as defined by APRA from time to time; |
| Alternative Market Rate | has the meaning given in clause 2.2(b)(iii); |

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| Applicable Regulation | means ASX Listing Rules, ASX Settlement Operating Rules, the rules and regulations of CHESS, the Corporations Act and any rules or regulations made under or pursuant to them; |
| APRA | means the Australian Prudential Regulation Authority (or any authority succeeding to its powers and responsibilities); |
| ASX | means ASX Limited (ABN 98 008 624 691) or the securities market operated by it, as the context requires; |
| ASX Listing Rules | means the listing rules of ASX from time to time with any applicable modification or waiver granted by ASX; |
| ASX Settlement Operating Rules | means the settlement operating rules of ASX from time to time with any applicable modification or waiver granted by ASX; |
| Banking Act | means the <i>Banking Act 1959</i> (Cth); |
| BEN | means Bendigo and Adelaide Bank Limited (ABN 11 068 049 178); |
| BEN Group | means BEN (or any NOHC that is the holding company of BEN) and its Subsidiaries; |
| BEN Level 1 Common Equity Tier 1 Capital Ratio | means, in respect of the BEN Level 1 Group, the ratio of the Common Equity Tier 1 Capital of the BEN Level 1 Group to the risk weighted assets of the BEN Level 1 Group, calculated in accordance with APRA's prudential standards (as amended from time to time); |
| BEN Level 1 Group | means: <ul style="list-style-type: none"> (a) BEN; or (b) the "extended licensed entity" which is comprised of BEN and each Subsidiary of BEN as specified in any approval granted by APRA in accordance with APRA's prudential standards (as amended from time to time); |
| BEN Level 2 Common Equity Tier 1 Capital Ratio | means, in respect of the BEN Level 2 Group, the ratio of the Common Equity Tier 1 Capital of the BEN Level 2 Group to the risk weighted assets of the BEN Level 2 Group, calculated in accordance with APRA's prudential standards (as amended from time to time); |
| BEN Level 2 Group | means BEN and each Subsidiary that is recognised by APRA as part of BEN's Level 2 group in accordance with APRA's prudential standards (as amended from time to time); |
| Board | means either the board of directors of BEN or a committee appointed by the board of directors of BEN; |
| Bookbuild | means the process conducted before the Offer opens where brokers and investors bid for Capital Notes and, on the basis of those bids, BEN sets the final Margin and announces it on ASX; |
| Business Day | means a day which is (i) a business day within the meaning of ASX Listing Rules, and (ii) for the purposes of determining an Exchange Date (other than a Mandatory Exchange Date) or calculation or payment of a Distribution, a date on which banks are open for general business in Melbourne; |
| Call Date | means 15 June 2027; |

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| Capital Notes | means the perpetual, subordinated, unsecured notes in the capital of BEN issued or to be issued on the terms set out in these Terms; |
| Capital Trigger Event | has the meaning given in clause 4.1; |
| Change of Control Event | has the meaning given in clause 4.7; |
| CHESS | means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited (ABN 49 008 504 532) or any system that replaces it relevant to the Capital Notes (including in respect of the transfer or Exchange of Capital Notes); |
| Chi-X | means Chi-X Australia Pty Ltd (ABN 47 129 584 667) or the securities market operated by it, as the context requires; |
| Common Equity Tier 1 Capital | has, in respect of each of the BEN Level 1 Group and the BEN Level 2 Group, the meaning determined for that term or its equivalent by APRA from time to time; |
| Corporations Act | means the <i>Corporations Act 2001</i> (Cth); |
| Deed Poll | means the deed poll entitled "Capital Notes Deed Poll" executed by BEN and dated on or around the date of the Bookbuild; |
| Deferred Exchange Date | has the meaning given in clause 6.5; |
| Delisted | means, in relation to an Exchange Date and Non-Exchange Test Date, that Ordinary Shares are not listed or admitted to trading on a securities exchange on that date; |
| Distribution | means interest payable on Capital Notes under these Terms; |
| Distribution Payment Date | means, in respect of each Capital Note, 15 March, 15 June, 15 September and 15 December each year until that Capital Notes has been Exchanged or Redeemed, and also the Exchange Date or Redemption Date. If any of these Distribution Payment Dates is not a Business Day, then the Distribution Payment Date becomes the next day which is a Business Day and the payment will be made in accordance with clause 11.3. The first Distribution Payment Date is 15 March 2021; |
| Distribution Period | means each period commencing on (and including) a Distribution Payment Date and ending on (but excluding) the next Distribution Payment Date. However: <ul style="list-style-type: none"> (a) the first Distribution Period commences on (and includes) the Issue Date; and (b) the final Distribution Period ends on (but excludes) the Exchange Date or Redemption Date, as applicable; |
| Distribution Rate | means the interest rate (expressed as a percentage per annum) calculated or determined in accordance with clause 2.2; |

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| Encumbrance | means any mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement, any other security agreement or security arrangement (including any security interest under the <i>Personal Property Securities Act 2009</i> (Cth)) and any other arrangement of its kind having the same effect as any of the foregoing. |
| Equal Ranking Securities | means each of: <ul style="list-style-type: none"> (a) Capital Notes; and (b) any preference shares in the capital of BEN or any other securities which rank or are expressed to rank equally with Capital Notes in a winding up of BEN, present and future, excluding any Junior Ranking Securities; |
| Exchange | means, the exchange of all, some or a proportion of each Capital Note for Ordinary Shares under these Terms and Exchanged has a corresponding meaning; |
| Exchange Date | means the applicable: <ul style="list-style-type: none"> (a) Mandatory Exchange Date; (b) Optional Exchange Date; (c) date for Exchange specified in accordance with clause 4.1(e)(iii); (d) date for Exchange specified in accordance with clause 4.2(e)(iii); (e) date for Exchange specified in accordance with clause 4.7(b)(iii) or otherwise determined under clause 4.7(d); |
| Exchange Number | has the meaning given in clause 9.1; means, in respect of a person: <ul style="list-style-type: none"> (a) a liquidator, a provisional liquidator, an administrator or a statutory manager of that person; or (b) a receiver, or a receiver and manager, in respect of all or substantially all of the assets and undertakings of that person, or in either case any similar official; |
| External Administrator | |
| Face Value | means A\$100 per Capital Note (Initial Face Value) reduced (if applicable) by the amount of Face Value per Capital Note which has previously been Exchanged or the amount of Face Value per Capital Note for which Holders' rights have been irrevocably terminated; |
| FATCA | means the Foreign Account Tax Compliance Act provisions at Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended (or any consolidation, amendment, re-enactment or replacement of those sections and including any current or future regulations or official interpretations issued, agreements entered into or non-US laws enacted in relation to those sections); |

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| First Mandatory Exchange Condition | has the meaning given in clause 3.2(a); |
| First Optional Exchange Restriction | has the meaning given in clause 6.4(a); |
| Foreign Holder | means a Holder: <ul style="list-style-type: none"> (a) whose address in the Register is a place outside Australia; (b) who BEN otherwise believes may not be a resident of Australia; or (c) who BEN otherwise believes are subject to the securities laws of another country and BEN is not satisfied that the laws permit the offer, holding or acquisition of Ordinary Shares to the Holder (but BEN will not be bound to enquire into those laws), either unconditionally or after compliance with conditions which BEN, in its absolute discretion, regards as acceptable and not unduly onerous; |
| Franking Event | has the meaning given in clause 5.2(a); |
| Full Successor | has the meaning given in clause 13.1(a); |
| Holder | means a person whose name is entered in the Register as a holder of Capital Notes; |
| Ineligible Holder | means a Holder who is prohibited or restricted by any applicable law or regulation in force in Australia (including but not limited to Chapter 6 of the Corporations Act, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth), the <i>Financial Sector (Shareholdings) Act 1998</i> (Cth) and Part IV of the <i>Competition and Consumer Act 2010</i> (Cth)) from being offered, holding or acquiring Ordinary Shares (provided that if the relevant prohibition or restriction only applies to the Holder in respect of some of its Capital Notes, it shall only be treated as an Ineligible Holder in respect of those Capital Notes and not in respect of the balance of its Capital Notes), and includes a Foreign Holder. BEN will be entitled to treat a Holder as not being an Ineligible Holder unless the Holder has otherwise notified it after the Issue Date and prior to the Exchange Date; |
| Insolvent | means insolvent under section 95A of the Corporations Act; |
| IRS | means the United States Internal Revenue Service; |
| Issue Date | means the date on which Capital Notes are issued, which is expected to be on or about 30 November 2020; |
| Issue Date VWAP | means the VWAP during the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding but not including the Issue Date, as adjusted in accordance with clauses 9.4 to 9.7; |
| Junior Ranking Securities | means all Ordinary Shares, present and future; |
| Level 1, Level 2 and Level 3 | means those terms as defined by APRA from time to time; |

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| <i>Mandatory Exchange Conditions</i> | means the conditions in clause 3.2; |
| <i>Mandatory Exchange Date</i> | 15 June 2029 or such other date as determined under clause 3.1; |
| <i>Margin</i> | has the meaning given in clause 2.2(b)(iv); |
| <i>Market Rate</i> | has the meaning given in clause 2.2(b)(i); |
| <i>Market Rate Disruption Event</i> | has the meaning given in clause 2.2(b)(ii); |
| <i>Maximum Exchange Number</i> | has the meaning given in clause 9.1; |
| <i>Meeting Provisions</i> | means the provisions for meetings of Holders set out in schedule 2 of the Deed Poll; |
| <i>NOHC</i> | means a "non-operating holding company" within the meaning of the Banking Act; |
| <i>NOHC Event</i> | occurs when the Board initiates a restructure of the BEN Group and a NOHC becomes the ultimate holding company of BEN; |
| <i>Nominated Purchaser</i> | means, subject to clause 8.2, one or more third parties selected by BEN in its absolute discretion, provided that such party cannot be BEN or any Related Body Corporate of BEN. |
| <i>Nominee</i> | means one or more third parties appointed by BEN in its absolute discretion (which cannot be BEN, a member of the BEN Group or a Related Body Corporate of BEN) under a facility established for the sale of Ordinary Shares issued by BEN on Exchange on behalf of Holders in the circumstances set out in clause 9.10; |
| <i>Non-Exchange Test Date</i> | has the meaning given in clause 6.4(a); |
| <i>Non-Viability Trigger Event</i> | has the meaning given in clause 4.2; |
| <i>Offer</i> | means the invitation by BEN in the Prospectus to subscribe for Capital Notes; |
| <i>Optional Exchange Date</i> | has the meaning given in clause 6.3; |
| <i>Optional Exchange Notice</i> | has the meaning given in clause 6.1(a); |
| <i>Optional Exchange Restrictions</i> | has the meaning given in clause 6.4(b); |
| <i>Ordinary Share</i> | means a fully paid ordinary share in the capital of BEN; |
| <i>Partial Successor</i> | has the meaning given in clause 13.1(b); |
| <i>proposed Exchange Date</i> | has the meaning given in clause 4.7(b)(iii); |

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| Prospectus | means the prospectus relating to the offer of Capital Notes dated on or about 28 October 2020 as supplemented or replaced; |
| Purchaser | means one or more third parties selected by BEN in its absolute discretion (which cannot be BEN, a member of the BEN Group or a Related Body Corporate of BEN); |
| Reclassification | has the meaning given in clause 9.3; |
| Record Date | means, for payment of Distributions: <ul style="list-style-type: none"> (a) the date that is eight calendar days prior to the relevant Distribution Payment Date; or (b) such other date determined by BEN in its absolute discretion and communicated to ASX, or in either case such other date as may be required by, or agreed with, ASX; |
| Redemption | means the redemption of all or some Capital Notes for their Face Value under these Terms and Redeem and Redeemed have corresponding meanings; |
| Redemption Date | means, in respect of each Capital Note, the date specified by BEN as the Redemption Date in accordance with clause 5; |
| Register | means the register of Holders established and maintained under clause 5 of the Deed Poll and, where appropriate, the term Register includes: <ul style="list-style-type: none"> (a) a sub-register maintained by or for BEN in CHESSE; and (b) any branch register; |
| Registry | means Boardroom Pty Limited (ABN 14 003 209 836) or any other person appointed by BEN to maintain the Register; |
| Regulatory Event | has the meaning given in clause 5.4(a); |
| Related Body Corporate | means a related body corporate as defined in the Corporations Act, or an entity over which BEN, or a future parent entity of BEN, exercises control or significant influence; |
| Relevant Security | means a security forming part of the Tier 1 Capital of BEN on a Level 1 basis or Level 2 basis; |
| Relevant Tier 1 Capital Instruments | means Tier 1 Capital instruments of BEN (on a Level 1 or Level 2 basis) (including the Capital Notes) that, in accordance with their terms or by operation of law, are capable of being converted into Ordinary Shares upon a Capital Trigger Event or a Non-Viability Trigger Event. |
| Resale | means the sale of Capital Notes by Holders to the Purchaser in accordance with clause 6 and Resell and Resold have corresponding meanings; |
| Resale Date | has the meaning given in clause 7.3(a); |
| Resale Notice | has the meaning given in clause 7.1; |
| Resale Price | means, for a Capital Note, a cash amount equal to its Face Value. |

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| Second Mandatory Exchange Condition | has the meaning given in clause 3.2(b); |
| Second Optional Exchange Restriction | has the meaning given in clause 6.4(b); |
| Senior Ranking Obligations | means all deposits and other liabilities, securities (including Tier 2 Capital securities) and other obligations of BEN, present and future, other than Equal Ranking Securities or Junior Ranking Securities; |
| Special Resolution | means: <ul style="list-style-type: none"> (a) a resolution passed at a meeting of Holders duly called and held under the Meeting Provisions: <ul style="list-style-type: none"> (i) by at least 75% of Holders voting on a show of hands (unless paragraph (b) below applies); or (ii) if a poll is duly demanded, by at least 75% of the votes cast; or (b) a resolution passed by postal ballot or written resolution by Holders of at least 75% of the aggregate Face Value of Capital Notes then outstanding; |
| Subsidiary | has the meaning given in the Corporations Act; |
| Tax | means: <ul style="list-style-type: none"> (a) any tax, including GST, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding; or (b) any income, stamp or transaction duty, tax or charge, which is assessed, levied, imposed or collected by any governmental agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed on or in respect of any of the above. |
| Tax Act | means the <i>Income Tax Assessment Act 1936</i> (Cth) and, where applicable, the <i>Income Tax Assessment Act 1997</i> (Cth) (both as amended from time to time); |
| Tax Event | has the meaning given in clause 5.3(a); |
| Tax Rate | has the meaning given in clause 2.2(b)(v); |
| Terms | means these terms and conditions of Capital Notes, as set out in schedule 1 of the Deed Poll; |
| Third Mandatory Exchange Condition | has the meaning given in clause 3.2(c); |
| Tier 1 Capital | means the Tier 1 Capital of BEN on the relevant Level 1 or Level 2 basis, as defined by APRA from time to time; |
| Tier 2 Capital | means the Tier 2 Capital of BEN on the relevant Level 1 or Level 2 basis, as defined by APRA from time to time; |
| VWAP | means the average of the daily volume weighted average prices of Ordinary Shares traded on ASX and Chi-X during the relevant VWAP Period, subject to any adjustments made under clauses 9.2 and 9.3, |

but the trades taken into account in determining such daily volume weighted average prices will exclude special crossings, crossings prior to the commencement of normal trading or during the closing phase or after hours adjustment phase, overnight crossings, overseas trades, trades pursuant to the exercise of options over Ordinary Shares, or any other trade determined by the Board in its discretion not to be reflective of normal trading in Ordinary Shares; and

VWAP Period

means:

- (a) in the case of an Exchange resulting from a Capital Trigger Event, or a Non-Viability Trigger Event, the period of five Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the Exchange Date;
- (b) in the case of any other Exchange, the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the Exchange Date; or
- (c) otherwise, the period for which the VWAP is to be calculated in accordance with these Terms.

Schedule 2

Provisions for Meetings of Holders

1 Meetings of Holders

1.1 Notice of meeting

- (a) At least 15 Business Days' notice in writing of any Meeting must be given to the Holders.
- (b) If a Holder does not receive notice (or any amending or supplementary notice), the Meeting is still valid.
- (c) A notice of Meeting must include:
 - (i) the place, day and time of the Meeting; and
 - (ii) the nature of the business to be transacted (but it is not necessary to specify in the notice the precise terms of the resolutions to be proposed).

1.2 Meeting in more than one place

- (a) A Meeting may, if BEN so determines, be held at two or more venues linked together by audio-visual communication equipment which, by itself or in conjunction with other arrangements:
 - (i) gives the Holders in the separate venues a reasonable opportunity to participate in the proceedings;
 - (ii) enables the chair of the Meeting to be aware of proceedings in each such venue; and
 - (iii) enables the Holders in each such venue to vote on a show of hands and on a poll,and a Holder at one of the separate venues is taken to be present at the meeting of the Holders and is entitled to exercise all rights which a Holder has under this Deed Poll and this Schedule 2 in relation to a meeting of Holders.
- (b) Where a meeting of Holders is held at two or more meeting venues pursuant to paragraph 1.2 of this Schedule 2, that meeting will be regarded as having been held at the venue determined by the chair of the Meeting.

1.3 Exclusions relating to holdings of BEN or Related Body Corporates of BEN

For the purposes of any Meeting, or for determining whether any resolution is passed without holding a Meeting, any Capital Note held by BEN or any Related Body Corporate of BEN shall be treated as not being on issue, unless those Capital Notes are held in connection with any wealth management business, as a trustee, as the holder of an Australian Financial Services licence or in any circumstances imposing on the holder a duty to act having regard to the interests of any third party.

2 Who may attend and address Meeting

- (a) Each Holder is entitled to attend and vote at any Meeting or any rescheduled Meeting (which was adjourned pursuant to paragraph 3(c) of this Schedule 2).
- (b) BEN, any person invited by BEN and BEN's auditor is entitled to attend and address a Meeting or any rescheduled Meeting (which was adjourned pursuant to paragraph 3(c) of this Schedule 2).

3 Quorum

- (a) No business may be transacted at any Meeting unless a quorum of Holders of Capital Notes is present at the time when the Meeting proceeds to business.
- (b) A quorum for any Meeting is at least two persons holding or representing by attorney, representative or proxy, at least 10% of the outstanding principal amount of Capital Notes.
- (c) If a quorum is not present within half an hour from the time appointed for the Meeting, the Meeting must be adjourned as the chair of the Meeting directs.
- (d) A quorum for any rescheduled Meeting (which was adjourned pursuant to paragraph 3(c) of this Schedule 2) is at least one person holding or representing by attorney, representative or proxy, at least 5% of the outstanding principal amount of Capital Notes.

4 Adjournment

The chair of a Meeting may with the consent of the majority of Holders present and must, if directed by an Ordinary Resolution on a poll, adjourn the Meeting.

5 Chair

- (a) A person nominated by BEN may preside as chair of a Meeting.
- (b) If BEN does not appoint a person to be chair of a Meeting, or the person does not appear within 15 minutes after the time appointed for the Meeting or is unwilling to act as chair, the Holders present must elect one of their number to preside as chair of the Meeting.
- (c) The chair of a Meeting:
 - (i) need not be a Holder; and
 - (ii) may be an officer, employee or representative of BEN.

6 Voting

6.1 Method of Voting

- (a) Subject to Holders being entitled to vote, any question put to the vote of a Meeting must be decided in the first instance by a show of hands, except that a poll will be taken in any case where:
 - (i) it is required by this Deed Poll or by law that the question be decided by a majority which is to be measured by a percentage of the votes cast by those present; or
 - (ii) either before or immediately after any question is put to a show of hands a poll is demanded by the chair of the Meeting, BEN, or Holders of Capital Notes, present personally or by proxy, representative or attorney, holding or representing by proxy, representative or attorney at least 5% of the outstanding principal amount of Capital Notes.
- (b) Unless a poll is demanded in accordance with paragraph 6.1(a) of this Schedule 2, a declaration by the chair of a Meeting that a resolution has been carried, carried by a particular majority or lost is conclusive evidence of the fact.
- (c) If a poll is demanded in accordance with paragraph 6.1(a) of this Schedule 2:
 - (i) a poll demanded on the election of the chair of the Meeting or on a question of adjournment of a Meeting must be taken at the Meeting without adjournment;

- (ii) a poll demanded on any question other than on the election of the chair of the Meeting or on a question of adjournment of a Meeting must be taken either immediately or at such other time and date (not being more than 30 days from the date of the meeting) and place as the chair of the Meeting may direct;
- (iii) it must be taken in such manner as the chair of the Meeting may direct;
- (iv) the demand for a poll may be withdrawn by the person who demanded it;
- (v) the demand for a poll does not discontinue the Meeting except to decide the question for which the poll is demanded; and
- (vi) the result of the poll is regarded as a resolution of the Meeting.

6.2 Number of votes

- (a) Except where paragraph 6 of this Schedule 2 provides otherwise:
 - (i) on a show of hands each Holder present personally or by proxy, attorney or representative with the right to vote at that Meeting has one vote; and
 - (ii) on a poll each Holder present personally or by proxy, attorney or representative with a right to vote at that Meeting is entitled to one vote for each Capital Note.
- (b) In the case of equality of votes, whether on a show of hands or on a poll, the chair of a Meeting has a casting vote in addition to the vote or votes (if any) to which the chair is otherwise entitled.

6.3 Voting by joint holders

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

6.4 Voting by corporation

- (a) A corporation who is a Holder may vote through a representative authorised in writing.
- (b) The corporation's representative is regarded as a Holder and has the same rights as a Holder.

6.5 Voting by person of unsound mind

If a Holder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Holder's committee or other person who properly has the management of the Holder's estate may exercise any rights of the Holder in relation to a Meeting as if the committee or other person were the Holder.

6.6 Objection to voter's qualification

- (a) An objection may be raised to the qualification of a voter only at the Meeting where the vote objected to is given or tendered.
- (b) An objection must be referred to the chair of the Meeting, whose decision is final.
- (c) The chair of the Meeting may consult with any representative of BEN present at the Meeting.
- (d) A vote to which no objection is raised, or a vote to which an objection is raised that is allowed at a Meeting by the chair of the Meeting, is valid for all purposes.

7 Proxies

7.1 Right to appoint proxy

A Holder is entitled to appoint another person as their proxy to attend and vote at a Meeting. Any person including a Holder may act as a proxy, and that proxy has the same rights as the appointer to vote whether on a show of hands, to speak, and be reckoned in the quorum.

7.2 Proxy Instruments

- (a) An instrument of proxy may be in the usual common form or in such other form as BEN approves. A proxy is deemed to include the right to demand or join in demanding a poll. A proxy is (unless the contrary is stated on it) valid for any adjournment of the meeting as well as the for the meeting to which it relates.
- (b) If the appointer of a proxy is an individual, the instrument of appointment must be in writing and signed by the appointer or the appointer's attorney duly authorised in writing.
- (c) If the appointer of a proxy is a corporation, the instrument of appointment must be:
 - (i) under its common seal or in accordance with section 127 of the Corporations Act; or
 - (ii) under the hand of an officer or attorney who has been duly authorised by the corporation.

7.3 Proxy voting authority to be deposited with BEN

- (a) The instrument appointing a proxy or a copy of it and the original or a duly certified copy of the power of attorney or authority under which it is signed or a duly certified copy of it must be deposited at such place as BEN may in the notice convening the meeting direct (or if no such place is appointed, then at the address of BEN in accordance with clause 12) at least 48 hours, or any shorter period determined by BEN from time to time, before the time appointed for the Meeting or adjourned Meeting at which the proxy proposes to vote or for the taking of the poll at which the person named in the instrument proposes to vote.
- (b) If paragraph 7.3(a) of this Schedule 2 is not complied with, the proxy is invalid.
- (c) An instrument appointing a proxy is only valid for 12 months from its execution date.
- (d) To revoke or amend a proxy, a notice of revocation or amendment of a proxy must be received from the Holder by BEN not less than 24 hours before the time appointed for the holding of the relevant meeting or the taking of the relevant poll.

7.4 Effect of death or insanity on vote under proxy

- (a) A vote given under an instrument of proxy is valid even though the principal is insane at the time, has died or has revoked the proxy or the authority under which the proxy was executed.
- (b) Paragraph 7.4(a) of this Schedule 2 does not apply if BEN has notice in writing of the death, insanity or revocation before the Meeting at which the proxy is to be used.

8 Resolution by Postal Ballot

- (a) Any resolution of Holders may be passed by the Holders completing, signing and returning copies of a written resolution, which has been sent by BEN, within a period specified by BEN.

- (b) In respect of a resolution contemplated by paragraph 8(a) of this Schedule 2, without limiting paragraph 6.3 of this Schedule 2, each Holder is entitled to have one vote for each Capital Note held.

9 Effect of resolution

A resolution passed in accordance with this Deed Poll is binding upon all the Holders, and each Holder is bound to give effect to such resolution.

10 Minutes

- (a) The chair of a Meeting must ensure that minutes of proceedings and all resolutions at the Meeting are taken and entered in a minute book provided by BEN or the Registrar.
- (b) Minutes of any resolution that is passed in accordance with paragraph 8(a) of this Schedule 2 must be duly entered by BEN or the Registrar in a minute book.
- (c) Unless the contrary is proved, the signature by:
 - (i) in the case of minutes of a Meeting, the chair of the Meeting or the chair of the next succeeding Meeting of minutes of the Meeting; or
 - (ii) in the case of a resolution that is passed in accordance with paragraph 8(a) of this Schedule 2, a director or secretary of BEN or the Registrar (as the case may be) of minutes of the resolution,

is conclusive evidence of the matters stated in the minutes, and all resolutions passed and (in the case of a Meeting) all proceedings transacted at that meeting are deemed to have been duly passed and transacted.

11 Powers of Holders

- (a) Without limiting the powers of the Holders under the Terms, the Holders may by Special Resolution:
 - (i) sanction the release by BEN from any obligation under this Deed Poll or the Capital Notes;
 - (ii) sanction any proposal by BEN for the exchange or substitution for the Capital Notes, or the conversion of the Capital Notes into, other obligations or securities of BEN or any other body corporate formed or to be formed (other than where such exchange, substitution or conversion is provided for in the Terms);
 - (iii) sanction agreement by BEN to any amendment to, compromise of, or arrangement in respect of, any of the rights of all the Holders against BEN;
 - (iv) consent to any amendment of the Terms approved by BEN in accordance with clause 14.4 of the Terms;
 - (v) authorise BEN to undertake a Restricted Action as contemplated by clause 2.7 of the Terms;
 - (vi) authorise BEN to agree to the postponement of the repayment of the Face Value in respect of any part of Capital Notes beyond their due dates and to the suspension or postponement of the payment of Distributions on any part of Capital Notes;
 - (vii) authorise BEN to sanction on behalf of all the Holders any scheme for reconstruction of BEN or for the amalgamation of BEN with any other corporation;

- (viii) authorise BEN to accept on behalf of the Holders any other property or securities instead of any part of the Holder's rights and in particular any debt securities of BEN; and
 - (ix) waive, release or authorise any breach, default or proposed breach or default by BEN;
 - (x) authorise any person to concur in and do anything necessary to carry out and give effect to a Special Resolution;
 - (xi) appoint any persons (whether Holders or not) as a committee or committees to represent the interests of Holders and to confer upon such committee or committees any powers or discretions which the Holders could themselves exercise by Special Resolution; and
 - (xii) approve any proposal by BEN for the alteration of the majority required to pass a Special Resolution.
- (b) A Holders may, by Ordinary Resolution, do anything for which a Special Resolution is not required.
- (c) BEN may only take action, including with respect to any of the paragraphs of paragraphs 11(a) and (b) of this Schedule 2, if where required BEN has obtained APRA's prior written approval (APRA's approval is required where the proposed modification or waiver may affect the capital treatment of Capital Notes under APRA's prudential standards).

12 Further procedures

BEN may prescribe further regulations for the holding of, attendance and voting at Meetings or by postal ballot as are necessary or desirable and do not adversely affect the interests of the Holders.

Executed and delivered as a Deed Poll in Victoria.


Executed as a deed in accordance with
section 127 of the *Corporations Act 2001* by
Bendigo and Adelaide Bank Limited:



Director Signature

MARNIE BAKER

Print Name



~~Director~~/Secretary Signature

CARMEN LUNDERSTEDT

Print Name