

EXECUTION VERSION

## AUSTRALIAN DEED POLL

4 DECEMBER 2014

THE BANK OF NOVA SCOTIA

U.S.\$15,000,000,000

GLOBAL REGISTERED COVERED BOND PROGRAM

unconditionally and irrevocably guaranteed as to payments of principal and interest by  
SCOTIABANK COVERED BOND GUARANTOR LIMITED PARTNERSHIP

*The Australian Covered Bonds have not been, and will not be, registered under the U.S. Securities Act of 1933 as amended ("Securities Act") or the securities laws of any state of the United States or any other jurisdiction. The Australian Covered Bonds may not be offered or sold at any time within the United States or to, or for the account or benefit of, U.S. persons (within the meaning of Regulation S under the Securities Act), unless the Australian Covered Bonds are registered under the Securities Act or an exemption from the registration requirements of the Securities Act is available and other than in accordance with all applicable securities laws of any state of the United States and each other jurisdiction in which the Australian Covered Bonds are offered or sold.*

*Neither The Bank of Nova Scotia nor Scotiabank Covered Bond Guarantor Limited Partnership is a bank or an authorised deposit-taking institution authorised to carry on banking business under the Banking Act 1959 of Australia nor are either of them supervised by the Australian Prudential Regulation Authority. The Australian Covered Bonds are neither "protected accounts" nor "deposit liabilities" within the meaning of the Banking Act 1959 of Australia. The Australian Covered Bonds are not obligations of the Australian Government or any other government and, in particular, are not guaranteed by the Commonwealth of Australia.*

*Any offer for the issue, any invitation to apply for the issue, and any offer for sale of, and any invitation for offers to purchase, the Australian Covered Bonds in, or into, Australia (i) must be for an aggregate consideration payable, by each person on acceptance of the offer or application (as the case may be) of at least A\$500,000 (or its equivalent in other currencies, disregarding moneys lent by the offeror or its associates) or does not otherwise require disclosure to investors under Part 6D.2 or Part 7.9 of the Corporations Act 2001 (Cth); (ii) must not be made to a "retail client" (as defined in section 761G of the Corporations Act) 2001 (Cth); (iii) must be made in compliance with Banking (Exemption) Order No. 82 dated 23 September 1996 promulgated by the Assistant Treasurer of Australia as if it applied to the Issuer mutatis mutandis and (iv) must comply with all applicable laws, regulations and directives in Australia.*

**ALLEN & OVERY**

Allen & Overy

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**THIS AUSTRALIAN DEED POLL** is made on 4 December 2014

**BY:**

- (1) **THE BANK OF NOVA SCOTIA**, a private limited company established under the laws of Canada, whose registered office is at Scotia Plaza, 44 King Street West, Toronto, Ontario M5H 1H1, Canada (the **Issuer**)

**IN FAVOUR OF:**

- (2) **THE PERSONS** for the time being and from time to time registered as holders of the Australian Covered Bonds referred to below (the **Holder**s) and in favour of the Bond Trustee, who holds the benefit of this deed poll (the **Australian Deed Poll**) on trust for itself and for the Holders pursuant to the Trust Deed (as defined below).

**WHEREAS:**

- (A) The Issuer has established a U.S.\$15,000,000,000 Global Registered Covered Bond Program (the **Program**) pursuant to which the Issuer may, from time to time, issue covered bonds.
- (B) The Issuer proposes to issue certain Series of registered uncertificated Australian dollar denominated covered bonds (**Australian Covered Bonds**) in the Australian domestic wholesale capital market under the Program.
- (C) In connection with the issue of Australian Covered Bonds under the Program, the Issuer has prepared an information memorandum dated 4 December 2014.
- (D) The Issuer, the Guarantor and the Bond Trustee have amended and restated the Trust Deed on or about the date of this Australian Deed Poll to (i) provide for the issuance of Australian Covered Bonds pursuant to this Australian Deed Poll and (ii) set out the terms and conditions of the Program applicable to the Australian Covered Bonds in Schedule 8 to the Trust Deed for each Series of Australian Covered Bonds. The Holders also have the benefit of, and are subject to, the Trust Deed.
- (E) Australian Covered Bonds will be issued in separate Series and will be constituted and owing under this Australian Deed Poll.
- (F) Each Series of Australian Covered Bonds will be subject to the terms of this Australian Deed Poll, the Trust Deed, the Terms and Conditions and the relevant Pricing Supplement.

**NOW THIS AUSTRALIAN DEED POLL WITNESSES** as follows:

**1. INTERPRETATION**

**1.1 Definitions**

All terms and expressions which have defined meanings in the Terms and Conditions shall have the same meanings in this Australian Deed Poll except where the context requires otherwise or unless otherwise stated. In addition, in this Australian Deed Poll the following expressions have the following meanings:

**Austraclear** means Austraclear Ltd (ABN 94 002 060 773);

**Austraclear Regulations** means the regulations and related operating procedures established from time to time by Austraclear for the conduct of the Austraclear System;

**Austraclear System** means the clearance and settlement system operated by Austraclear;

**Australian Dollars, AUD** and the sign **A\$** denote the lawful currency for the time being of the Commonwealth of Australia;

**Corporations Act** means the Australian Corporations Act (Cth) 2001;

**Information Memorandum** means the information memorandum dated 4 December 2014 or such other information memorandum which replaces that document and, in relation to any particular Series or Tranche of Australian Covered Bonds, the information memorandum specified in the relevant Pricing Supplement;

**Program Terms** mean the terms and conditions of the Program which are common to Covered Bonds issued under the Program and applicable to the Australian Covered Bonds, as set out in Schedule 8 to the Trust Deed;

**Terms and Conditions** means, in respect of an Australian Covered Bond, the terms and conditions as set out in Schedule 1 to this Australian Deed Poll applicable to such Australian Covered Bond as supplemented, amended, modified and/or replaced by the applicable Pricing Supplement, and any reference to a numbered Condition shall be construed accordingly; and

**Trust Deed** means the second amended and restated trust deed dated 4 December 2014, such trust deed as amended, supplemented or replaced, made between the Issuer, Scotiabank Covered Bond Guarantor Limited Partnership and Computershare Trust Company of Canada.

## **1.2 Clauses**

Any reference in this Australian Deed Poll to a Clause is, unless otherwise stated, to a clause of this Australian Deed Poll.

## **1.3 Other agreements**

All references in this Australian Deed Poll to an agreement, instrument or other document (including the Information Memorandum, the Trust Deed, the Agency Agreement (as supplemented by the Supplemental Agency Agreement) and the Transaction Documents) shall be construed as a reference to that agreement, instrument or other document as the same may be amended, supplemented, replaced or novated from time to time. In addition, in the context of any particular Tranche of Australian Covered Bonds, each reference in this Australian Deed Poll to the Information Memorandum shall be construed as a reference to the Information Memorandum as supplemented and/or amended by the relevant Pricing Supplement.

## **1.4 Legislation**

Any reference in this Australian Deed Poll to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been, or may from time to time be, amended or re-enacted.

## **1.5 Headings**

Headings and sub-headings are for ease of reference only and shall not affect the construction of this Australian Deed Poll.

## **1.6 Relationship with the Trust Deed**

This Australian Deed Poll supplements, and is ancillary to, the Trust Deed. Unless expressly provided otherwise in this Australian Deed Poll, in the event of any inconsistency between the provisions of this Australian Deed Poll and the provisions of the Trust Deed, or where compliance with a provision of this Australian Deed Poll would prevent compliance with a provision of the Trust Deed, the provisions of this Australian Deed Poll will prevail.

## **2. COVENANT TO PAY**

### **2.1 Creation**

The obligations of the Issuer under the Australian Covered Bonds are constituted by, and owing under, this Australian Deed Poll.

### **2.2 Undertaking to pay**

The Issuer unconditionally and irrevocably undertakes for the benefit of each Holder and the Bond Trustee, for the benefit of each Holder, to:

- (a) make all payments of principal and interest and any other amounts that may be payable in respect of each Australian Covered Bond held by the relevant Holder, as and when the Issuer is required to make those payments in accordance with the Terms and Conditions; and
- (b) observe, fulfil and comply with those provisions of this Australian Deed Poll, the Trust Deed, the Program Terms and the Terms and Conditions of that Australian Covered Bond which are expressed to be binding on it and to perform and observe the same.

## **3. FORM OF AUSTRALIAN COVERED BONDS AND STATUS**

### **3.1 Form of the Australian Covered Bond**

Each Australian Covered Bond in respect of a Series will be issued in registered uncertificated form upon entry of the details of that Australian Covered Bond into the Australian Register as contemplated by the Terms and Conditions.

### **3.2 Australian Covered Bond certificates**

No certificate will be issued in respect of the Australian Covered Bonds unless the Issuer determines that certificates should be available or it is required to do so pursuant to any applicable law or regulation.

### **3.3 Title**

The Australian Covered Bonds are constituted by this Australian Deed Poll and inscription in the Australian Register. Title to them is conclusively evidenced for all purposes by inscription in the Australian Register subject to rectification for fraud or error.

### **3.4 Status**

The Australian Covered Bonds of each Series constitute deposit liabilities of the Issuer for the purposes of the *Bank Act (Canada)* and, subject to any provision in the Terms and Conditions, will rank *pari passu* with all deposit liabilities of the Issuer without any preference among themselves and (save for any obligations required to be preferred by law) at least *pari passu* with all other present and future unsubordinated and unsecured obligations of the Issuer from time to time

outstanding. The Australian Covered Bonds will constitute a direct, unconditional, unsecured and unsubordinated obligation of the Issuer.

### **3.5 Australian Register**

The Issuer undertakes to appoint an Australian Agent under the Supplemental Agency Agreement and to ensure that the Australian Agent establishes and maintains during its term of appointment an Australian Register of Australian Covered Bonds in New South Wales (or such other place in Australia outside South Australia as the Issuer and the Australian Agent may agree).

### **3.6 Directions to hold documents**

Each Holder is taken to have irrevocably:

- (a) instructed the Issuer that this Australian Deed Poll is to be delivered to and held by the Australian Agent; and
- (b) appointed and authorised the Australian Agent to hold this Australian Deed Poll in New South Wales (or such other place in Australia as the Issuer and the Australian Agent may agree) on its behalf.

### **3.7 Copies of documents to Holders**

If a Holder requires a copy of this Australian Deed Poll in connection with any proceeding brought by that Holder before a court, authority, commission or arbitrator in relation to its rights in connection with an Australian Covered Bond, it may request a copy from the Australian Agent. If the Australian Agent receives a request, it must give the Holder a copy of this Australian Deed Poll (or ensure that the Holder is given a copy of this Australian Deed Poll) within 14 days after receiving the request.

### **3.8 Holders' acknowledgements to Austraclear and Australian Agent**

Where Austraclear is recorded in the Australian Register as the Holder, each person in whose Security Record (as defined in the Austraclear Regulations) an Australian Covered Bond is recorded is deemed to acknowledge in favour of the Australian Agent and Austraclear that:

- (a) the Australian Agent's decision to act as the registrar of the Australian Covered Bonds does not constitute a recommendation or endorsement by the Australian Agent or Austraclear in relation to the Australian Covered Bonds, but only indicates that the Australian Covered Bonds are considered by the Australian Agent to be compatible with the performance by it of its obligations as registrar under the Supplemental Agency Agreement; and
- (b) such person does not rely on any fact, matter or circumstance contrary to clause 3.8(a).

## **4. TRANSFER OF AUSTRALIAN COVERED BONDS**

### **4.1 No retail investors**

No offer or invitation may be made in respect of a transfer or issue of an Australian Covered Bond or interest in an Australian Covered Bond if:

- (a) the offer or invitation requires disclosure to investors under Part 6D.2 of the Corporations Act;

- (b) the offer or invitation is to a retail client for the purposes of Chapter 7 of the Corporations Act;
- (c) the offer or invitation does not comply with the Banking (Exemption) Order No. 82 dated 23 September 1996 promulgated by the Assistant Treasurer of Australia as if it applied to the Issuer *mutatis mutandis*; or
- (d) the offer or invitation does not comply with any applicable law or directive of the jurisdiction where it takes place.

Any transfer or issue of an Australian Covered Bond to a person which does not comply with this Clause 4.1 is void.

#### **4.2 Transfer of Australian Covered Bonds while lodged in Austraclear System**

Australian Covered Bonds lodged in the Austraclear System may only be transferred in accordance with the Austraclear Regulations.

#### **4.3 Transfer of Australian Covered Bonds while not lodged in Clearing System**

- (a) A transfer of any Australian Covered Bond which is not lodged in the Austraclear System is effective only upon the change in ownership of the relevant Australian Covered Bond being reflected in the Australian Register.
- (b) A Holder which wishes to transfer an Australian Covered Bond held by it which is not lodged in the Austraclear System must direct the Australian Agent to update the Australian Register to reflect the change in ownership of the relevant Australian Covered Bond by lodging with the Australian Agent a properly completed transfer and acceptance form (in such form as the Issuer and the Australian Agent approves in accordance with market practice at the relevant time) signed by the transferor and transferee. The Australian Agent may also require evidence to prove the identity of the transferor or the transferor's right to transfer the relevant Australian Covered Bond. The transfer takes effect when the transferee's name is entered on the Australian Register.

### **5. BENEFIT OF AUSTRALIAN DEED POLL**

#### **5.1 Deed Poll**

This Australian Deed Poll shall take effect as a deed poll for the benefit of the Bond Trustee and each person who from time to time is a Holder, notwithstanding that the Bond Trustee and such Holder may not be a party to this Australian Deed Poll or that this Australian Deed Poll may have been executed and delivered before such Holder has come into existence.

#### **5.2 Benefit**

This Australian Deed Poll shall enure to the benefit of the Bond Trustee and the Holders, each of which (subject to clause 6.2, the other provisions of this Australian Deed Poll and the Trust Deed) shall be entitled severally and independently to enforce this Australian Deed Poll against the Issuer.

#### **5.3 Assignment**

- (a) The Issuer shall not be entitled to assign or transfer all or any of its rights, benefits and obligations hereunder.

- (b) Each Holder is entitled to assign, transfer or otherwise deal with all or any of its rights and benefits under this Australian Deed Poll, subject to, and in accordance with, the Terms and Conditions.

#### **5.4 Notice of Terms and Conditions**

Holders shall be entitled to the benefit of and are deemed to have notice of and to have accepted this Australian Deed Poll, the Trust Deed, the Agency Agreement, each other Transaction Document, the Program Terms, the applicable Information Memorandum (including, but not limited to, any relevant Pricing Supplement) and the Terms and Conditions.

### **6. RIGHTS AND OBLIGATIONS OF HOLDERS**

#### **6.1 Proceedings, action and indemnification**

- (a) The Bond Trustee may take action to enforce the provisions of this Australian Deed Poll in the manner and circumstances provided for in the Trust Deed. However, the Bond Trustee shall not be bound to take any such enforcement proceedings except as specified in the Trust Deed.
- (b) Subject as provided herein and in the Trust Deed, only the Bond Trustee may enforce the provisions of this Australian Deed Poll. No Holder shall be entitled to proceed directly against the Issuer or the Guarantor to enforce the performance of any of the provisions of this Australian Deed Poll unless the Bond Trustee, having become bound as aforesaid to take proceedings, fails to do so within 30 days and such failure is continuing (in which case such Holder shall be entitled to take any such steps and proceedings as it shall deem necessary (other than the presentation of a petition for the winding up of, or for an administration order in respect of, the Issuer or the Guarantor) and in accordance with the Trust Deed).

#### **6.2 Holders bound**

The Holders and any person claiming through a Holder:

- (a) is taken to have notice of all the provisions of this Australian Deed Poll, the Trust Deed, the Agency Agreement (as supplemented by the Supplemental Agency Agreement), each other Transaction Document and the applicable Pricing Supplement; and
- (b) is bound by, and must perform its obligations expressed in, this Australian Deed Poll, the Trust Deed, the Agency Agreement, each other Transaction Document, the Program Terms and the Terms and Conditions.

#### **6.3 Meetings provisions**

The provisions relating to the meetings of Holders are set out in the Trust Deed and shall apply to all holders of Australian Covered Bonds.

### **7. SUBSTITUTION AND ADDITION OF ISSUER**

If a Subsidiary is substituted in place of the Issuer as the principal debtor under the Trust Deed, this Australian Deed Poll, the Australian Covered Bonds, and the Trust Deed in accordance with the provisions referred to in Article 21.3 (“Substitution”) of the Trust Deed:

- (a) such Subsidiary shall be deemed to have been substituted for the Issuer as Issuer under this Australian Deed Poll; and



- (b) the Issuer undertakes to guarantee the obligations of the Subsidiary under this Australian Deed Poll and the Australian Covered Bonds.

## 8. PARTIAL INVALIDITY

If at any time any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby.

## 9. NOTICES

### 9.1 Address for notices

All notices and other communications to the Issuer hereunder shall be made in writing (by letter, electronic mail or fax) and shall be sent to the Issuer at:

The Bank of Nova Scotia  
Scotia Plaza  
44 King Street West  
Toronto, Ontario M5H 1H1  
Canada

Email: christy.bunker@scotiabank.com

Fax: +1 416 945 4001

Attention: Christy Bunker

or to such other address, electronic mail address or fax number or for the attention of such other person or department as the Issuer has notified to the Holders in the manner prescribed for the giving of notices in connection with the Australian Covered Bonds.

### 9.2 Effectiveness

Every notice or other communication sent in accordance with Clause 9.1 (*Address for notices*) shall be effective upon receipt by the Issuer *provided, however, that* any such notice or other communication which would otherwise take effect after 4.00 p.m. on any particular day shall not take effect until 10.00 a.m. on the immediately succeeding business day in the place of the Issuer.

## 10. GOVERNING LAW

### 10.1 Governing law and jurisdiction

- (a) This Australian Deed Poll shall be governed by, and construed in accordance with, the laws applying in the State of New South Wales, Australia.
- (b) The Issuer irrevocably agrees that the courts of the State of New South Wales, Australia are to have jurisdiction to settle any disputes which may arise out of or in connection with this Australian Deed Poll and accordingly any suit, action or proceedings (**Proceedings**) arising out of or in connection with this Australian Deed Poll may be brought in such courts. The Issuer irrevocably waives any objection which it may have to the laying of the venue of any Proceedings in any such courts and any claim that any Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any Proceedings

brought in the courts of the State of New South Wales, Australia shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction. Nothing contained in this clause shall limit any right to take Proceedings against the Issuer in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

- (c) The Issuer irrevocably and unconditionally: (a) agrees not to claim any immunity from Proceedings brought against it in relation to this Australian Deed Poll and to ensure that no such claim is made on its behalf; (b) consents generally to the giving of any relief or the issue of any process in connection with those Proceedings; and (c) waives all rights of immunity in respect of it or its assets.

## **10.2 Serving documents and agent for service**

- (a) The Issuer irrevocably and unconditionally appoints AET SPV Management Pty Ltd (ABN 67 088 261 349) for the time being and in the event of its ceasing so to act will appoint such other person to accept service of process on its behalf in New South Wales, Australia in respect of any Proceedings.
- (b) The Issuer:
  - (i) agrees that a failure by any such person to give notice of such service or process to the Issuer shall not impair the validity of such service or of any judgment based thereon; and
  - (ii) agrees that nothing in this Australian Deed Poll shall affect the right to serve process in any other manner permitted by law.

## **10.3 Prohibition and enforceability**

- (a) Any provision of, or the application of any provision of, this Australian Deed Poll, or any right, power, authority, discretion or remedy conferred on any person by this Australian Deed Poll which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Australian Deed Poll which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

## **10.4 Variation**

- (a) Subject to Article 21.2 and Article 21.5 of the Trust Deed, the Issuer may vary any term of this Australian Deed Poll or the Terms and Conditions applicable to any Australian Covered Bonds by executing a supplemental deed poll setting out the variation, but any such variation which affects any Australian Covered Bonds already in issue or the rights or obligations of the Bond Trustee and/or any Holder in respect of any Australian Covered Bond already in issue shall (unless the applicable Terms and Conditions or the Trust Deed permit such variation without such consent) require the prior consent of the Bond Trustee and the Guarantor which may only be given in accordance with the provisions of the Trust Deed.

**IN WITNESS** whereof this Australian Deed Poll has been executed as a deed poll by the Issuer and is intended to be and is hereby delivered on the date which appears first on page 1.

**EXECUTED, SEALED and DELIVERED as a DEED**

by **THE BANK OF NOVA SCOTIA**  
acting under the authority of that company  
in the presence of:

)  
) /s/ Jeffrey Heath  
)

Witness's signature: /s/ Christy Bunker

Name: Christy Bunker

Address: 40 King Street West, Toronto, Ontario, Canada

Occupation: Managing Director, Secured & Capital Funding

and in the presence of:

) /s/ Nives Gaiotto

Witness's signature: /s/ Martha Hundert

Name: Martha Hundert

Address: 40 King Street West, Toronto, Ontario, Canada

Occupation: Senior Legal Counsel

**SCHEDULE 1**

**TERMS AND CONDITIONS OF AUSTRALIAN COVERED BONDS**

## TERMS AND CONDITIONS OF THE AUSTRALIAN COVERED BONDS

*The following are the terms and conditions of the Australian Covered Bonds (the "**Terms and Conditions**" or the "**Conditions**"), which as supplemented, modified or replaced in relation to any Australian Covered Bonds by the applicable Pricing Supplement in relation to any Tranche of Australian Covered Bonds, will be applicable to each Series of Australian Covered Bonds issued under the Australian Deed Poll unless otherwise specified in the applicable Pricing Supplement. To avoid doubt these Terms and Conditions do not apply to any other Covered Bonds.*

These Terms and Conditions apply to those Covered Bonds, known as "**Australian Covered Bonds**", which are issued in registered uncertificated (or inscribed) form by The Bank of Nova Scotia (the "**Issuer**" or the "**Bank**") as part of the Issuer's Global Registered Covered Bond program (the "**Program**") and are constituted by the Deed Poll made by the Issuer dated 4 December 2014 (such deed poll as modified and/or supplemented and/or restated from time to time, the "**Australian Deed Poll**"). The Australian Covered Bonds are also issued with the benefit of, and subject to, the "**Program Terms**" set out in the Australian Information Memorandum (as defined below).

The Australian Covered Bonds take the form of entries in a register (the "**Australian Register**") established and maintained by BTA Institutional Services Australia Limited (ABN 48 022 916 396) (or such other registrar as is specified in the relevant Pricing Supplement or appointed in accordance with the Terms and Conditions or the Agency Agreement (defined below)) (the "**Australian Agent**") in Sydney, New South Wales, Australia or such other place in Australia as is agreed between the Issuer and the Australian Agent.

The Holders of the Australian Covered Bonds (as defined below) have the benefit of and are subject to:

- (a) a second amended and restated trust deed dated 4 December 2014 (such trust deed as amended, supplemented or replaced, the "**Trust Deed**") made between the Issuer, Scotiabank Covered Bond Guarantor Limited Partnership as guarantor (the "**Guarantor**") and Computershare Trust Company of Canada, as bond trustee (in such capacity, the "**Bond Trustee**" which expression shall include any successor as bond trustee); and
- (b) an amended and restated agency agreement dated as of 24 September 2013 (such agency agreement as amended, replaced or supplemented (including as supplemented by the Supplemental Agency Agreement (as defined below)), the "**Agency Agreement**") and made between the Issuer, the Guarantor, the Bond Trustee, The Bank of Nova Scotia, London Branch and The Bank of Nova Scotia - New York Agency and the other agents named therein and supplemented in relation to the Australian Covered Bonds by a supplemental agency agreement dated as of 4 December 2014 in respect of Australian Covered Bonds (the "**Supplemental Agency Agreement**") made between the Issuer and the Australian Agent pursuant to which the Australian Agent has been appointed to act as registrar and issuing and paying agent in respect of Australian Covered Bonds and, for greater certainty, pursuant to which it is confirmed that the other registrars, issuing agents, paying agents, transfer agents, exchange agents and calculation agents named therein do not act in any capacity in relation to the Australian Covered Bonds.

The Pricing Supplement may specify any other agency agreement that applies to Australian Covered Bonds issued by the Issuer.

In respect of any Australian Covered Bonds, references herein to these "Terms and Conditions" are to these terms and conditions as supplemented or modified or (to the extent thereof) replaced by the Pricing Supplement and any reference herein to a "**Condition**" is a reference to the relevant Condition of the Terms and Conditions of the relevant Australian Covered Bonds.

The Bond Trustee acts for the benefit of the holders for the time being of the Australian Covered Bonds (the "**Holders**" or "**Holders of the Australian Covered Bonds**", which expression shall, in relation to any Australian Covered Bonds, mean the persons whose names are for the time being entered in the Australian Register as the Holders of the Australian Covered Bonds (notwithstanding that such person may be the operator of a clearing system who holds the Australian Covered Bonds on behalf of the accountholders in that system)) and for holders of each other series of Covered Bonds in accordance with the provisions of the Trust Deed.

As used herein, "**Tranche**" means Australian Covered Bonds which are identical in all respects (including as to listing and admission to trading) and "**Series**" means a Tranche of Australian Covered Bonds together with any further Tranche or Tranches of Australian Covered Bonds which are (i) expressed to be consolidated and form a single series, and (ii) identical in all respects (including as to listing and admission to trading) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices.

The Guarantor has, in the Trust Deed, irrevocably and unconditionally guaranteed payment of Guaranteed Amounts in respect of the Australian Covered Bonds as and when the same will become Due for Payment, but only after service of a Notice to Pay on the Guarantor following service of an Issuer Acceleration Notice on the Issuer (after the occurrence of an Issuer Event of Default) or service of a Guarantor Acceleration Notice on the Guarantor (after the occurrence of a Guarantor Event of Default) and subject to the applicable Priorities of Payments. The recourse of the Covered Bondholders to the Guarantor under the Covered Bond Guarantee will be limited to the Charged Property and will be subject to the applicable Priorities of Payments.

The security for the obligations of the Guarantor under the Covered Bond Guarantee and the other Transaction Documents to which it is a party has been created in and pursuant to, and on the terms set out in, an amended and restated security agreement dated 24 September 2013 and made between the Guarantor, the Bond Trustee, and certain other Secured Creditors (such security agreement as amended and/or supplemented and/or restated from time to time, the "**Security Agreement**"). The obligations of the Guarantor are secured against the Charged Property and recourse against the Guarantor is limited to the Charged Property and is subject to the applicable Priorities of Payments.

These Terms and Conditions include summaries of, and are subject to, certain provisions of the Trust Deed, the Australian Deed Poll, the Security Agreement and the Agency Agreement and the other Transaction Documents.

Copies of the Trust Deed, the Australian Deed Poll, the Security Agreement, the Master Definitions and Construction Agreement (as defined below), the Agency Agreement, the Information Memorandum, the Program Prospectus and each of the other Transaction Documents (other than the Program Agreement and any subscription agreements) are available for inspection during normal business hours at the registered office for the time being of the Australian Agent. Copies of the applicable Pricing Supplement of all Australian Covered Bonds of each Series (including in relation to unlisted Australian Covered Bonds of any Series) are obtainable during normal business hours of the specified office of the Australian Agent, by any Holder of the Australian Covered Bonds or person in whose security record the Australian Covered Bonds are credited within the Austraclear System (a "**Relevant Account Holder**") subject to producing evidence satisfactory to the Issuer and the Bond Trustee or, as the case may be, the Australian Agent as to its holding of each Australian Covered Bond and identity. The Holders of the Australian Covered Bonds are deemed to have notice of, are bound by, and are entitled to the benefit of, all the provisions of, and definitions contained in, the Trust Deed, the Australian Deed Poll, the Security Agreement, the Master Definitions and Construction Agreement, the Agency Agreement, each of the other Transaction Documents (other than any dealer agreements and any subscription agreements) and the applicable Pricing Supplement.

Except where the context otherwise requires, capitalised terms used and not otherwise defined in these Terms and Conditions shall bear the meanings given to them in the Trust Deed, the applicable Pricing Supplement and/or the Master Definitions and Construction Agreement made between the parties to the Transaction Documents on 24 September 2013, as amended by the amending agreements dated as of 10 July 2014, 15 August 2014 and 4 December 2014 (as the same may be amended and/or supplemented and/or restated from

time to time, the “**Master Definitions and Construction Agreement**”), a copy of each of which may be obtained as described above.

*Text included in these Terms and Conditions in italics is included for information purposes only and does not form part of these Terms and Conditions. Further information in relation to the Australian Covered Bonds and the Program may be found in the Information Memorandum dated 4 December 2014 (the “**Australian Information Memorandum**”) and the Program prospectus dated 22 January 2014, as supplemented by the first supplementary prospectus dated 5 March 2014, the second supplementary prospectus dated 6 March 2014, the third supplementary prospectus dated 22 May 2014, the fourth supplementary prospectus dated 28 May 2014, the fifth supplementary prospectus dated 28 August 2014, the sixth supplementary prospectus dated 29 August 2014 and the seventh supplementary prospectus dated 20 November 2014 (the “**Program Prospectus**”), which is annexed to and deemed to be incorporated in, and form part of, the Australian Information Memorandum.*

## **1. Form, Denomination and Title**

Australian Covered Bonds are issued in registered form and will not be serially numbered, unless otherwise agreed between the Issuer and the Australian Agent. No certificate or other evidence of title will be issued by or on behalf of the Issuer to evidence title to an Australian Covered Bond unless the Issuer determines that certificates should be made available or it is required to do so pursuant to any applicable Law or regulation.

Each entry in the Australian Register constitutes a separate and individual acknowledgement to the Bond Trustee on behalf of, and to, the relevant Holder of the indebtedness of the Issuer to the relevant Holder. The obligations of the Issuer in respect of each Australian Covered Bond constitute separate and independent obligations which the Holder to whom those obligations are owed and the Bond Trustee are entitled to enforce in accordance with (and subject to) these Conditions, the Trust Deed and the Australian Deed Poll without having to join any other Holder or any predecessor in title of a Holder.

The Australian Covered Bond is a Fixed Rate Australian Covered Bond or a Floating Rate Australian Covered Bond, depending on the Interest Basis specified in the applicable Pricing Supplement.

Australian Covered Bonds are issued in the Specified Denominations specified in the Pricing Supplement.

The Australian Covered Bonds are denominated in Australian dollars.

Title to Australian Covered Bonds passes upon entry of the transfer in the Australian Register. The Issuer shall procure that the Australian Agent keep a register or registers in which shall be entered the names and addresses of the Holders of Australian Covered Bonds and particulars of the Australian Covered Bonds held by them, together with such other details as are required to be shown on the Australian Register by, or for the effective operation of, these Terms and Conditions, by the Agency Agreement, by Law or which the Issuer and Australian Agent determine should be shown in the Australian Register.

The Australian Covered Bonds are debt obligations of the Issuer owing under the Australian Deed Poll and take the form of entries in the Australian Register. The Holders of Australian Covered Bonds also have the benefit of, and are subject to, certain provisions set forth in the Trust Deed. Each entry in the Australian Register constitutes a separate and individual acknowledgment to the Bond Trustee on behalf of, and to, the relevant Holder of Australian Covered Bonds of the indebtedness of the Issuer to the relevant Holder of Australian Covered Bonds.

The obligations of the Issuer to the Bond Trustee and each Holder of Australian Covered Bonds constitute separate and independent obligations which the Bond Trustee (or a Holder of Australian Covered Bonds in certain circumstances set out in the Trust Deed), is entitled to enforce in accordance with (and subject to) these Terms and Conditions, the Trust Deed and the Australian Deed Poll, without having to join any other Holder or any predecessor to title of a Holder.

Entries in the Australian Register in relation to an Australian Covered Bond constitute conclusive evidence that the person so entered is the registered owner of the Australian Covered Bond subject to rectification for fraud and error. No Australian Covered Bond will be registered in the name of more than four persons or in the name of an unincorporated association. Australian Covered Bonds registered in the name of more than one person are held by those persons as joint tenants.

Australian Covered Bonds will be registered by name only without reference to any trusteeship. The person registered in the Australian Register as a Holder of an Australian Covered Bond will be treated by the Issuer, the Bond Trustee and the Australian Agent as the absolute owner of that Australian Covered Bond and none of the Issuer, the Bond Trustee or the Australian Agent will, except as ordered by a court of competent jurisdiction or as required by Law, be obliged to take notice of any other claim to an Australian Covered Bond.

Upon a person acquiring title to any Australian Covered Bond by virtue of becoming registered as the Holder of that Australian Covered Bond, all rights and entitlements arising by virtue of the Australian Deed Poll, the Trust Deed, the Security Agreement, the Agency Agreement and each of the other Transaction Documents (except as otherwise required by applicable Law or regulatory requirement) in respect of that Australian Covered Bond vest absolutely in the registered owner of the Australian Covered Bond, such that no person who has previously been registered as the owner of the Australian Covered Bond has or is entitled to assert against the Issuer, the Bond Trustee or the Australian Agent or the registered Holder of the Australian Covered Bond for the time being and from time to time any rights, benefits or entitlements in respect of the Australian Covered Bond.

## **2. Transfer of Australian Covered Bonds**

An Australian Covered Bond may, upon the terms and subject to these Terms and Conditions, terms and conditions set forth in the Agency Agreement and as required by Law, be transferred in whole but not in part in accordance with this Condition 2. Unless lodged in Austraclear System, the Australian Covered Bonds will be transferable by duly completed and (if applicable) stamped transfer and acceptance forms in the form specified by, and obtainable from, the Australian Agent. Each transfer and acceptance form must be accompanied by such evidence (if any) as the Australian Agent may require to prove the title of the transferor or the transferor's right to transfer the Australian Covered Bond and be signed by both the transferor and the transferee. Any such transfer will be subject to such reasonable regulations as the Issuer and the Australian Agent may from time to time prescribe (the initial such regulations being set out in the Supplemental Agency Agreement). Interests in Australian Covered Bonds entered in the Austraclear System will be transferable only in accordance with the Austraclear Regulations.

The transferor of an Australian Covered Bond is deemed to remain the Holder of that Australian Covered Bond until the name of the transferee is entered in the Australian Register in respect of that Australian Covered Bond. Transfers will not be registered later than eight calendar days prior to the maturity date of the Australian Covered Bond.

Australian Covered Bonds may only be transferred if:

- (a) in the case of a transfer in, into or from Australia (including any transfer to or by a person in Australia or any transfer of Australian Covered Bonds entered in the Australian Register in Australia): (i) the aggregate consideration payable by the transferee at the time of transfer within Australia, is at least A\$500,000 (or the equivalent in another currency and in either case, disregarding moneys lent by the transferor or its associates to the transferee) or the offer or invitation giving rise to the transfer does not otherwise require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act; (ii) the transferee is not a "retail client" as defined in section 761G of the Corporations Act; and (iii) the transfer complies with Banking (Exemption) Order No. 82 dated 23 September 1996 promulgated by the Assistant Treasurer of Australia as if it applied to the Issuer *mutatis mutandis*; and
- (b) in all cases, the transfer is in compliance with all applicable laws, regulations or directives (including, without limitation, the laws of the jurisdiction in which the transfer takes place).



A transfer to an unincorporated association is not permitted.

Transfers will be registered without charge by or on behalf of the Issuer or the Australian Agent, but upon payment by the applicant of (or the giving by the applicant of such indemnity as the Issuer or the Australian Agent may require in respect of) any tax, duty or governmental charges (if any) which may be imposed in relation to the transfer.

A person becoming so entitled to an Australian Covered Bond as a consequence of the death or bankruptcy of a Holder of that Australian Covered Bond or a vesting order or a person administering the estate of a Holder of that Australian Covered Bond may, upon producing such evidence as to that entitlement or status as the Australian Agent considers sufficient, transfer the Australian Covered Bond or, if so entitled, become registered as the Holder of the Australian Covered Bond.

Where the transferor executes a transfer of less than all Australian Covered Bonds registered in its name, and the specific Australian Covered Bonds to be transferred are not identified, the Australian Agent may register the transfer in respect of such of the Australian Covered Bonds registered in the name of the transferor as the Australian Agent thinks fit, provided the aggregate principal amount of the Australian Covered Bonds registered as having been transferred equals the aggregate principal amount of the Australian Covered Bonds expressed to be transferred in the transfer.

### **3. Status of the Australian Covered Bonds and the Covered Bond Guarantee**

#### **3.1 Status of the Australian Covered Bonds**

The Australian Covered Bonds constitute deposit liabilities of the Issuer for purposes of the *Bank Act* (Canada) and will rank *pari passu* with all deposit liabilities of the Issuer without any preference among themselves and (save for any obligations required to be preferred by Law) at least *pari passu* with all other present and future unsubordinated and unsecured obligations of the Issuer from time to time outstanding.

The Australian Covered Bonds will not be deposits insured under the *Canada Deposit Insurance Corporation Act* or under any other government insurance scheme of any country.

The Australian Covered Bonds will constitute direct, unconditional, unsubordinated and unsecured obligations of the Issuer.

*Neither the Issuer nor the Guarantor is a bank or an authorised deposit-taking institution authorised to carry on banking business under the Banking Act 1959 of the Commonwealth of Australia (the "Australian Banking Act") nor are either of them supervised by the Australian Prudential Regulation Authority. The Australian Covered Bonds are neither "protected accounts" nor "deposit liabilities" within the meaning of the Australian Banking Act. The Australian Covered Bonds are not the obligations of any government and, in particular, are not guaranteed by the Commonwealth of Australia.*

#### **3.2 Status of the Covered Bond Guarantee**

Pursuant to the Trust Deed, the Australian Covered Bonds have the benefit of the Covered Bond Guarantee.

*For a description of the Covered Bond Guarantee see Program Term 1 on page 10 of the Australian Information Memorandum.*

### **4. Interest**

#### **4.1 Interest on Fixed Rate Australian Covered Bonds**

Each Fixed Rate Australian Covered Bond bears interest on its Principal Amount Outstanding (as defined in Condition 4.5, but subject to Condition 4.3) from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Rate(s) of Interest. Interest will be payable, subject as provided in these Terms and Conditions, in arrear on the Interest Payment Date(s) in each year up to (and including) the Final Maturity Date.

Except as provided in the applicable Pricing Supplement, the amount of interest payable on each Interest Payment Date in respect of the Interest Period (as defined in Condition 4.5) ending on (but excluding) such date will amount to the Fixed Coupon Amount. Payments of interest on any Interest Payment Date will, if so specified in the applicable Pricing Supplement, amount to the Broken Amount so specified.

Except where a Fixed Coupon Amount or Broken Amount is specified in the applicable Pricing Supplement, interest will be calculated in respect of any period by applying the Rate of Interest to the Calculation Amount, multiplying such sum by the applicable Day Count Fraction (as defined in Condition 4.5), and rounding the resultant figure to the nearest sub unit (as defined in Condition 4.5) of the relevant Specified Currency, half of any such sub unit being rounded upwards or otherwise in accordance with applicable market convention. Where the Specified Denomination of a Fixed Rate Australian Covered Bond in definitive form comprises more than one Calculation Amount, the amount of interest payable in respect of such Fixed Rate Australian Covered Bond will be the aggregate of the amounts (determined in the manner provided above) for each Calculation Amount comprising the Specified Denomination without any further rounding.

The applicable Pricing Supplement may provide that if the payment of the Final Redemption Amount of a Series of Fixed Rate Australian Covered Bonds on its Final Maturity Date is deferred until the applicable Extended Due for Payment Date in accordance with the Terms and Conditions, interest will accrue and be payable on the unpaid portion of the Final Redemption Amount up to the Extended Due for Payment Date at the Rate of Interest specified in the applicable Pricing Supplement which may provide that such Series of Fixed Rate Australian Covered Bonds will continue to bear interest at a Fixed Rate or at a Floating Rate despite the fact that interest accrued and was payable on such Australian Covered Bonds prior to the Final Maturity Date at a Fixed Rate.

#### **4.2 Interest on Floating Rate Australian Covered Bonds**

##### **(a) Interest Payment Dates**

Each Floating Rate Australian Covered Bond bears interest on its Principal Amount Outstanding (subject to Condition 4.3) from (and including) the Interest Commencement Date and such interest will be payable in arrear on either:

- (i) the Interest Payment Date(s) in each year specified in the applicable Pricing Supplement; or
- (ii) if no Interest Payment Date(s) is/are specified in the applicable Pricing Supplement, each date which falls the number of months or other period specified as the Interest Period in the applicable Pricing Supplement after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date,

each such date, an "**Interest Payment Date**".

Such interest will be payable in respect of each Interest Period.

##### **(b) Rate of Interest**

The Rate of Interest payable from time to time in respect of Floating Rate Australian Covered Bonds will be determined in the manner specified in the applicable Pricing Supplement.

- (i) ISDA Determination for Floating Rate Australian Covered Bonds

Where ISDA Determination is specified in the applicable Pricing Supplement as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the applicable Pricing Supplement) the Floating Rate Australian Covered Bond Margin (if any). For the purposes of this subparagraph (i), "**ISDA Rate**" for an Interest Period means a rate equal to the Floating Rate that would be determined by the Calculation Agent or other Person specified in the applicable Pricing Supplement under an interest rate swap transaction if the Australian Agent or that other Person were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the ISDA Definitions, and under which:

- (A) the Floating Rate Option is as specified in the applicable Pricing Supplement;
- (B) the Designated Maturity is the period specified in the applicable Pricing Supplement; and
- (C) unless otherwise stated in the applicable Pricing Supplement, the relevant Reset Date is the first day of that Interest Period.

For the purposes of this subparagraph (i), "Floating Rate", "Calculation Agent", "Floating Rate Option", "Margin", "Designated Maturity" and "Reset Date" have the meanings given to those terms in the ISDA Definitions.

(ii) Screen Rate Determination for Floating Rate Australian Covered Bonds

Where Screen Rate Determination is specified in the applicable Pricing Supplement as the manner in which the Rate of Interest is to be determined, the Rate of Interest for each Interest Period will, subject as provided below, be either:

- (A) the offered quotation (if there is only one quotation on the Relevant Screen Page); or
- (B) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage rate per annum) for the Reference Rate which appears or appear, as the case may be, on the Relevant Screen Page as at 11:00 a.m. (London time, in the case of LIBOR, or Brussels time, in the case of EURIBOR) on the Interest Determination Date in question plus or minus (as indicated in the applicable Pricing Supplement) the Floating Rate Australian Covered Bond Margin (if any), all as determined by the Calculation Agent. If five or more of such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) will be disregarded by the Australian Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations.

If the Relevant Screen Page is not available or if, in the case of this subparagraph (ii), no offered quotation appears or fewer than three offered quotations appear, in each case as at the Specified Time, the Australian Agent will request each of the Reference Banks to provide the Australian Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate at approximately the Specified Time on the Interest Determination Date in question. If two or more of the Reference Banks provide the Australian Agent with offered quotations, the Rate of Interest for the Interest Period will be the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations plus or minus (as appropriate) the Floating Rate Australian Covered Bond Margin (if any), all as determined by the Australian Agent.

If on any Interest Determination Date one only or none of the Reference Banks provides the Australian Agent with an offered quotation as provided in subparagraph (ii), the Rate of Interest for the relevant Interest Period will be the rate per annum which the Australian Agent determines as being the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the rates, as communicated to (and at the request of) the Australian Agent by the Reference Banks or any two or more of them, at which such Reference Banks offered, at approximately the Specified Time on the relevant Interest Determination Date, deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate by leading banks in the London interbank market (if the Reference Rate is LIBOR) or the Euro-zone interbank market (if the Reference Rate is EURIBOR) plus or minus (as appropriate) the Floating Rate Australian Covered Bond Margin (if any) or, if fewer than two of the Reference Banks provide the Australian Agent with offered rates, the offered rate for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, or the arithmetic mean (rounded as provided above) of the offered rates for deposits in the Specified Currency for a period equal to that which would have been used for the Reference Rate, at which, at approximately the Specified Time on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Issuer suitable for the purpose) informs the Australian Agent it is quoting to leading banks in the London interbank market (if the Reference Rate is LIBOR) or the Euro-zone interbank market (if the Reference Rate is EURIBOR) plus or minus (as appropriate) the Floating Rate Australian Covered Bond Margin (if any), provided that, if the Rate of Interest cannot be determined in accordance with the foregoing provisions of this section, the Rate of Interest will be determined as at the last preceding Interest Determination Date (though substituting, where a different Floating Rate Australian Covered Bond Margin is to be applied to the relevant Interest Period from that which applied to the last preceding Interest Period, the Floating Rate Covered Bond Margin relating to the relevant Interest Period in place of the Floating Rate Covered Bond Margin relating to that last preceding Interest Period).

If the Reference Rate from time to time in respect of Floating Rate Australian Covered Bonds is specified in the applicable Pricing Supplement as being other than LIBOR or EURIBOR, the Rate of Interest in respect of such Australian Covered Bonds will be determined as provided in the applicable Pricing Supplement.

(iii) Bank Bill Rate Australian Covered Bonds

If the Pricing Supplement specifies the Interest Rate applicable to the Australian Covered Bonds as being Bank Bill Rate, each Australian Covered Bond shall bear interest during each Interest Period at the relevant Bank Bill Rate plus or minus (as indicated in the applicable Pricing Supplement) the Margin (if any).

(c) Minimum Rate of Interest and/or Maximum Rate of Interest

If the applicable Pricing Supplement for a Floating Rate Australian Covered Bond specifies a Minimum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (b) above is less than such Minimum Rate of Interest, the Rate of Interest for such Interest Period will be such Minimum Rate of Interest.

If the applicable Pricing Supplement for a Floating Rate Australian Covered Bond specifies a Maximum Rate of Interest for any Interest Period, then, in the event that the Rate of Interest in respect of such Interest Period determined in accordance with the provisions of paragraph (b) above is greater than such Maximum Rate of Interest, the Rate of Interest for such Interest Period will be such Maximum Rate of Interest.

(d) Determination of Rate of Interest and Calculation of Interest Amounts

The Australian Agent will at or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest for the relevant Interest Period.

The Australian Agent will calculate the amount of interest (the "**Interest Amount**") payable on the Floating Rate Australian Covered Bonds for the relevant Interest Period by applying the Rate of Interest to the Calculation Amount and multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub unit of the relevant Specified Currency, half of any such sub unit being rounded upwards or otherwise in accordance with applicable market convention.

(e) Notification of Rate of Interest and Interest Amounts

The Australian Agent will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to the Issuer, the Guarantor, the Bond Trustee and to any stock exchange or other relevant competent authority or quotation system on which the relevant Floating Rate Australian Covered Bonds are for the time being listed, quoted and/or traded or by which they have been admitted to listing or trading and to be published in accordance with Condition 13 as soon as possible after their determination but in no event later than the fourth Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of an extension or shortening of the Interest Period. Any such amendment or alternative arrangements will be promptly notified to the Bond Trustee and each stock exchange or other relevant authority on which the relevant Floating Rate Australian Covered Bonds are for the time being listed, quoted and/or traded or by which they have been admitted to listing or trading and to Holders of the Australian Covered Bonds in accordance with Condition 13.

(f) Determination or Calculation by Bond Trustee

If for any reason at any relevant time after the Issue Date, the Australian Agent defaults in its obligation to determine the Rate of Interest or the Australian Agent defaults in its obligation to calculate any Interest Amount in accordance with subparagraph (b)(i) or (ii) above or as otherwise specified in the applicable Pricing Supplement, as the case may be, and in each case in accordance with paragraph (d) above, the Bond Trustee will determine the Rate of Interest at such rate as, in its absolute discretion (having such regard as it will think fit to the foregoing provisions of this Condition, but subject always to any Minimum Rate of Interest or Maximum Rate of Interest specified in the applicable Pricing Supplement), it will deem fair and reasonable in all the circumstances or, as the case may be, the Bond Trustee will calculate the Interest Amount(s) in such manner as it will deem fair and reasonable in all the circumstances. In making any such determination or calculation, the Bond Trustee may appoint and rely on a determination or calculation by a calculation agent (which will be an investment bank or other suitable entity of international repute). Each such determination or calculation will be deemed to have been made by the Australian Agent.

(g) Certificates to be Final

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition 4.2, whether by the Australian Agent or the Bond Trustee will (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Guarantor, the Australian Agent, the other Agents, the Bond Trustee and all Holders of Australian Covered Bonds and (in the absence of wilful default, negligence, bad faith or fraud) no liability to the Issuer, the Guarantor, Holders of Australian Covered Bonds will attach to the Australian Agent or the Bond Trustee in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

#### **4.3 Interest following a Notice to Pay**

If a Notice to Pay is served on the Guarantor, the Guarantor will, in accordance with the terms of the Trust Deed, pay Guaranteed Amounts corresponding to the amounts of interest described under Condition 4.1 or 4.2 (as the case may be) under the Covered Bond Guarantee in respect of the Australian Covered Bonds on the Original Due for Payment Dates and, if applicable, the Extended Due for Payment Date in accordance with the applicable Priorities of Payments.

#### 4.4 Accrual of interest

Interest (if any) will cease to accrue on each Australian Covered Bond (or in the case of the redemption of part only of an Australian Covered Bond, that part only of such Australian Covered Bond) on the due date for redemption thereof unless, upon due presentation thereof, payment of principal is improperly withheld or refused or unless default is otherwise made in respect of payment, in which event, interest will continue to accrue as provided in Condition 6.10.

#### 4.5 Business Day, Business Day Convention, Day Count Fractions and other adjustments

In these Terms and Conditions:

- (a) "**Austraclear Regulations**" means the rules and regulations, together with any instructions or directions, established by Austraclear (as amended or replaced from time to time) to govern the use of the Austraclear System.
- (b) "**Austraclear System**" means the system operated by Austraclear Ltd (ABN 94 002 060 773) ("**Austraclear**") for holding securities and the electronic recording and settling of transactions in those securities between members of that system.
- (c) "**Bank Bill Rate**" if specified in the Pricing Supplement, shall mean the average mid-rate for Bills (having the meaning that term has in the *Bills of Exchange Act 1909* of the Commonwealth of Australia) having a tenor closest to the Interest Period as displayed on the BBSW page (or any replacement page) of the Reuters Monitor System on the first day of that Interest Period as determined by the Calculation Agent. However, if the average mid-rate is not displayed by 10.30am on that day, or if it is displayed but the Calculation Agent determines that there is an obvious error in that rate, "Bank Bill Rate" means the rate determined by the Calculation Agent in good faith at approximately 10.30am on that day, having regard, to the extent possible, to the mid-rate of rates otherwise bid and offered for bank accepted Bills (as defined above) of that tenor at or around that time (including any displayed on the "BBSY" page of the Reuters Monitor System).
- (d) "**Business Day**" means any day (other than a Saturday, Sunday or public holiday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in Sydney, Australia and any Additional Business Centre specified in the applicable Pricing Supplement.
- (e) If a "**Business Day Convention**" is specified in the applicable Pricing Supplement and (x) if there is no numerically corresponding day in the calendar month in which an Interest Payment Date should occur, or (y) if any Interest Payment Date would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:
  - (i) in any case where Interest Periods are specified in accordance with Condition 4.2(a)(ii), the "**Floating Rate Convention**", such Interest Payment Date (1) in the case of (x) above, will be the last day that is a Business Day in the relevant month and the provisions of (II) below will apply *mutatis mutandis*, or (2) in the case of (y) above, will be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (I) such Interest Payment Date will be brought forward to the immediately preceding Business Day, and (II) each subsequent Interest Payment Date will be the last Business Day in

the month which falls on the Interest Period after the preceding applicable Interest Payment Date occurred; or

- (ii) the "**Following Business Day Convention**", such Interest Payment Date will be postponed to the next day which is a Business Day; or
  - (iii) the "**Modified Following Business Day Convention**", such Interest Payment Date will be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date will be brought forward to the immediately preceding Business Day; or
  - (iv) the "**Preceding Business Day Convention**", such Interest Payment Date will be brought forward to the immediately preceding Business Day.
- (f) "**Day Count Fraction**" means, in respect of the calculation of an amount of interest for any Interest Period:
- (i) if "Actual/Actual (ICMA)" is specified in the applicable Pricing Supplement, a fraction equal to "number of days accrued/number of days in year", as such terms are used in Rule 251 of the statutes, by-laws, rules and recommendations of the International Capital Market Association (the "**ICMA Rule Book**"), calculated in accordance with Rule 251 of the ICMA Rule Book as applied to non-U.S. Dollar denominated straight and convertible bonds issued after 31 December 1998, as though the interest coupon on a bond has been calculated for a coupon period corresponding to the Interest Period;
  - (ii) if "Actual/Actual or Actual/Actual (ISDA)" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366, and (ii) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365);
  - (iii) if "Actual/365 (Fixed)" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365;
  - (iv) if "Actual/365 (Sterling)" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 365 or, in the case of an Interest Payment Date falling in a leap year, 366;
  - (v) if "Actual/360" is specified in the applicable Pricing Supplement, the actual number of days in the Interest Period divided by 360;
  - (vi) if "30/360", "360/360" or "Bond Basis" is specified in the applicable Pricing Supplement, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Interest Period falls;

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

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

"M<sub>2</sub>" is the calendar month, expressed as number, in which the day immediately following the last day included in the Interest Period falls;

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

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

- (vii) if "30E/360" or "Eurobond Basis" is specified in the applicable Pricing Supplement, the number of days in the Interest Period divided by 360, calculated on a formula basis as follows:

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

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Interest Period falls;

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

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Interest Period falls;

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

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

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

- (viii) if "Australian Bond Basis" or "RBA Bond Basis" is specified in the applicable Pricing Supplement, one divided by the number of Interest Payment Dates in a year (or where the Determination Period does not constitute an Interest Period, the actual number of days in the Determination Period divided by 365 (or, if any portion of the Determination Period falls in a leap year, the sum of:

(A) the actual number of days in that portion of the Determination Period falling in a leap year divided by 366; and

(B) the actual number of days in that portion of the Determination Period falling in a non-leap year divided by 365)); or

- (ix) such other Day Count Fraction as may be specified in the applicable Pricing Supplement.

- (g) "**Determination Period**" means each period from (and including) a Determination Date to (but excluding) the next Determination Date (including, where either the Interest Commencement Date or



the final Interest Payment Date is not a Determination Date, the period commencing on the first Determination Date prior to, and ending on the first Determination Date falling after, such date).

- (h) **"Fixed Interest Period"** means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.
- (i) **"Interest Period"** means the period from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date.
- (j) **"Principal Amount Outstanding"** means, in respect of an Australian Covered Bond, on any day, the principal amount of that Australian Covered Bond on the relevant Issue Date thereof less principal amounts received by the relevant Holder in respect thereof on or prior to that day.
- (k) If "adjusted" is specified in the applicable Pricing Supplement against the Day Count Fraction, interest in respect of the relevant Interest Period will be payable in arrears on the relevant Interest Payment Date and calculated from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date, as such Interest Payment Date will, where applicable, be adjusted in accordance with the Business Day Convention.
- (l) If "not adjusted" is specified in the applicable Pricing Supplement against the Day Count Fraction, interest in respect of the relevant Interest Period will be payable in arrears on the relevant Interest Payment Date and calculated from (and including) an Interest Payment Date (or the Interest Commencement Date) to (but excluding) the next (or first) Interest Payment Date, but such Interest Payment Dates will not be adjusted in accordance with any Business Day Convention.
- (m) **"sub unit"** means the lowest amount of such currency that is available as legal tender in the country of such currency.

## 5. Payments

Payments of principal and interest in respect of Australian Covered Bonds will be made in Sydney in Australian dollars to, or to the order of, the persons who, on the relevant Record Date (as defined below), are registered as the Holders of such Australian Covered Bonds or (if so required by the Bond Trustee by notice in writing following the occurrence of an Issuer Event of Default, Potential Issuer Event of Default, Guarantor Event of Default or Potential Guarantor Event of Default in accordance with the Trust Deed or following receipt by the Bond Trustee of any money which it proposes to pay under Article 11 of the Trust Deed) to the Bond Trustee, subject in all cases to all applicable laws and regulations (without prejudice to Condition 8).

Payments to Holders in respect of the Australian Covered Bonds will be made: (i) if the Australian Covered Bond is held by Austraclear and entered in the Austraclear System, by crediting on the relevant Interest Payment Date, the Maturity Date or other date on which payment is due the amount then due to the account or accounts (which must be in Australia unless otherwise agreed by the Issuer) to which payments should be made in accordance with the Austraclear Regulations or as otherwise agreed with Austraclear; and (ii) if the Australian Covered Bond is not held by Austraclear and entered in the Austraclear System, by crediting on the Interest Payment Date, the Maturity Date or other date on which payment is due, the amount then due to an account (which must be in Australia) previously notified by the Holders of the Australian Covered Bond to the Issuer and the Australian Agent.

The Issuer is regarded as having made payment on an Australian Covered Bond to an account upon the giving of all necessary instructions for the transfer of the relevant funds to the account so long as: (a) the payment is actually made in accordance with such instructions; or (b) if instructions for the transfer are not given effect to in accordance with normal banking procedures because the account does not exist or is not an account to which the relevant payment may be made or because the details of the account do not match the details recorded in the Register, the Issuer cancels the transfer instruction and pays the relevant amount to an account in Australia

specified by the relevant Holder (net of any applicable deduction or withholding) upon being furnished by the Holder with appropriate account details and evidence of entitlement satisfactory to the Issuer and the Australian Agent.

If (after the application of any applicable business day convention) any day for payment in respect of any Australian Covered Bond is not a Business Day in the city in which the account is located, such payment shall not be made until the next following day which is a Business Day, and no further interest shall be paid in respect of the delay in such payment. No commissions or expenses shall be charged to the Holders of Australian Covered Bonds in respect of such delay.

Payments will be subject in all cases to (i) any fiscal or other laws and regulations applicable thereto but without prejudice to the provisions of Condition 7 and (ii) any withholding or deduction required pursuant to an agreement described in section 1471(b) of the U.S. Internal Revenue Code of 1986, as amended (the “Code”) or otherwise imposed pursuant to sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof or (without prejudice to the provisions of Condition 7), any Law implementing an intergovernmental approach thereto. If at any time payment in Australia is prohibited by Law, the Issuer will nominate another place outside Australia where payment is to be made.

In this Condition, “**Business Day**” means any day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, Australia; and “**Record Date**” means, in the case of payments of principal or interest, close of business in Sydney, Australia on the date which is the eighth business day before the due date of the relevant payment of principal or interest.

Payment of any amount to the Bond Trustee shall discharge the obligation of the Issuer to pay the corresponding amount to the Holder. The Issuer's obligation may also be discharged as provided in the Trust Deed.

No commissions or expenses shall be charged to the Holders of Australian Covered Bonds in respect of such payments.

Notwithstanding the foregoing, the relevant provisions relating to the payment of Australian Covered Bonds the terms of which permit the Issuer to pay and/or discharge its obligations with respect of such Australian Covered Bonds by the payment or delivery of securities and/or other property or any combination of cash, securities and/or other property shall be set forth in the applicable Pricing Supplement. Any such payment and/or discharge shall not in any way relieve the Guarantor from its obligations with respect to any other Series of Covered Bonds or directly or indirectly afford the Holders of Australian Covered Bonds any priority over any other Series of Covered Bonds in respect of the assets of the Issuer.

Any reference in these Terms and Conditions to principal in respect of the Covered Bonds will be deemed to include, as applicable:

- (a) any additional amounts which may be payable with respect to principal under Condition 7 or under any undertakings or covenants given in addition thereto, or in substitution therefor, pursuant to the Trust Deed;
- (b) the Final Redemption Amount of the Covered Bonds;
- (c) the Early Redemption Amount of the Covered Bonds, but excluding any amount of interest referred to therein;
- (d) the Optional Redemption Amount(s) (if any) of the Covered Bonds;
- (e) any premium and any other amounts (other than interest) which may be payable under or in respect of the Covered Bonds; and

- (f) any Excess Proceeds attributable to principal which may be deposited by the Bond Trustee into the GDA Account in respect of the Covered Bonds, and following a Guarantor Event of Default and service of a Guarantor Acceleration Notice deposited or paid in such other manner as the Bond Trustee may direct.

Any reference in these Terms and Conditions to interest in respect of the Covered Bonds will be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 7 or under any undertakings given in addition thereto, or in substitution therefor, pursuant to the Trust Deed.

## **6. Redemption and Purchase**

### **6.1 Final redemption**

Unless previously redeemed or purchased and cancelled as specified below, each Australian Covered Bond will be redeemed by the Issuer at its Final Redemption Amount specified in, or determined in the manner specified in, the applicable Pricing Supplement in the relevant Specified Currency on the Final Maturity Date.

Without prejudice to Program Term 3, if an Extended Due for Payment Date is specified in the applicable Pricing Supplement for a Series of Australian Covered Bonds and the Issuer has failed to pay the Final Redemption Amount on the Final Maturity Date specified in the Pricing Supplement (in each case after the expiry of the grace period set out in Program Term 3.1(a)) and following service of a Notice to Pay on the Guarantor by no later than the date falling one Business Day prior to the Extension Determination Date, the Guarantor has insufficient funds available under the Guarantee Priorities of Payments to pay the Guaranteed Amounts corresponding to the Final Redemption Amount in full in respect of the relevant Series of Australian Covered Bonds on the date falling on the earlier of (a) the date which falls two Toronto Business Days after service of a Notice to Pay on the Guarantor or, if later, the Final Maturity Date (in each case after the expiry of the grace period set out in Program Term 3.2(a)), and (b) the Extension Determination Date, under the Covered Bond Guarantee, then (subject as provided below) payment of the unpaid portion of the Final Redemption Amount by the Guarantor under the Covered Bond Guarantee will be deferred until the Extended Due for Payment Date, provided that any amount representing the Final Redemption Amount due and remaining unpaid on the earlier of (a) and (b) above will be paid by the Guarantor to the extent it has sufficient funds available under the Guarantee Priorities of Payments on any Interest Payment Date thereafter up to (and including) the relevant Extended Due for Payment Date.

The Issuer will confirm to the Australian Agent as soon as reasonably practicable and in any event at least four Business Days prior to the Final Maturity Date of a Series of Australian Covered Bonds whether (a) payment will be made in full of the Final Redemption Amount in respect of a Series of Australian Covered Bonds on that Final Maturity Date or (b) payment will not be made in full of the Final Redemption Amount in respect of a Series of Australian Covered Bonds on that Final Maturity Date. Any failure by the Issuer to notify the Australian Agent will not affect the validity or effectiveness of the extension.

The Guarantor will notify the relevant Holders (in accordance with Condition 13), the Rating Agencies, the Bond Trustee and the Australian Agent as soon as reasonably practicable and in any event at least one Business Day prior to the date specified in (a) or (b) of the second preceding paragraph (as appropriate) of any inability of the Guarantor to pay in full the Guaranteed Amounts corresponding to the Final Redemption Amount in respect of a Series of Australian Covered Bonds pursuant to the Covered Bond Guarantee. Any failure by the Guarantor to notify such parties will not affect the validity or effectiveness of the extension nor will any rights accrue to any of them by virtue thereof.

In the circumstances outlined above, the Guarantor will on the earlier of (a) the date falling two Toronto Business Days after service of a Notice to Pay or, if later, the Final Maturity Date (in each case after the expiry of the grace period set out in Program Term 3.2(a)), and (b) the Extension Determination Date, under the Covered Bond Guarantee, apply the funds (if any) available (after paying or providing for payment of higher ranking or *pari passu* amounts in accordance with the Guarantee Priorities of Payments) *pro rata* in part

payment of an amount equal to the Final Redemption Amount of each Australian Covered Bond of the relevant Series of Australian Covered Bonds and will pay Guaranteed Amounts constituting the corresponding part of Scheduled Interest in respect of each such Australian Covered Bond on such date. The obligation of the Guarantor under the Covered Bond Guarantee to pay any amounts in respect of the balance of the Final Redemption Amount not so paid will be deferred as described above. Such failure to pay by the Guarantor will not constitute a Guarantor Event of Default.

Any discharge of the obligations of the Issuer as a result of the payment of Excess Proceeds to the Bond Trustee will be disregarded for the purposes of determining the liabilities of the Guarantor under the Covered Bond Guarantee in connection with this Condition 6.1.

## **6.2 Redemption for taxation reasons**

The Australian Covered Bonds may be redeemed at the option of the Issuer in whole, but not in part, at any time (if the relevant Australian Covered Bond is not a Floating Rate Australian Covered Bond) or on any Interest Payment Date (if the relevant Australian Covered Bond is a Floating Rate Australian Covered Bond), on giving not less than 30 nor more than 60 days' notice to the Bond Trustee and, in accordance with Condition 13, the Holders (which notice will be irrevocable), if the Issuer satisfies the Bond Trustee immediately before the giving of such notice that on the occasion of the next date for payment of interest on the relevant Australian Covered Bonds, that the Issuer is or would be required to pay additional amounts as provided or referred to in Condition 7. Australian Covered Bonds redeemed pursuant to this Condition 6.2 will be redeemed at their Early Redemption Amount referred to in Condition 6.7 together (if appropriate) with interest accrued to (but excluding) the date of redemption.

## **6.3 Redemption at the option of the Issuer ("Issuer Call")**

If an Issuer Call is specified in the applicable Pricing Supplement, the Issuer may, having given not less than 15 nor more than 30 days' notice or such other period of notice as may be specified in the applicable Pricing Supplement to the Bond Trustee, the Australian Agent, the Registrar (in the case of the redemption of Registered Covered Bonds) and, in accordance with Condition 13, the Holders (which notice will be irrevocable) redeem all or only some of the Covered Bonds then outstanding on any Optional Redemption Date(s) and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the applicable Pricing Supplement together, if applicable, with interest accrued to (but excluding) the relevant Optional Redemption Date(s). The Issuer will be bound to redeem the Australian Covered Bonds on the date specified in such notice. In the event of a redemption of only some of the Australian Covered Bonds, such redemption must be of a nominal amount not less than the Minimum Redemption Amount and not more than the Maximum Redemption Amount (if any) as specified in the applicable Pricing Supplement. In the case of a partial redemption of Australian Covered Bonds, the Australian Covered Bonds to be redeemed (the "**Redeemed Australian Covered Bonds**") will be selected individually by lot not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the "**Selection Date**"). No exchange of the relevant Australian Covered Bond will be permitted during the period from (and including) the Selection Date to (and including) the date fixed for redemption pursuant to this Condition 6.3 and notice to that effect will be given by the Issuer to the Holders in accordance with Condition 13 at least five days (or such shorter period as is specified in the applicable Pricing Supplement) prior to the Selection Date.

## **6.4 Redemption at the option of the Covered Bondholders ("Investor Put")**

If an Investor Put is specified in the Pricing Supplement for an Australian Covered Bond, then if and to the extent specified in the applicable Pricing Supplement, upon the Holder giving to the Issuer, in accordance with Condition 13, not less than 30 nor more than 60 days' notice (which notice will be irrevocable), the Issuer will, upon the expiry of such notice provided that the Cash Manager has notified the Bond Trustee in writing that there will be sufficient funds available to pay any termination payment due to the Covered Bond Swap Provider, redeem subject to, and in accordance with, the terms specified in the applicable Pricing Supplement in whole (but not in part) such Australian Covered Bond on the Optional Redemption Date and at the relevant Optional

Redemption Amount as specified in, or determined in the manner specified in, the applicable Pricing Supplement, together, if applicable, with interest accrued to (but excluding) the relevant Optional Redemption Date.

To exercise the right to require redemption of an Australian Covered Bond, the Holder must deliver on any Business Day falling within the above mentioned notice period at the specified office of any Australian Agent a duly signed and completed notice of exercise of the Investor Put in the form (for the time being currently) obtainable from any specified office of any Australian Agent (a "**Put Notice**") and in which the holder must specify a bank account (or, if payment is by cheque, an address) to which payment is to be made under this Condition 6.4.

It may be that before an Investor Put can be exercised, certain conditions and/or circumstances will need to be satisfied. Where relevant, the provisions will be set out in the applicable Pricing Supplement.

#### **6.5 Redemption due to illegality or invalidity**

Pursuant to the Trust Deed, the Australian Covered Bonds are also redeemable at the option of the Issuer in certain circumstances where the Transaction Documents may not be lawfully performed. The Issuer is entitled to effect such redemption under these Conditions.

*For a description of these circumstances see Program Term 2.1 on page 10 of the Australian Information Memorandum.*

#### **6.6 General**

Prior to the publication of any notice of redemption pursuant to Conditions 6.2 or 6.5, the Issuer will deliver to the Bond Trustee a certificate signed by two Authorized Signatories stating that the Issuer is entitled or required to effect such redemption and setting forth a statement of facts showing that the conditions set out in Conditions 6.2 or, as the case may be, 6.5 for such right or obligation (as applicable) of the Issuer to arise have been satisfied and the Bond Trustee will be entitled to accept the certificate as sufficient evidence of the satisfaction of the conditions set out above, in which event it will be conclusive and binding on all Holders.

#### **6.7 Early Redemption Amounts**

For the purpose of Program Terms 2.1(a) and 3 and Conditions 6.2, each Australian Covered Bond will be redeemed (unless otherwise stated in the applicable Pricing Supplement) at its Early Redemption Amount calculated at the amount specified in, or determined in the manner specified in, the applicable Pricing Supplement or, if no such amount or manner is so specified in the applicable Pricing Supplement, at its Principal Amount Outstanding, together with interest accrued to (but excluding) the date fixed for redemption.

#### **6.8 Purchases**

The Issuer or any of its Subsidiaries, or the Guarantor, may at any time purchase or otherwise acquire Australian Covered Bonds at any price in the open market either by tender or private agreement or otherwise. If purchases are made by tender, tenders must be in accordance with the applicable Law in which the tender is being made. Such Australian Covered Bonds may be held, reissued, resold or, at the option of the Issuer or the relevant Subsidiary, cancelled (except that any Australian Covered Bonds purchased or otherwise acquired by the Guarantor must immediately be cancelled).

#### **6.9 Cancellation**

All Australian Covered Bonds which are redeemed will forthwith be cancelled. All Australian Covered Bonds so cancelled and any Australian Covered Bonds purchased or otherwise acquired and cancelled pursuant to Condition 6.8 cannot be reissued or resold.

## 6.10 Late Payment

If any amount payable in respect of any Australian Covered Bond is improperly withheld or refused upon its becoming due and payable or is paid after its due date, the amount due and payable in respect of such Australian Covered Bond (the "**Late Payment**") will itself accrue interest (both before and after any judgment or other order of a court of competent jurisdiction) from (and including) the date on which such payment was improperly withheld or refused or, as the case may be, became due, to (but excluding) the Late Payment Date in accordance with the rate determined in accordance with Condition 4.1 or 4.2, as the case may be, in each case on the basis of the Day Count Fraction specified in the applicable Pricing Supplement or, if none is specified, on a 30/360 basis.

For the purpose of this Condition 6.10, the "**Late Payment Date**" will mean the earlier of:

- (i) the date which the Bond Trustee determines to be the date on which, upon further presentation of the relevant Australian Covered Bond, payment of the full amount (including interest as aforesaid) in the relevant currency in respect of such Australian Covered Bond is to be made; and
- (ii) the seventh day after notice is given to the relevant Holder (whether individually or in accordance with Condition 13) that the full amount (including interest as aforesaid) in the relevant currency in respect of such Australian Covered Bond is available for payment,

provided that in the case of both (i) and (ii), upon further presentation thereof being duly made, such payment is made.

## 7. Taxation

All payments of principal and interest (if any) in respect of the Australian Covered Bonds by or on behalf of the Issuer or the Guarantor under the Covered Bond Guarantee, as the case may be, will be made without withholding or deduction for, or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature unless such withholding or deduction of such taxes, duties, assessments or governmental charges is required by Law or regulation or administrative practice of any jurisdiction.

In the event that any payments made by the Issuer are or become subject to a withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of (i) the Government of Canada or any province, territory or political division thereof or any authority or agency therein or thereof having power to tax, or (ii) in the case of Australian Covered Bonds issued by a branch of the Issuer located outside of Canada, the country in which such branch is located or any political subdivision thereof or any authority or agency therein or thereof having power to tax, in respect of any payment of principal and interest on the Australian Covered Bonds, the Issuer will pay such additional amounts as will be necessary in order that the net amounts received by the Holders after such withholding or deduction will equal the respective amounts of principal and interest, if any, which would otherwise have been receivable in respect of the Australian Covered Bonds, as the case may be, in the absence of such withholding or deduction; except that no such additional amounts will be payable with respect to any Australian Covered Bond presented for payment:

- (a) to, or to a third party on behalf of, a Holder who is liable to such taxes, duties, assessments or government charges in respect of such Australian Covered Bond by reason of such Holder having some connection with Canada or the jurisdiction imposing such tax otherwise than the mere holding of such Australian Covered Bond;
- (b) for which payment is made more than 30 days after the Relevant Date except to the extent that the Holder thereof would have been entitled to such additional amount on presenting the same for payment on or before such thirtieth day;

- (c) where such withholding or deduction is imposed on a payment and is required to be made pursuant to European Council Directive 2003/48/EC or any other Law implementing or complying with, or introduced in order to conform to, such Directive;
- (d) to, or to a third party on behalf of, a Holder of an Australian Covered Bond in respect of whom such tax, duty, assessment or governmental charge is required to be withheld or deducted by reason of such Holder of an Australian Covered Bond being a Person not dealing at arm's length (within the meaning of the Income Tax Act) with the Issuer; or
- (e) to, or to a third party on behalf of, a Holder who is liable for such taxes, duties, assessments or other charges by reason of such Holder's failure to comply with any certification, identification, documentation or other reporting requirement concerning the nationality, residence, identity or connection with Canada of such Holder, if (i) compliance is required by Law as a precondition to, exemption from, or reduction in the rate of, the tax, assessment or other charge and (ii) the Issuer has given such Holder or, if such Holder is not the beneficial owner of the Australian Covered Bond in question, the beneficial owner of such Australian Covered Bond at least 30 days' notice that such Holder or beneficial owner will be required to provide such certification, identification, documentation or other requirement.

As used herein, the "**Relevant Date**" means the date on which payment in respect of the Australian Covered Bond first becomes due and payable but, if the full amount of the funds payable on such date has not been received by the Australian Agent or the Bond Trustee on or prior to such date, the Relevant Date will be the date on which such funds will have been so received and notice to that effect has been given to Holders in accordance with Condition 13.

If any payments made by the Guarantor under the Covered Bond Guarantee are or become subject to any withholding or deduction on account of any taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of Canada, or in the case of Covered Bonds issued by a branch of the Issuer located outside of Canada, the country in which such branch is located or any political sub division thereof or by any authority therein or thereof having power to tax, the Guarantor will not be obliged to pay any additional amount as a consequence.

## **8. Prescription**

The Australian Covered Bonds will become void unless presented for payment within 10 years (in the case of principal) and five years (in the case of interest) in each case from the Relevant Date (as defined in Condition 7) therefor, subject in each case to the provisions of Condition 5.

The Issuer will be discharged from its obligation to pay interest on an Australian Covered Bond to the extent that a cheque which has been duly dispatched in the Specified Currency remains uncashed at the end of the period of five years from the Relevant Date in respect of such payment.

## **9. Events of Default, Acceleration and Enforcement**

Pursuant to the Trust Deed, the Holders may take, or require the Bond Trustee to take, certain actions provided for in the Trust Deed upon the occurrence of certain Issuer Events of Default and Guarantor Events of Default specified in the Trust Deed.

*For a description of the Issuer Events of Default and Guarantor Events of Default applicable to the Australian Covered Bonds and the action that may be taken under the Trust Deed or other Transaction Documents see Program Terms 3.1, 3.2 and 3.3 pages 11 to 14 (inclusive) of the Australian Information Memorandum.*

**10. [Reserved]**

**11. The Australian Agent and Calculation Agent**

The Issuer is entitled, with the prior written approval of the Bond Trustee, to vary or terminate the appointment of the Australian Agent and the Calculation Agent and/or appoint additional or other Agents and/or approve any change in the specified office through which any Agent acts, provided that:

- (a) there will at all times be an Australian Agent and, if required by the Pricing Supplement, a Calculation Agent; and
- (b) the Issuer will, so long as any Australian Covered Bond is outstanding, maintain an Australian Agent and, if required by the Pricing Supplement, a Calculation Agent (which may be the Australian Agent) having a specified office in a city in New South Wales or Melbourne, Australia approved by the Bond Trustee.

In acting under the Agency Agreement, the Australian Agent and Calculation Agent act solely as agents of the Issuer and the Guarantor and, in certain circumstances specified therein, of the Bond Trustee and do not assume any obligation to, or relationship of agency or trust with, any Holder of any Australian Covered Bonds. The Agency Agreement contains provisions permitting any entity into which any Agent is merged or converted or with which it is consolidated or to which it transfers all or substantially all of its assets to become the successor agent.

**12. [Reserved]**

**13. Notices**

Notices to Holders shall be published in a leading daily newspaper of general circulation in Australia. It is expected that such notices will normally be published in The Australian Financial Review. Any such notice will be deemed to have been validly given to the Holders on the date of such publication.

Notices to Holders will also be deemed to be validly given if sent by first class mail (or equivalent) or, if posted to an overseas address, by air mail to them (or, in the case of joint Holders, to the first named in the Australian Register) at their respective addresses as recorded in the Australian Register, and will be deemed to have been given on the fourth day after the date of such mailing.

Notwithstanding the foregoing provisions of this Condition 13, if the Australian Covered Bond is held by Austraclear and entered in the Austraclear System, notices to Holders may, or a copy of any notice published or given in accordance with foregoing provisions of this Condition 13 must, be physically delivered to Austraclear for communication by Austraclear to the persons shown in their records as having interests in the Australian Covered Bond.

**14. Meetings of Covered Bondholders, Modification, Waiver and Substitution**

The Trust Deed contains provisions for convening meetings of the Holders of the Australian Covered Bonds and other covered bonds issued under the Program to consider any matter affecting their interests, including the modification by Extraordinary Resolution of these Terms and Conditions or the provisions of the Trust Deed. The rights of Holders under these Terms and Conditions are subject to modification, waiver or other action pursuant to these provisions.

*For a description of the meeting provisions see Program Term 4 on pages 14 to 17 (inclusive) of the Australian Information Memorandum.*



## **15. Indemnification of Bond Trustee. Contracting with the Issuer and/or the Guarantor**

The Trust Deed and the Security Agreement contain provisions for the indemnification of the Bond Trustee and for relief from responsibility and certain other matters pertaining to the Bond Trustee, including provisions relieving the Bond Trustee from taking any action unless indemnified and/or secured to the satisfaction of the Bond Trustee.

*For a description of the provisions relating to the indemnity of the Bond Trustee see Program Term 5 on pages 17 to 18 of the Australian Information Memorandum.*

## **16. Further Issues**

The Issuer will be at liberty from time to time (but subject to these Terms and Conditions), without the consent of the Holders of any Australian Covered Bonds or any Secured Creditors to create and issue further Australian Covered Bonds having the same terms and conditions as such Australian Covered Bonds of any Series or the same in all respects and guaranteed by the Guarantor save for the amount and date of the first payment of interest thereon, Issue Date and/or Issue Price and so that the same will be consolidated and form a single Series with the outstanding Australian Covered Bonds of such Series.

## **17. Rating Agency Condition**

*For a description of the provisions relating to the Rating Agency Condition see Program Term 6 pages 18 to 19 of the Australian Information Memorandum.*

## **18. Governing Law and Jurisdiction**

The Trust Deed, the Agency Agreement (which has been supplemented by the Supplemental Agency Agreement), the Covered Bonds (other than the Australian Covered Bonds), the Coupons, the Interest Rate Swap Agreement, the Covered Bond Swap Agreement, the Program Agreement (other than the Underwriting Agreement), the Security Agreement, the Mortgage Sale Agreement, the Servicing Agreement, the Guarantor Agreement, the Intercompany Loan Agreement, the Subordinated Loan Agreement, the Cash Management Agreement, the Asset Monitor Agreement, the Bank Account Agreement, the Standby Bank Account Agreement, the Guaranteed Investment Contract and the Standby Guaranteed Investment Contract will be governed by and construed in accordance with, the Laws of the Province of Ontario and the federal Laws of Canada applicable therein, unless otherwise indicated.

The Australian Covered Bonds, the Australian Deed Poll and these Terms and Conditions are governed by, and shall be construed in accordance with, the Law in force in New South Wales, Australia.

In the case of Australian Covered Bonds, the Issuer has irrevocably agreed for the benefit of Holders that the courts of New South Wales, Australia and courts of appeal from them are to have non-exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Australian Covered Bonds, the Australian Deed Poll and these Terms and Conditions and that accordingly any suit, action or proceedings arising out of or in connection with the Australian Covered Bonds, the Australian Deed Poll and these Terms and Conditions (together referred to as "**Australian Proceedings**") may be brought in such courts.

For so long as any Australian Covered Bonds are outstanding, the Issuer will maintain an agent (originally as specified in the relevant Pricing Supplement) to accept service of process on its behalf in New South Wales in respect of any legal action or proceedings as may be brought in the courts of New South Wales, Australia or the federal courts of Australia. If such agent ceases to act the Issuer will appoint another agent.