

Macquarie Convertible Preference Securities (CPS) Terms

These Terms have been established pursuant to, and are incorporated as a schedule to, the Trust Constitution. In the event of any inconsistency between the Trust Constitution and these Terms, the provisions of these Terms shall prevail.

1 Form of CPS

- (a) CPS are fully paid mandatorily convertible units in the Macquarie CPS Trust conferring an undivided share in the beneficial interest in the assets of the Macquarie CPS Trust (“CPS”). They are issued, and may be Redeemed, Converted or Resold, according to these Terms.
- (b) The issue price of each CPS (“Issue Price”) is \$100.
- (c) CPS are:
 - (i) unsecured;
 - (ii) do not represent securities of any member of the Macquarie Group (for the avoidance of doubt, other than RE in its capacity as the Issuer);
 - (iii) are not deposit liabilities of any member of the Macquarie Group; and
 - (iv) are not guaranteed by any member of the Macquarie Group.
- (d) No Holder has any claim on any member of the Macquarie Group (for the avoidance of doubt, other than RE in its capacity as the Issuer) for payment of any amount of Distribution, Issue Price, Redemption Price or Liquidation Amount in respect of the CPS.
- (e) CPS are issued according to the Trust Constitution of which these Terms form part.

1.2 Entries in the Register

CPS are taken to be issued when they are entered in the Register.

1.3 No certificates

No certificates will be issued in respect of any CPS unless the Issuer determines that certificates should be available or they are required by any applicable law.

1.4 Ranking

Subject to the Trust Constitution, each CPS ranks:

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- (a) equally with all other CPS in all respects;
- (b) senior to the Ordinary Unit in respect of distributions and payments in a winding up of the Macquarie CPS Trust; and
- (c) subordinate to all creditors of the Macquarie CPS Trust in respect of distributions and payments in a winding up of the Macquarie CPS Trust.

2 Distribution

2.1 Distribution

Subject to these Terms, each CPS entitles the Holder on a Record Date to receive on the relevant Distribution Payment Date a distribution of the Trust Income for the Distribution Period ending on that Distribution Payment Date (“**Distribution**”) calculated according to the following formula:

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

where:

Distribution Rate means:

- (a) prior to and including the Initial Mandatory Conversion Date, a fixed rate (expressed as a percentage per annum) calculated according to the following formula:

$$\text{Distribution Rate} = \text{Market Rate} + \text{Margin}$$

where:

Bookbuild means the process conducted by the Issuer or its agents before the opening of the Offer whereby certain institutional investors and brokers lodge bids for CPS by reference to a margin over the Market Rate and, on the basis of those bids, the Issuer determines the Margin and announces its determination of the Margin prior to the opening of the Offer;

Margin means the margin determined under the Bookbuild (expressed as a percentage per annum); and

Market Rate means the Australian dollar 5 year swap rate as announced by the Issuer on the Issue Date being the rate (expressed as a percentage per annum) calculated as the mid-point of the quoted average swap reference rates at 10.00 am on the Issue Date on the Australian swap reference rates page SWAPREF of the Australian Financial Markets Association or AFMA service (or any page which replaces that page).

- (b) thereafter, a rate (expressed as a percentage per annum) calculated accordingly to the following formula:

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Distribution Rate = Bank Bill Rate + Margin

where:

Bank Bill Rate means, for a Distribution Period, the average mid rate for Bills having a tenor of three months as displayed on the “BBSW” page of the Reuters Monitor System on the first day of that Distribution Period. However, if the average mid rate is not displayed by 10:30 am on that day, or if it is displayed but the Issuer determines that there is an obvious error in that rate, **Bank Bill Rate** means the rate determined by the Issuer in good faith at approximately 10:30 am on that day, having regard, to the extent possible, to the mid rate of the rates otherwise bid and offered for bank accepted Bills of that tenor at or around that time;

Bill has the meaning it has in the Bills of Exchange Act 1909 of Australia and a reference to the acceptance of a Bill is to be interpreted in accordance with that Act; and

Margin has the same meaning as in paragraph (a).

D means in respect of:

- (a) the first Distribution Payment Date, the number of days from (and including) the Issue Date until (and including) the first Distribution Payment Date; and
- (b) each subsequent Distribution Payment Date, the number of days from (but not including) the preceding Distribution Payment Date until (and including) that Distribution Payment Date.

2.2 Payment of a Distribution

Each Distribution (including an Optional Distribution) is subject to:

- (a) the Issuer, at its absolute discretion, determining the Distribution to be payable;
- (b) MGL, at its absolute discretion, not objecting to the payment of the Distribution;
- (c) unless APRA otherwise agrees, payment of the Distribution not resulting in MGL not complying with APRA’s then current capital adequacy guidelines as they are applied to MGL at the time;
- (d) unless APRA otherwise agrees, the amount of the Distribution not exceeding Distributable Profits; and
- (e) payment of the Distribution (and of any amount required to be paid by MGL, MCPSLLC or any other member of the Macquarie Group so that the Macquarie CPS Trust has sufficient Trust Income) not

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resulting in the Macquarie CPS Trust, MGL, MCPDLLC or any such member of the Macquarie Group becoming, or being likely to become, insolvent for the purposes of any applicable law.

2.3 Optional Distribution

Without limiting clause 2.2 (“Payment of a Distribution”) or clause 2.4 (“Distributions are non-cumulative”) as each may apply to the Issuer or MGL, as the case may be:

- (a) the Issuer, at its absolute discretion but with the prior written approval of APRA, may determine a Distribution (“**Optional Distribution**”) to be payable on any date (either alone or in combination with an amount paid under clause 2.3(b) (“Optional Distribution”) until the amount of any Distribution (or part thereof) missed during the 12 months preceding the date of the Optional Distribution is paid by the Issuer in accordance with these Terms; and
- (b) MGL may, in its absolute discretion but with the prior written approval of APRA, elect at any time to pay to Holders an amount equal (either alone or in combination with an amount paid under clause 2.3(a) (“Optional Distribution”)) to an Optional Distribution.

2.4 Distributions are non-cumulative

Distributions are non-cumulative. If all or any part of a Distribution (including an Optional Distribution) is not paid because of clause 2.2 (“Payment of Distribution”) or because of any applicable law, the Issuer has no liability to pay the unpaid amount of the Distribution notwithstanding the Issuer’s discretion to pay an Optional Distribution under clause 2.3 (“Optional Distribution”). Holders have no claim or entitlement in respect of such non-payment and such non-payment does not constitute an event of default. No interest accrues on any unpaid Distribution or Optional Distributions and the Holders have no claim or entitlement in respect of interest on any unpaid Distributions or Optional Distributions.

2.5 Distribution Payment Dates

Subject to this clause 2 (“Distribution”), Distributions (other than Optional Distributions) will be payable in arrear on the following dates (each a **Distribution Payment Date**):

- (a) until and including the Initial Mandatory Conversion Date, each 30 June and 31 December commencing on 31 December 2008 until (and including) the date on which a Redemption, Conversion or Resale occurs in accordance with these Terms;
- (b) in the period after the Initial Mandatory Conversion Date, each 31 March, 30 June, 30 September and 31 December commencing on 30 September 2013 until (and including) the date on which a Redemption, Conversion or Resale occurs in accordance with these Terms; and
- (c) the date on which a Redemption, Conversion or Resale occurs.

If a Distribution Payment Date is a day which is not a Business Day, then that day remains the Distribution Payment Date and the Distribution scheduled to be paid on that day will be paid on the next day which is a Business Day without any adjustment of the amount of the Distribution or any other payment in respect of the delay in payment.

2.6 Record Dates

- (a) A Distribution is only payable on a Distribution Payment Date to those persons registered as Holders on the Record Date for that Distribution.
- (b) An Optional Distribution is only payable on the date of payment determined by the Issuer to those persons registered as Holders on the Record Date for that Optional Distribution.

2.7 MGL's undertaking in relation to unpaid Distributions

Subject to the exclusions described in clause 2.8 ("Exclusions from undertaking"), MGL has undertaken in the MGL Deed of Undertaking for the benefit of Holders that if for any Distribution Period, Distributions are not paid in full by the Issuer within five Business Days of the relevant Distribution Payment Date by reason of the limitations set out in these Terms, no member of the Macquarie Group will:

- (a) pay any interest, dividends or other distributions or payments in respect of any MGL Pari Passu and Junior Securities; or
- (b) (if permitted) effect any redemption, reduction, cancellation or repurchase of any MGL Pari Passu and Junior Securities,

until, in the case of both (a) and (b), the first to occur of:

- (i) an Optional Distribution (either alone or in combination with an amount paid under clause 2.3(b) ("Optional Distribution)) equal to the amount of any Distribution (or part thereof) missed during the 12 months preceding the date of the Optional Distribution is paid by the Issuer in accordance with these Terms;
- (ii) all Distributions scheduled to be paid in respect of the CPS during the preceding 12 months have been paid in full by the Issuer in accordance with these Terms; or
- (iii) all CPS have been Converted, Redeemed or Exchanged for Preference Shares in accordance with clause 9 ("Preference Share Exchange") but, in the case of Exchange for Preference Shares, without prejudice to any similar restriction in the terms of the Preference Shares issued.

2.8 Exclusions from undertaking

Under the MGL Deed of Undertaking, the restrictions described in clause 2.7 ("MGL's undertaking in relation to unpaid Distributions") do not apply to:

- (a) payments made on MGL Pari Passu Securities made pro rata with a payment on the CPS;
- (b) repurchases, redemptions or other acquisitions of MGL Pari Passu and Junior Securities or any other shares in the capital of MGL in connection with:
 - (i) any employment contract, employee equity plan, other benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants of a member of the Macquarie Group; or
 - (ii) a dividend reinvestment plan or shareholder share purchase plan; or
 - (iii) the issuance of MGL Pari Passu and Junior Securities or any other shares in the capital of MGL, or securities convertible into or exercisable for such shares, as consideration in an acquisition transaction entered into prior to the relevant non-payment of Distributions in full by the Issuer within five Business Days of the relevant Distribution Payment Date referred to in clause 2.7 (“MGL’s undertaking in relation to unpaid Distributions”); or
- (c) an exchange, redemption or conversion of:
 - (i) any class or series of MGL Pari Passu Securities or any shares of a subsidiary of MGL for any class or series of MGL Pari Passu and Junior Securities;
 - (ii) any class or series of MGL Junior Securities or any shares of a subsidiary of MGL for any class or series of MGL Junior Securities; or
 - (iii) any class or series of MGL’s indebtedness for any class or series of MGL Pari Passu and Junior Securities, provided such indebtedness ranked for the payment of interest in priority to, or *pari passu* with, those MGL Pari Passu and Junior Securities immediately prior to exchange, redemption or conversion; or
- (d) the purchase of fractional interests in shares in the capital of MGL under the conversion or exchange provisions of the shares or the security being converted or exchanged; or
- (e) any payment or declaration of a dividend in connection with any shareholder’s rights plan, or the issuance of rights, shares or other property under any shareholder’s rights plan, or the redemption or repurchase of rights pursuant to the plan; or
- (f) any dividend in the form of shares, warrants, options or other rights where the dividend shares or the shares issuable upon exercise of such warrants, options or other rights are the same class or series of shares as those on which the dividend is being paid or rank equal to or junior to those shares.

Nothing in the restrictions described in clause 2.7 (“MGL’s undertaking in relation to unpaid Distributions”) prohibits a member of the Macquarie Group from purchasing MGL’s shares in connection with transactions for the account of customers of a member of the Macquarie Group or in connection with the distribution or trading of MGL Pari Passu and Junior Securities or any other shares in the capital of MGL in the ordinary course of business.

3 Mandatory Conversion

3.1 Mandatory Conversion

Subject to clauses 3.5 (“Redemption where Mandatory Conversion Conditions are not satisfied”) and 3.7 (“Resale on the Relevant Date”), on the Mandatory Conversion Date the Issuer must Convert all (but not some) CPS on issue at that date into Ordinary Shares in accordance with clause 6 (“Conversion mechanics”) and this clause 3 (“Mandatory Conversion”).

3.2 Mandatory Conversion Date

Subject to clause 3.7(b) (“Resale on the Relevant Date”), the **Mandatory Conversion Date** will be the earlier of:

- (a) 30 June 2013 (“**Initial Mandatory Conversion Date**”); and
- (b) the first Distribution Payment Date after the Initial Mandatory Conversion Date (a “**Subsequent Mandatory Conversion Date**”),

(each a **Relevant Date**), on which the Mandatory Conversion Conditions are satisfied.

3.3 Mandatory Conversion Conditions

The Mandatory Conversion Conditions for each Relevant Date are:

- (a) the VWAP on the 25th Business Day on which trading in Ordinary Shares took place immediately preceding (but not including) the Relevant Date (“**First Test Date**”) is greater than 55.55% of the Issue Date VWAP (“**First Mandatory Conversion Condition**”);
- (b) the VWAP during the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the Relevant Date (“**Second Test Period**”) is greater than 50.51% of the Issue Date VWAP (“**Second Mandatory Conversion Condition**”); and
- (c) no Delisting Event applies in respect of the Relevant Date (“**Third Mandatory Conversion Condition**” and, together with the First Mandatory Conversion Condition and the Second Mandatory Conversion Condition, the “**Mandatory Conversion Conditions**”).

3.4 Non-Conversion Notices

If:

- (a) the First Mandatory Conversion Condition is not satisfied in relation to a Relevant Date, the Issuer will notify Holders between the 25th and the 21st Business Day before the Relevant Date; or
- (b) the Second Mandatory Conversion Condition or the Third Mandatory Conversion Condition is not satisfied in relation to a Relevant Date, the Issuer will notify Holders on or as soon as practicable after the Relevant Date unless it has given a Resale Notice or a Redemption Notice,

in either case notifying Holders that Mandatory Conversion will not (or, as the case may be, did not) occur on the Relevant Date (a “**Non-Conversion Notice**”).

3.5 Redemption where Mandatory Conversion Conditions are not satisfied

If:

- (a) the First Mandatory Conversion Condition is not satisfied in relation to a Relevant Date, the Issuer may, subject to APRA’s prior written approval, elect to Redeem all (but not some) CPS on the Relevant Date in accordance with clause 7 (“Redemption Mechanics”) by giving a notice (a “**Redemption Notice**”) no later than 10 Business Days prior to the Relevant Date; or
- (b) the Second Mandatory Conversion Condition or the Third Mandatory Conversion Condition is not satisfied in relation to a Relevant Date, the Issuer may, subject to APRA’s prior written approval, elect to Redeem all (but not some) CPS on a date no later than 30 Business Days after the Relevant Date (“**Deferred Redemption Date**”) by giving a Redemption Notice at least 10 Business Days prior to the Deferred Redemption Date.

A Redemption Notice once given is irrevocable.

3.6 Contents of Redemption Notice

A Redemption Notice must specify:

- (a) the details of the Mandatory Conversion Condition to which the Redemption Notice relates;
- (b) the date on which Redemption is to occur (“**Redemption Date**”), which must be the Relevant Date in the case of a Redemption under clause 3.5(a) (“Redemption where Mandatory Conversion Conditions are not satisfied”) and the Deferred Redemption Date in the case of a Redemption under clause 3.5(b) (“Redemption where Mandatory Conversion Conditions are not satisfied”);
- (c) whether any Distribution will be paid on the Redemption Date.

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3.7 Resale on the Relevant Date

- (a) Whether or not the Mandatory Conversion Conditions are satisfied in relation to a Relevant Date, the Issuer may elect to Resell all (but not some) CPS on the Relevant Date in accordance with clause 8 (“Resale Mechanics”) by giving a notice (a “Resale Notice”) no later than 21 Business Days prior to the Relevant Date. A Resale Notice once given is irrevocable.
- (b) If CPS are Resold on a Relevant Date in accordance with an election under clause 3.7(a) (“Resale on the Relevant Date”), the Mandatory Conversion Date for the purposes of clause 3.2 (“Mandatory Conversion Date”) will, subject to the Mandatory Conversion Conditions being satisfied in respect of that date, be the date that is 6 months after the Relevant Date or such other date as agreed between the Issuer and the Holders after that Resale.

3.8 Contents of Resale Notice

A Resale Notice must specify the identity of the Nominated Purchaser or Nominated Purchasers for that Resale.

3.9 Election between Resale and Redemption

The Issuer may only give a Resale Notice or a Redemption Notice in respect of a Relevant Date where permitted to do so by clauses 3.5 (“Redemption where Mandatory Conversion Conditions are not satisfied”) and 3.7 (“Resale on the Relevant Date”), (as the case may be) and may not give both a Resale Notice and a Redemption Notice in respect of a Relevant Date.

If, notwithstanding this clause 3.9 (“Election between Resale and Redemption”), more than one notice is given, the Resale Notice will be deemed never to have been given and the Redemption Notice will prevail.

4 Optional Exchange by the Issuer

4.1 Optional Exchange by the Issuer

The Issuer may by notice to Holders (an “Exchange Notice”) elect to Exchange all (but not some only) CPS on an Exchange Date following the occurrence of a RE Removal Event, Trust Winding Up (Holder Resolution) Event, Tax Event or a Regulatory Event. An Exchange Notice may not be given later than six months after the occurrence of the RE Removal Event, Trust Winding Up (Holder Resolution) Event, Tax Event or Regulatory Event (as the case may be) and once given is irrevocable.

4.2 Contents of Exchange Notice

An Exchange Notice must specify:

- (a) the details of the RE Removal Event, Trust Winding Up (Holder Resolution) Event, Tax Event or Regulatory Event to which the Exchange Notice relates;

- (b) the date on which Exchange is to occur (“**Exchange Date**”), which will be the later to occur of:
 - (i) the last Business Day of the month following the month in which the Exchange Notice was given by the Issuer; and
 - (ii) the twenty-fifth Business Day after the date on which the Exchange Notice was given by the Issuer,unless, the Issuer determines an earlier Exchange Date having regard to the best interests of Holders as a whole and the relevant event;
- (c) the Exchange Method;
- (d) if the Exchange Notice provides that CPS are to be Resold, the identity of the Nominated Purchaser or Nominated Purchasers for that Resale; and
- (e) whether any Distribution will be paid on the Exchange Date.

4.3 Exchange Method

If the Issuer elects to Exchange CPS in accordance with this clause 4 (“**Optional Exchange by the Issuer**”), it must, subject to clause 4.4 (“**Conditions to election by the Issuer of Conversion as Exchange Method**”), elect which of the following (or which combination of the following) it intends to do in respect of CPS (“**Exchange Method**”):

- (a) subject to APRA’s prior written approval, Convert CPS into Ordinary Shares in accordance with clause 6 (“**Conversion Mechanics**”);
- (b) subject to APRA’s prior written approval, Redeem CPS in accordance with clause 7 (“**Redemption Mechanics**”);
- (c) Resell CPS in accordance with clause 8 (“**Resale Mechanics**”); or
- (d) Exchange CPS for Preference Shares in accordance with clause 9 (“**Preference Share Exchange**”).

4.4 Conditions to election by the Issuer of Conversion as Exchange Method

The Issuer may not elect Conversion as the Exchange Method in respect of an Exchange if:

- (a) on the second Business Day before the date on which an Exchange Notice is to be sent by the Issuer (or, if trading in Ordinary Shares did not occur on that date, the last Business Day prior to that date on which trading in Ordinary Shares occurred) (“**Optional Conversion Test Date**”) the VWAP on that date is less than 55.55% of the Issue Date VWAP (“**First Optional Conversion Condition**”); or
- (b) a Delisting Event applies in respect of the Optional Conversion Test Date (“**Second Optional Conversion Condition**” and, together with

the First Optional Conversion Condition, the “**Optional Conversion Conditions**”).

4.5 Conditions to Conversion occurring once elected by the Issuer

If the Issuer has given an Exchange Notice in which it has elected Conversion as the Exchange Method but, if the Exchange Date were a Relevant Date for the purposes of clause 3 (“Mandatory Conversion”), either the Second Mandatory Conversion Condition or the Third Mandatory Conversion Condition would not be satisfied in respect of that date, then, notwithstanding any other provision of these Terms:

- (a) the Exchange Date will be deferred until the first Distribution Payment Date on which the Mandatory Conversion Conditions would be satisfied if that Distribution Payment Date were a Relevant Date for the purposes of clause 3 (“Mandatory Conversion”) (“**Deferred Conversion Date**”);
- (b) the Issuer must Convert the CPS on the Deferred Conversion Date; and
- (c) until the Deferred Conversion Date, all rights attaching to the CPS will continue as if the Exchange Notice had not been given.

The Issuer will notify Holders on or as soon as practicable after an Exchange Date in respect of which this clause 4.5 (“Conditions to Conversion occurring once elected by the Issuer”) applies that Conversion did not occur on that Exchange Date (a “**Deferred Conversion Notice**”).

5 Exchange on Acquisition Event

5.1 Notice of Acquisition Event

The Issuer must notify Holders of the occurrence of an Acquisition Event as soon as practicable after becoming aware of that event (an “**Acquisition Event Notice**”).

5.2 Exchange on occurrence of Acquisition Event

If an Acquisition Event occurs, the Issuer must, subject to obtaining the prior written approval of APRA, Exchange all (but not some only) CPS on the Acquisition Exchange Date by notice to Holders (an “**Acquisition Exchange Notice**”) in accordance with this clause 5 (“Exchange on Acquisition Event”) and clause 6 (“Conversion mechanics”) or clause 7 (“Redemption mechanics”) (as the case may be).

5.3 Contents of Acquisition Exchange Notice

An Acquisition Exchange Notice must specify:

- (a) the details of the Acquisition Event to which the Acquisition Exchange Notice relates;

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- (b) the date on which Exchange is to occur (“**Acquisition Exchange Date**”), which must be:
 - (i) no later than 35 Business Days after the date on which the Acquisition Event occurred (or such later date as APRA may require); and
 - (ii) where Conversion is the Exchange Method, no earlier than the 25th Business Day after the date on which the Acquisition Event Notice is given;
 - (c) the Exchange Method, which, subject to clause 4.4 (“Conditions to election by the Issuer of Conversion as Exchange Method”), must be either Conversion in accordance with clause 6 (“Conversion mechanics”) or Redemption in accordance with clause 7 (“Redemption mechanics”) as elected by the Issuer; and
 - (d) whether any Distribution will be paid on the Acquisition Exchange Date.

5.4 Where Acquisition Exchange Notice not required

Notwithstanding any other provision of clause 5.3 (“Contents of Acquisition Exchange Notice”), if APRA does not approve Redemption as the Exchange Method and the Issuer is prevented from electing Conversion as the Exchange Method by clause 4.4 (“Conditions to election by the Issuer of Conversion as Exchange Method”), the Issuer is not required to give an Acquisition Exchange Notice and the provisions of clause 5.5 (“Deferred Exchange on Acquisition Event”) will apply.

5.5 Deferred Exchange on Acquisition Event

If clause 5.4 (“Where Acquisition Exchange Notice not required”) applies or the Issuer has given an Acquisition Exchange Notice in which it has elected Conversion as the Exchange Method but, if the Acquisition Exchange Date were a Relevant Date for the purposes of clause 3 (“Mandatory Conversion”), either the Second Mandatory Conversion Condition or the Third Mandatory Conversion Condition would not be satisfied in respect of that date, then notwithstanding any other provision of these Terms:

- (a) the Acquisition Exchange Notice, if given, is taken to be revoked and Exchange will not occur on the Acquisition Exchange Date specified in the Acquisition Event Notice;
- (b) the Issuer will notify Holders as soon as practicable that Exchange will not (or, as the case may be, did not) occur (a “**Deferred Acquisition Exchange Notice**”); and
- (c) the Issuer must, unless clause 5.4 (“Where Acquisition Exchange Notice not required”) then applies, give an Acquisition Exchange Notice (or, as the case may be, a new Acquisition Exchange Notice) on or before the 25th Business Day prior to the Distribution Payment Date immediately succeeding the date on which the Deferred Acquisition Exchange Notice was given.

The Acquisition Exchange Notice given in accordance with paragraph (c) above must:

- (a) specify the Exchange Method, which, subject to clause 4.4 (“Where Acquisition Exchange Notice not required”), must be either Conversion in accordance with clause 6 (“Conversion mechanics”) or Redemption in accordance with clause 7 (“Redemption mechanics”) as elected by the Issuer; and
- (b) and otherwise comply with clause 5.3 (“Contents of Acquisition Exchange Notice”).

If this clause 5.5 (“Deferred Exchange on Acquisition Event”) applies but:

- (a) clause 5.4 (“Where Acquisition Exchange Notice not required”) applies in respect of the Distribution Payment Date such that no Acquisition Exchange Notice (or, as the case may be, no new Acquisition Exchange Notice) is given under this clause 5.5 (“Deferred Exchange on Acquisition Event”); or
- (b) an Acquisition Exchange Notice (or, as the case may be, a new Acquisition Exchange Notice) is given under this clause 5.5 (“Deferred Exchange on Acquisition Event”) but, if the Acquisition Exchange Date specified in the Acquisition Exchange Notice were a Relevant Date for the purposes of clause 3 (“Mandatory conversion”), either the Second Mandatory Conversion Condition or the Third Mandatory Conversion Condition would not be satisfied in respect of that date,

then this clause 5.5 (“Deferred Exchange on Acquisition Event”) will be reapplied in respect of each subsequent Distribution Payment Date until an Exchange occurs.

6 Conversion mechanics

6.1 Conversion

If the Issuer elects to Convert CPS or must Convert CPS in accordance with these Terms, then the following provisions apply:

- (a) subject to paragraph (b), each Holder will be allotted a number of fully paid Ordinary Shares for each CPS that is being Converted on the Mandatory Conversion Date or the Exchange Date (as the case may be) equal to the Conversion Number, where the Conversion Number (but subject to the Conversion Number being no more than the Maximum Conversion Number) is a number calculated according to the following formula:

$$\text{Conversion Number} = \frac{\text{Issue Price}}{\text{Ordinary Share Issue Price}}$$

where:

Ordinary Share Issue Price means 99% of VWAP.

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

- (b) the number of fully paid Ordinary Shares to be allotted to a Holder upon Conversion of CPS will be determined on the basis of their aggregate holding of CPS and, if the total number of Ordinary Shares to be allotted to a Holder in respect of their aggregate holding of CPS upon Conversion includes a fraction of an Ordinary Share, that fraction of an Ordinary Share will be disregarded;
- (c) each Ordinary Share issued on Conversion is taken to be issued fully paid at an issue price equal to the Ordinary Share Issue Price; and
- (d) the Issuer and MGL must use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure at its expense quotation of any Ordinary Shares into which CPS may be Converted.

6.2 Adjustments to VWAP

For the purposes of calculating VWAP in clause 6.1 (“Conversion”):

- (a) where, on some or all of the Business Days in the relevant VWAP Period, Ordinary Shares have been quoted on ASX as cum distribution or cum any other distribution or entitlement and CPS will Convert into Ordinary Shares after the date those Ordinary Shares no longer carry that distribution or any other distribution or entitlement, then the VWAP on the Business Days on which those Ordinary Shares have been quoted cum distribution or cum any other distribution or entitlement shall be reduced by an amount (“**Cum Value**”) equal to:
 - (i) (in case of a distribution or other distribution), the amount of that distribution or other distribution including, if the distribution or other distribution is franked, the amount that would be included in the assessable income of a recipient of the distribution or other distribution who is both a resident of Australia and a natural person under the Tax Act;
 - (ii) (in the case of any other entitlement that is not a distribution or other distribution under clause 6.2(a)(i) which is traded on ASX on any of those Business Days), the volume weighted average sale price of all such entitlements sold on ASX during the VWAP Period on the Business Days on which those entitlements were traded; or
 - (iii) (in the case of any other entitlement which is not traded on ASX during the VWAP Period), the value of the entitlement as reasonably determined by the Directors; and
- (b) where, on some or all of the Business Days in the VWAP Period, Ordinary Shares have been quoted on ASX as ex distribution or ex any other distribution or entitlement, and CPS will Convert into Ordinary Shares which would be entitled to receive the relevant

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distribution or other distribution or entitlement, the VWAP on the Business Days on which those Ordinary Shares have been quoted ex distribution or ex any other distribution or entitlement shall be increased by the Cum Value.

6.3 Adjustments to VWAP for capital reconstruction

Where the Ordinary Shares are reconstructed, consolidated, divided or reclassified (other than by way of a bonus issue, rights issue or other essentially *pro rata* issue) into a lesser or greater number of securities during the period in which the VWAP is calculated under clause 6.1 (“Conversion”), the VWAP shall be adjusted by the Issuer as it considers appropriate to ensure that the Holders are in an economic position in relation to their CPS that is as similar as reasonably practicable to the economic position prior to the occurrence of the event that gave rise to the need for the adjustment. Any adjustment made by the Issuer will be effective and binding on Holders under these Terms and these Terms will be construed accordingly. Any such adjustment must be promptly notified to all Holders.

6.4 Adjustments to Issue Date VWAP

Adjustments to the Issue Date VWAP:

- (a) may be made in accordance with clauses 6.5 (“Adjustments to Issue Date VWAP for bonus and rights issues”), 6.6 (“Adjustment to Issue Date VWAP for off market buy-back”), 6.7 (“Adjustment to Issue Date VWAP for return of capital”), 6.8 (“Adjustment to Issue Date VWAP for capital reconstruction”), 6.9 (“Adjustment to Issue Date VWAP for Special Dividend”) or 6.10 (“Directors’ sole discretion regarding adjustments to Issue Date VWAP”); and
- (b) if so made, will correspondingly affect the application of the Mandatory Conversion Conditions and the Optional Conversion Conditions, and cause an adjustment to the Maximum Conversion Number.

6.5 Adjustments to Issue Date VWAP for bonus and rights issues

- (a) Subject to clauses 6.5(b) (“Adjustments to Issue Date VWAP for bonus and rights issues”) and 6.5(c) (“Adjustments to Issue Date VWAP for bonus and rights issues”) below, if the Issuer makes a *pro rata* bonus issue or a rights issue or other essentially *pro rata* issue (including an issue of the kind known as a “jumbo” or “RAPIDS” issue, where offers to certain institutional holders (or beneficial holders) are made in advance of offers to other holders) of Ordinary Shares to holders of Ordinary Shares generally, the Issue Date VWAP will be adjusted immediately in accordance with the following formula:

$$V = V_o \times \frac{1}{P} \times \frac{(RD \times P) + (RN \times A)}{(RD + RN)}$$

where:

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

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

P means the VWAP during the period from (and including) the first Business Day after the announcement of the bonus, rights or other relevant issue to the ASX up to (and including) the last Business Day of trading cum rights, bonus or other relevant issue (or if there is no period of cum rights, bonus or other relevant issue trading, an amount reasonably determined by the Directors as representing the value of an Ordinary Shares cum the rights, bonus or other relevant issue);

A means the subscription or unit price per Ordinary Share for a rights issue and is zero in the case of a bonus issue;

RN means the number of Ordinary Shares issued pursuant to the rights, bonus or other relevant issue; and

RD means the number of Ordinary Shares on issue immediately prior to the allotment of new Ordinary Shares pursuant to the rights, bonus or other relevant issue.

- (b) No adjustment to the Issue Date VWAP will occur if A exceeds P.
- (c) Clause 6.5(a) (“Adjustments to Issue Date VWAP for bonus and rights issues”) does not apply to Ordinary Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top up plan, share purchase plan or a distribution reinvestment plan.
- (d) For the purpose of clause 6.5(a) (“Adjustments to Issue Date VWAP for bonus and rights issues”), an issue will be regarded as a *pro rata* issue notwithstanding that MGL does not make offers to some or all holders of Ordinary Shares with registered addresses outside Australia, provided that in so doing the MGL is not in contravention of the ASX Listing Rules.

6.6 Adjustment to Issue Date VWAP for off market buy-back

- (a) Subject to clause 6.6(b) (“Adjustment to Issue Date VWAP for off market buy-back”), if MGL undertakes an off market buy-back under a scheme which but for restrictions on transfer would be generally available to holders of Ordinary Shares, the Issue Date VWAP will be adjusted immediately in accordance with the following formula:

$$V = V_o \times \frac{1}{P} \times \frac{(BD \times P) - (BN \times A)}{(BD - BN)}$$

where:

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

V₀ means the Issue Date VWAP respectively applying immediately prior to the application of this formula;

P means the VWAP during the 20 Business Days prior to the announcement to the ASX of the buy-back;

A means the buy-back price per Ordinary Share;

BN means the number of Ordinary Shares bought back; and

BD means the number of Ordinary Shares on issue immediately prior to the buy-back.

- (b) No adjustment to the Issue Date VWAP will occur if P exceeds A.

6.7 Adjustment to Issue Date VWAP for return of capital

- (a) If MGL makes a *pro rata* return of capital to holders of Ordinary Shares, the Issue Date VWAP will be adjusted in accordance with the following formula:

$$V = V_0 \times \frac{(P - C)}{(P)}$$

- (b) where:

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

V₀ means the Issue Date VWAP applying immediately prior to the application of this formula;

P means the VWAP during the period from (and including) the first Business Day after the announcement of the return of capital to ASX up to and including the last Business Day of trading *cum* the return of capital (or if there is no period of *cum* return of capital trading, an amount reasonably determined by the Directors as representing the value of Ordinary Shares *cum* the return of capital); and

C means with respect to a return of capital, the amount of the cash and/or the value (as reasonably determined by the Directors) of any other property distributed to holders of Ordinary Shares per Ordinary Share (or such lesser amount such that the difference between P and C is greater than zero).

6.8 Adjustment to Issue Date VWAP for capital reconstruction

If at any time the Ordinary Shares are reconstructed, consolidated, divided or reclassified into a lesser or greater number of securities, the Issuer may, if it

and the Directors consider it appropriate reconstruct the Issue Date VWAP in the same way as the exercise price of options over Ordinary Shares would be reconstructed in the same context, in accordance with the ASX Listing Rules (as they apply to the Issuer). Each Holder acknowledges that MGL may reconstruct, consolidate, divide or reclassify into a lesser or greater number of securities the Ordinary Shares at any time in its absolute discretion without any such action constituting a variation of rights of Holders or otherwise requiring any consent or concurrence.

6.9 Adjustment to Issue Date VWAP for Special Dividend

If at any time a Special Dividend is paid on Ordinary Shares and, in the reasonable opinion of the Directors, payment of that Special Dividend would have a dilutive or concentrative effect on the value of Ordinary Shares, the Issuer shall make such alterations to the Issue Date VWAP as it and the Directors reasonably consider appropriate or necessary to compensate for that effect.

6.10 Directors' sole discretion regarding adjustments to Issue Date VWAP

Despite the provisions of clauses 6.5 ("Adjustments to Issue Date VWAP for bonus and rights issues") to 6.9 ("Adjustment to Issue Date VWAP for Special Dividend"), where:

- (a) the effect of any of the adjustment provisions set out in clauses 6.5 ("Adjustments to Issue Date VWAP for bonus and rights issues") to 6.9 ("Adjustment to Issue Date VWAP for Special Dividend") is not, in the reasonable opinion of the Issuer and the Directors, appropriate in any particular circumstances (including because more than one adjustment provision applies); or
- (b) any other event occurs in relation to MGL that may have a dilutive or concentrative effect on the value of the Ordinary Shares, and, in the reasonable opinion of the Issuer and the Directors, such occurrence would have a dilutive or concentrative effect on the value of Ordinary Shares,

the Issuer may:

- (i) make such alterations to the Issue Date VWAP as it and the Directors reasonably consider appropriate or necessary to compensate for that effect; or
- (ii) extend an entitlement to the Holders to participate in such event based on the number of Ordinary Shares to which those Holders would have been entitled if their CPS had been Converted on a date nominated by the Issuer to compensate for that effect.

6.11 Announcement of adjustment to Issue Date VWAP

The Issuer will notify Holders (an "Adjustment Notice") of any adjustment to the Issue Date VWAP under this clause 6 ("Conversion Mechanics")

within 10 Business Days of the Issuer determining the adjustment and the adjustment set out in the announcement will be final and binding.

6.12 Ordinary Shares

Each Ordinary Share issued or arising upon Conversion ranks *pari passu* with all other fully paid Ordinary Shares.

6.13 Foreign Holders

Where CPS held by a Foreign Holder are to be Converted, unless the Issuer is satisfied that the laws of both Australia and the Foreign Holder's country of residence permit the issue of Ordinary Shares to the Foreign Holder (but as to which the Issuer is not bound to enquire), either unconditionally or after compliance with conditions which the Issuer in its absolute discretion regards as acceptable and not unduly onerous, the Ordinary Shares which the Foreign Holder is obliged to accept will be issued to a nominee who will sell those Ordinary Shares and pay a cash amount equal to the net proceeds received, after deducting any applicable brokerage, stamp duty and other taxes and charges, to the Foreign Holder accordingly.

6.14 No dealings after notice of Conversion

The Holders must not deal with, transfer, dispose or otherwise encumber the CPS at any time from the date falling five Business Days before:

- (a) a Relevant Date in respect of which the First Mandatory Conversion Condition is satisfied;
- (b) an Exchange Date or an Acquisition Exchange Date in respect of which an Exchange Notice or an Acquisition Exchange Notice (as the case may be) has been given specifying Conversion as the Exchange Method; or
- (c) a Deferred Exchange Date,

until the first to occur of:

- (i) Conversion of the CPS on the Relevant Date, the Exchange Date, the Acquisition Exchange Date or the Deferred Conversion Date (as the case may be); or
- (ii) the Business Day following such date if Conversion did not occur on that date.

Nothing in this clause 6.14 ("No dealings after notice of Conversion") prevents a Resale taking effect in accordance with these Terms or prevents a transfer of the CPS once a Resale has taken effect.

7 Redemption mechanics

7.1 Redemption mechanics to apply to Redemption

If, subject to APRA's prior written approval, the Issuer elects to Redeem CPS or must Redeem CPS in accordance with these Terms, the provisions of this clause 7 ("Redemption Mechanics") apply to that Redemption.

7.2 Redemption

CPS will be Redeemed by payment on the Redemption Date, the Exchange Date or the Acquisition Exchange Date (as the case may be) of the Issue Price (the **Redemption Price**), together with any Distribution scheduled to be paid on that date.

7.3 Effect of Redemption on Holders

Upon payment of the Redemption Price and any Distribution scheduled to be paid on the Redemption Date, the Exchange Date or the Acquisition Exchange Date (as the case may be), all other rights conferred, or restrictions imposed, by CPS will no longer have effect and CPS will be cancelled.

8 Resale mechanics

8.1 Resale mechanics to apply to Resale

If the Issuer elects to Resell CPS or must Resell CPS in accordance with these Terms, the provisions of this clause 8 ("Resale Mechanics") apply to that Resale.

8.2 Appointment of Nominated Purchaser

The Issuer must appoint one or more Nominated Purchasers for the Resale on such terms as may be as agreed between the Issuer and the Nominated Purchaser.

The obligation of a Nominated Purchaser to pay the aggregate purchase price on the Relevant Date or the Exchange Date (as the case may be) may be subject to conditions.

The Issuer will reasonably endeavour, in light of the circumstances then existing, to minimise the conditionality of a Nominated Purchaser's obligation to pay the aggregate purchase price but gives no assurance as to the details of any such conditions.

8.3 Identity of Nominated Purchaser

The Issuer may not appoint a person as a Nominated Purchaser unless that person:

- (a) has undertaken on such terms and subject to such conditions as the Issuer reasonably determines for the benefit of each Holder to acquire each CPS from the Holder for the Issue Price on the Relevant Date or the Exchange Date (as the case may be);

- (b) has a long term counterparty credit rating from one of Standard & Poor's, Moody's or Fitch of not less than the rating assigned to CPS at that time by that rating agency; and
- (c) is not a member of the Macquarie Group (unless otherwise approved by APRA).

8.4 Irrevocable offer to sell CPS

Each Holder is taken irrevocably to offer to sell CPS the subject of that Resale to the Nominated Purchaser or Nominated Purchasers on the Relevant Date or the Exchange Date (as the case may be) for a cash amount equal to the Redemption Price.

8.5 Effect of Resale

On the Relevant Date or the Exchange Date (as the case may be), subject to payment by the Nominated Purchaser of the Redemption Price to the Holders, all right, title and interest in the such CPS will be transferred to the Nominated Purchaser on the Relevant Date or the Exchange Date (as the case may be).

8.6 Effect of failure by the Nominated Purchaser to pay

If the Nominated Purchaser does not pay the Redemption Price to the Holders on the Relevant Date or the Exchange Date (as the case may be) (whether as a result of a condition to purchase not being satisfied or otherwise):

- (a) the Resale Notice or the Exchange Notice (as the case may be) will be void;
- (b) CPS will not be transferred to the Nominated Purchaser;
- (c) in the case of a Resale Notice, CPS will not Convert into Ordinary Shares on that Relevant Date and the Mandatory Conversion Date:
- (i) will be deemed not to have occurred on that Relevant Date; and
 - (ii) will occur on the next Relevant Date on which is it otherwise determined to occur in accordance with clause 3.2 ("Mandatory Conversion Date");
- (d) the Holder will continue to hold CPS until otherwise Redeemed, Converted or Resold in accordance with these Terms; and
- (e) the Issuer may, subject to APRA's prior written approval and without prejudice to any other rights of the Issuer under these terms to elect an Exchange, elect to Exchange all (but not some) CPS on a date no later than 45 Business Days after the Relevant Date or the Exchange Date (as the case may be) ("**Deferred Exchange Date**") by giving another Exchange Notice in accordance with clause 4.1 ("Optional Exchange by the Issuer") at least 25 Business Days prior to the Deferred Exchange Date. In these circumstances, the date on which

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the Exchange is to occur for the purposes of clause 4.2(b) (“Contents of Exchange Notice”) will be the Deferred Exchange Date.

9 Preference Share Exchange

9.1 Preference Share Exchange

A Preference Share Exchange will occur when the first of the following events occurs (a “**Preference Share Exchange Event**”):

- (a) a MGL Breach of Undertakings Event;
- (b) a Winding Up Event;
- (c) an APRA Capital Event; or
- (d) where pursuant to clause 4.2 (“Contents of Exchange Notice”) the Issuer has specified Preference Share Exchange as the Exchange Method.

9.2 Preference Share Exchange Notice

The Issuer must give Holders a Preference Share Exchange Notice (“**Preference Share Exchange Notice**”) stating the Preference Share Exchange Date in accordance with clause 9.4 (“Failure to exchange for Preference Shares”) as soon as practicable after the occurrence of the Preference Share Exchange Event, but in any event no later than 5.00 pm on the second Business Day after the occurrence of the Preference Share Exchange Event.

A Preference Share Exchange Notice is irrevocable once given. Failure to give a Preference Share Exchange Notice when required by this clause 9.3 (“Preference Share Exchange Dates”) does not affect the obligation of MGL to exchange the CPS for Preference Shares when required in accordance with these Terms.

9.3 Preference Share Exchange Dates

The Preference Share Exchange Date, if the Preference Share Exchange Date occurs under:

- (a) clause 9.1(a) (“Preference Share Exchange”), will be three Business Days after the date of the MGL Breach of Undertakings Event;
- (b) clause 9.1(b) (“Preference Share Exchange”), is deemed to be the date of the Winding Up Event at a time immediately prior to the commencement of the winding up;
- (c) clause 9.1(c) (“Preference Share Exchange”), will be three Business Days after an APRA Capital Event occurs; and
- (d) clause 9.1(d) (“Preference Share Exchange”), will be the date specified as the Exchange Date in the Exchange Notice given under clause 4.2 (“Contents of Exchange Notice”).

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9.4 Failure to exchange for Preference Shares

If on a Preference Share Exchange Date, a Preference Share is not issued or delivered in respect of a CPS, that CPS remains on issue and clause 2.7 (“MGL’s undertaking in relation to unpaid Distributions”) applies until the Preference Share is issued to the Holder or that CPS is Redeemed in accordance with these Terms. This clause 9.4 (“Failure to exchange for Preference Shares”) does not affect the obligation of MGL to issue the Preference Share when required in accordance with these Terms.

9.5 Foreign Holders

Where CPS held by a Foreign Holder are to be exchanged for Preference Shares in accordance with clause 9 (“Preference Share Exchange”), unless the Issuer is satisfied that the laws of both Australia and the Foreign Holder’s country of residence permit the issue of Preference Shares to the Foreign Holder (but as to which the Issuer is not bound to enquire), either unconditionally or after compliance with conditions which the Issuer in its absolute discretion regards as acceptable and not unduly onerous, the Preference Shares which the Foreign Holder is obliged to accept will be issued to a nominee who will sell those Preference Shares and pay a cash amount equal to the net proceeds received, after deducting any applicable brokerage, stamp duty and other taxes and charges, to the Foreign Holder accordingly.

10 CPS general rights

10.1 Rights on winding up

In the winding up or dissolution of the Macquarie CPS Trust, a Holder is entitled, subject to the terms of the Trust Constitution, to claim for payment in cash of an amount equal to the Liquidation Amount but has no further or other right to participate in the assets of the Macquarie CPS Trust.

10.2 Power of Attorney

- (a) Each Holder appoints each of the Issuer, MGL and each of its officers and any liquidator or administrator of the Issuer or MGL (each an “Attorney”) severally to be the attorney of the Holder with power in the name and on behalf of the Holder to sign all documents and transfers and do any other thing as may in the Attorney’s opinion be necessary or desirable to be done in order for the Holder to observe or perform the Holder’s obligations under these Terms including, but not limited to signing all documents or transfers as may, in the opinion of the Attorney, be necessary or desirable to give effect to any Conversion Redemption or Resale, making any entry in the Register or exercising any voting power in relation to any consent or approval required for Conversion, Redemption or Resale.
- (b) The power of attorney given in this clause 10.2 (“Power of Attorney”) is given for valuable consideration and to secure the performance by the Holder of the Holder’s obligations under these Terms and is irrevocable.

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10.3 Holder Acknowledgments

Each Holder irrevocably:

- (a) upon Conversion of a CPS in accordance with clause 6 (“Conversion Mechanics”) or the Exchange of a CPS for a Preference Share in accordance with clause 9 (“Preference Share Exchange”), consents to becoming a member of MGL and agrees to be bound by the MGL Constitution;
- (b) acknowledges and agrees that it is obliged to accept Ordinary Shares upon a Conversion or Preference Shares upon a Preference Share Exchange in accordance with clause 9 (“Preference Share Exchange”), as the case may be, notwithstanding anything that might otherwise affect a Conversion of CPS or the Exchange of CPS for Preference Shares including, without limitation:
 - (i) any change in the financial position of MGL since the Issue Date;
 - (ii) any disruption to the market or potential market for the ordinary shares or to capital markets generally; or
 - (iii) any breach by MGL of any obligation in connection with CPS;
- (c) acknowledges and agrees that the only conditions to Conversion of the CPS or the Exchange of CPS for Preference Shares in accordance with clause 9 (“Preference Share Exchange”), as the case may be, are those expressly set out in these Terms (including, where applicable, the Mandatory Conversion Conditions or the Optional Conversion Conditions) and that no other conditions or events will affect Conversion of the CPS or the Exchange of CPS for Preference Shares in accordance with clause 9 (“Preference Share Exchange”), as the case may be,;
- (d) agrees to provide to MGL any information necessary to give effect to a Conversion of the CPS or the Exchange of CPS for Preference Shares in accordance with clause 9 (“Preference Share Exchange”), as the case may be, and, if applicable, to surrender any CPS certificate on the occurrence of the Conversion of the CPS or the Exchange of CPS for Preference Shares in accordance with clause 9 (“Preference Share Exchange”), as the case may be,; and
- (e) acknowledges and agrees that a Holder has no right to request an Exchange or a Preference Share Exchange pursuant to these Terms.

10.4 Discretions

If MGL or MCPSLLC resolves to require the Issuer to exercise any discretion conferred on the Issuer by these Terms in a particular manner and MGL or MCPSLLC notifies the Issuer of that resolution then, subject to the duties of the Issuer and to the maximum extent permitted by law, the Issuer must act accordingly.

10.5 On-market buy-backs

Subject to APRA's prior written approval, the Issuer or any member of the Macquarie Group may buy-back CPS at any time and at any price by an on-market buy-back.

10.6 No other rights

- (a) CPS do not confer on Holders any right to participate in profits or property of any member of the Macquarie Group except as set out in these Terms.
- (b) CPS do not confer on Holders any right to subscribe for new securities in any member of the Macquarie Group or to participate in any bonus issues of shares in the capital of any member of the Macquarie Group.

10.7 No right to apply for the winding-up of the Issuer

Each Holder acknowledges and agrees that a Holder has no right to apply for any member of the Macquarie Group to be wound up, or placed in administration, or to cause a receiver, or a receiver and manager, to be appointed in respect of any member of the Macquarie Group merely on the grounds that the Issuer does not pay a Distribution when scheduled in respect of CPS.

10.8 No events of default

Each Holder acknowledges and agrees that these Terms contain no events of default. Accordingly (but without limitation) failure to pay in full, for any reason, a Distribution on the scheduled Distribution Payment Date will not constitute an event of default.

11 Voting and other rights

11.1 Voting

The Trust Constitution contains provisions for convening meetings of the Holders to consider any matter affecting their interests, including any variation of these Terms which requires the consent of Holders.

Holders will have no voting rights in respect of any member of the Macquarie Group.

11.2 Provision of information

Subject to applicable law, Holders are not entitled to be provided with copies of:

- (a) any notices of general meeting of MGL; or
- (b) other documents (including annual reports and financial statements) sent by MGL to holders of ordinary shares in MGL.

12 Takeovers and schemes of arrangement

If:

- (a) a takeover bid is made for Ordinary Shares, acceptance of which is recommended by the Directors; or
- (b) the Directors recommend a scheme of arrangement in respect of the Ordinary Shares of MGL which will result in a person other than MGL having a relevant interest in more than 50% of the Ordinary Shares,

in each case which would result in an Acquisition Event then, if the Directors consider that APRA will not approve Exchange of CPS in accordance with clause 5 (“Exchange on Acquisition Event”), the Directors will use all reasonable endeavours to procure that equivalent takeover offers are made to Holders or that they are entitled to participate in the scheme of arrangement or a similar transaction.

13 Title and transfer of CPS

13.1 Title

Title to a CPS passes when details of the transfer are entered in the Register.

13.2 Effect of entries in Register

Each entry in the Register for a CPS constitutes an entitlement to the benefits given to the Holder under these Terms and the Trust Constitution in respect of the CPS.

13.3 Register conclusive as to ownership

Entries in the Register in relation to a CPS constitute conclusive evidence that the person so entered is the absolute owner of the CPS subject to correction for fraud or error.

13.4 Non-recognition of interests

Except as required by law, the Issuer and the Registrar must treat the person whose name is entered in the Register as the Holder as the absolute owner of that CPS.

No notice of any trust or other interest in, or claim to, any CPS will be entered in the Register. Neither the Issuer nor the Registrar need take notice of any trust or other interest in, or claim to, any CPS, except as ordered by a court of competent jurisdiction or required by law.

This clause 13.4 (“Non-recognition of interests”) applies whether or not a payment has been made when scheduled on a CPS and despite any notice of ownership, trust or interest in the CPS.

13.5 Joint holders

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

13.6 Transfers in whole

CPS may be transferred in whole but not in part in accordance with these Terms and the Trust Constitution.

13.7 Transfer

A Holder may, subject to this clause 13.7 (“Title and transfer of CPS”), transfer any CPS:

- (a) by a proper ASTC transfer according to the ASTC Operating Rules;
- (b) by a proper transfer under any other computerised or electronic system recognised by the Corporations Act;
- (c) under any other method of transfer which operates in relation to the trading of securities on any securities exchange outside Australia on which CPS are quoted; or
- (d) by any proper or sufficient instrument of transfer of marketable securities under applicable law.

The Issuer must not charge any fee on the transfer of a CPS.

13.8 Market obligations

The Issuer must comply with Applicable Regulation and any other relevant obligations imposed on it in relation to the transfer of a CPS.

13.9 Issuer may request holding lock or refuse to register transfer

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

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

13.10 Issuer must request holding lock or refuse to register transfer

- (a) The Issuer must request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of CPS approved by and registered on the CS Facility's electronic subregister or CPS registered on an issuer-sponsored subregister, as the case may be, if the Corporations Act, the Listing Rules or the terms of a Restriction Agreement require the Issuer to do so.
- (b) The Issuer must refuse to register any transfer of CPS if the Corporations Act, the ASX Listing Rules or the terms of a Restriction Agreement require the Issuer to do so.
- (c) During a breach of the ASX Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the Holder of the Restricted Securities is not entitled to any distribution or voting rights in respect of the Restricted Securities.

13.11 Notice of holding locks and refusal to register transfer

If, in the exercise of its rights under clauses 13.9 ("Issuer may request holding lock or refuse to register transfer") and 13.10 ("Issuer must request holding lock or refuse to register transfer"), the Issuer requests application of a holding lock to prevent a transfer of CPS or refuses to register a transfer of CPS, it must, within two months after the date on which the transfer was lodged with it, give written notice of the request or refusal to the Holder, to the transferee and the broker lodging the transfer, if any. Failure to give such notice does not, however, invalidate the decision of the Issuer.

13.12 Delivery of instrument

If an instrument is used to transfer CPS according to clause 13.7 ("Transfer"), it must be delivered to the Registrar, together with such evidence (if any) as the Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the CPS.

13.13 Refusal to register

The Issuer may only refuse to register a transfer of any CPS if such registration would contravene or is forbidden by Applicable Regulation or the Terms.

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

13.14 Transferor to remain Holder until registration

A transferor of a CPS remains the Holder in respect of that CPS until the transfer is registered and the name of the transferee is entered in the Register.

13.15 Effect of transfer

Upon registration and entry of the transferee in the Register the transferor ceases to be entitled to future benefits under these Terms and the Trust

Constitution in respect of the transferred CPS and the transferee becomes so entitled in accordance with clause 13.2 (“Effect of entries in Register”).

13.16 Estates

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

13.17 Unincorporated associations

A transfer to an unincorporated association is not permitted.

13.18 Transfer of unidentified CPS

Where the transferor executes a transfer of less than all CPS registered in its name, and the specific CPS to be transferred are not identified, the Registrar may (subject to the limit on minimum holdings) register the transfer in respect of such of the CPS registered in the name of the transferor as the Registrar thinks fit, provided the aggregate Liquidation Amount of the CPS registered as having been transferred equals the aggregate Liquidation Amount of the CPS expressed to be transferred in the transfer.

14 Notices and other communications

14.1 Notices to Holders

Except where otherwise provided in these Terms, a notice may be given by the Issuer to a Holder in any manner prescribed by the Trust Constitution for giving notices to members of the Issuer and the relevant provisions apply with all necessary modifications to notices to Holders.

14.2 Delivery of certain notices

A Non-Conversion Notice, a Deferred Conversion Notice, an Exchange Notice, a Redemption Notice, a Resale Notice, an Acquisition Event Notice, an Acquisition Exchange Notice, an Adjustment Notice and an Issuer Details Notice may each be given to Holders by the Issuer publishing the notice on its website and announcing the publication of the notice to ASX.

14.3 Non-receipt of notices by Holders

The non-receipt of a notice by a Holder or an accidental omission to give notice to a Holder will not invalidate the giving of that notice either in respect of that Holder or generally.

14.4 Notices to the Issuer

- (a) All notices or other communications to the Issuer in respect of the Terms must be:
 - (i) in legible writing or typing and in English;

- (ii) addressed as shown below:

Attention: Company Secretary

Address: Macquarie Capital Loans Management
Limited as responsible entity of the
Macquarie CPS Trust
No.1 Martin Place
Sydney NSW 2000

Fax No: +61 2 8232 4330

or to such other address or fax number as the Issuer notifies to Holders as its address or fax number (as the case may be) for notices or other communications in respect of these Terms from time to time (an “**Issuer Details Notice**”);

- (iii) signed by the person making the communication or by a person duly authorised by that person; and
- (iv) delivered or posted by prepaid post to the address, or sent by fax to the fax number, of the Issuer in accordance with clause 13.4(b).
- (b) A notice to the Issuer will be taken to be received:
- (i) if sent by fax, when actually received in its entirety in legible form, unless that local time is not a Business Day, or is after 5.00 pm on a Business Day, in which case that communication will be regarded as received at 9.00 am on the next Business Day; and
- (ii) in any other case, on delivery at the address of the Issuer as provided in clause 13.4 (“Non-recognition of interests”), unless that delivery is not made on a Business Day, or is after 5.00 pm on a Business Day, in which case that communication will be regarded as received at 9.00 am on the next Business Day.

15 Payments

15.1 Calculations of Payments

All calculations of payments will be rounded to four decimal places. For the purposes of making any payment in respect of a Holder’s aggregate holding of CPS, any fraction of a cent will be disregarded.

15.2 Deductions

- (a) The Issuer may deduct from any payment payable to a Holder the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such payment.
- (b) If any deduction is required, the Issuer must pay the full amount required to be deducted to the relevant revenue authority within the

time allowed for such payment without incurring penalty under the applicable law.

- (c) If:
 - (i) a deduction is made; and
 - (ii) the amount of the deduction is accounted for by the Issuer to the relevant revenue authority; and
 - (d) the balance of the amount payable has been paid to the Holder,
- then the Issuer's obligation to make the payment to the Holder is taken to have been satisfied in full by the Issuer.

15.3 No set-off or offsetting rights

A Holder:

- (a) may not exercise any right to set-off any amounts owing by it to the Issuer or any member of the Macquarie Group against any claims owing by the Issuer or MGL; and
- (b) will have no offsetting rights or claims on the Issuer or any member of the Macquarie Group if the Issuer does not pay a Distribution when Scheduled under CPS.

15.4 Time limit for claims

A claim against the Issuer for payment according to these Terms is void unless made within five years of the due date for payment.

15.5 Manner of payment to Holders

Monies payable by the Issuer to a Holder may be paid in any manner the Issuer decides, including:

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

15.6 Unpresented cheques

Cheques issued by the Issuer that are not presented within six months of being issued or such lesser period as determined by the Issuer may be

cancelled. Where a cheque which is cancelled was drawn in favour of a Holder, the moneys are to be held by the Issuer for the Holder as a non-interest bearing deposit until the Holder or any legal personal representative of the Holder claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed moneys.

15.7 Unsuccessful attempts to pay

Subject to applicable law, where the Issuer:

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

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

15.8 Payment to joint Holders

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

16 Quotation on ASX

The Issuer must use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure, at its own expense, quotation of CPS on ASX.

17 Amendment of these Terms

17.1 Amendment without consent

Subject to complying with the Corporations Act and all other applicable laws, the Issuer may amend these Terms:

- (a) if the Issuer is of the opinion that the amendment is:
 - (i) of a formal, minor or technical nature;
 - (ii) made to cure any ambiguity or correct any manifest error;
 - (iii) expedient for the purpose of enabling CPS to be listed or to remain listed on a securities exchange or lodged in a clearing system or to remain lodged in a clearing system or to be offered for sale or for subscription under the laws for the time

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being in force in any place and it is otherwise not considered by the Issuer to be materially prejudicial to the interests of the Holders as a whole;

- (iv) necessary and appropriate to comply with the provisions of any statute or the requirements of any statutory authority;
 - (v) necessary and appropriate to effect the substitution of the Approved Acquirer as the issuer of the ordinary equity capital on Conversion in the manner contemplated by these Terms, including, without limitation, amendments and additions to:
 - (A) the definition of Conversion and the mechanics to effect Conversion under clause 6 (“Conversion mechanics”);
 - (B) the definition of Conversion Number in clause 6 (“Conversion mechanics”) and the mechanics for adjusting that Conversion Number; and
 - (C) the definitions of “Acquisition Event”, “Macquarie Group”, “Ordinary Share” “Regulatory Event and “Tax Event”;
 - (vi) necessary and appropriate to enable payment to Holders of the Make-Whole Amount (as defined in the MGL Decd of Undertaking); or
 - (vii) to evidence the succession of another person to the Issuer and the assumption by any such successor of the undertakings and obligations of the Issuer under the CPS;
- (b) according to the Issuer’s adjustment rights in clause 6 (“Conversion Mechanics”); or
 - (c) generally, in any case where such amendment is considered by the Directors not to adversely affect the interests of Holders as a whole.

17.2 Amendment with consent

Without limiting clause 17.1 (“Amendment without consent”), the Issuer may, with APRA’s prior written approval, amend these Terms if the amendment has been approved by a Special Resolution.

17.3 Meanings

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

17.4 Notice of amendments

Any amendment of these Terms made in accordance with this clause 17 (“Amendment of these Terms”) must be promptly notified to Holders.

17.5 Amendments determined by MGL

If MGL or MCPSLLC resolves to require the Issuer to:

- (a) amend these Terms in accordance with clause 17.1 (“Amendment without consent”); or
- (b) convene a meeting of Holders in accordance with the Trust Constitution to consider an amendment in accordance with clause 17.2 (“Amendment with consent”),

and MGL or MCPSLLC notifies the Issuer of that resolution then, subject to the duties of the Issuer and to the maximum extent permitted by law, the Issuer must amend these CPS terms or convene that meeting accordingly.

Subject to the Corporations Act and all other applicable laws, the Issuer must not otherwise amend these Terms or convene a meeting to consider an amendment to these Terms and must not propose terms for amendment contrary to a notice received in accordance with this clause 17.5 (“Amendments determined by MGL”).

18 Governing law

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

19 Interpretation and definitions

19.1 Interpretation

- (a) Unless the context otherwise requires, if there is any inconsistency between the provisions of these Terms and the Trust Constitution then, to the maximum extent permitted by law, the provisions of these Terms will prevail.
- (b) Unless otherwise specified, a reference to a clause is a reference to a clause of these Terms.
- (c) If a calculation is required under these Terms, unless the contrary intention is expressed, the calculation will be rounded to four decimal places.
- (d) Subject to clause 19.1(a) (“Interpretation”), definitions and interpretation under the Trust Constitution will also apply to these Terms unless the contrary intention is expressed.
- (e) Any provisions which refer to the requirements of APRA or any other prudential regulatory requirements will apply to the Issuer or MGL only if the Issuer or MGL is an entity, or the holding company of an entity, subject to regulation and supervision by APRA at the relevant time.

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- (f) Any provisions which require APRA's consent or approval will apply only if APRA requires that such consent or approval be given at the relevant time.
- (g) Any provisions in these Terms requiring the prior approval of APRA for a particular course of action to be taken by the Issuer or MGL do not imply that APRA has given its consent or approval to the particular action as of the Issue Date.
- (h) The terms takeover bid, relevant interest, scheme of arrangement, buy-back and on-market buy-back when used in these Terms have the meaning given in the Corporations Act.
- (i) Headings and bolding are for convenience only and do not affect the interpretation of these Terms.
- (j) The singular includes the plural and vice versa.
- (k) A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- (l) If an event under these Terms must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the next Business Day.
- (m) A reference to dollars, A\$, \$ or cents is a reference to the lawful currency of Australia.
- (n) Calculations, elections and determinations made by the Issuer or MGL under these Terms are binding on Holders in the absence of manifest error.

19.2 Definitions

Acquisition Event means:

- (a) a takeover bid is made to acquire all or some Ordinary Shares and the offer is, or becomes, unconditional and as a result of the bid the bidder has a relevant interest in more than 50% of the Ordinary Shares on issue; or
- (b) a court approves a scheme of arrangement which, when implemented, will result in a person having a relevant interest in more than 50% of the Ordinary Shares,

(each an "event") other than as part of a solvent reorganisation where the persons holding relevant interests in the ordinary equity capital (being listed on ASX) of the bidder or other person ("**Approved Acquirer**") acquiring a relevant interest in more than 50% of the Ordinary Shares on issue are, or will be, substantially the same, and in the substantially the same proportions, as the persons who held relevant interests in the Ordinary Shares immediately prior to the event where:

- (i) the event is initiated by the Directors or would not, in MGL's reasonable opinion, otherwise materially prejudice the interests of Holders; and
- (ii) the Approved Acquirer agrees for the benefit of Holders to:
- (A) issue its ordinary equity capital in all circumstances where MGL would have otherwise been obliged to issue Ordinary Shares as contemplated by these Terms;
 - (B) use all reasonable endeavours to ensure quotation of such ordinary equity capital on ASX; and
 - (C) comply with the obligations and restrictions as apply to MGL in the Implementation Deed and the MGL Deed of Undertaking (with all necessary and appropriate modifications).

Acquisition Event Notice has the meaning given in clause 5.1 ("Notice of Acquisition Event").

Acquisition Exchange Date has the meaning given in clause 5.3 ("Contents of Acquisition Exchange Notice") and, where applicable, clause 5.4 ("Where Acquisition Exchange Notice not required").

Acquisition Exchange Notice has the meaning given in clause 5.2 ("Exchange on occurrence of Acquisition Event").

Adjustment Notice has the meaning given in clause 6.11 ("Announcement of adjustment to Issue Date VWAP").

Applicable Regulation means such provisions of the ASX Listing Rules, the ASTC Operating Rules, the Corporations Act and any regulations or rules pursuant under or pursuant to any such provisions as may be applicable to the transfer.

Approved Acquirer has the meaning specified in the definition of Acquisition Event.

APRA means the Australian Prudential Regulation Authority (ABN 79 635 582 658) or any successor body responsible for prudential regulation of MGL.

APRA Capital Event means, unless APRA otherwise determines that the event is not an APRA Capital Event:

- (a) APRA issues a written directive to MGL under section 11CA of the Banking Act for MGL to increase its capital;
- (b) proceedings are commenced for the winding up of MGL (other than a solvent reconstruction approved by APRA); or
- (c) the consolidated retained earnings of the Macquarie Group have become negative.

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ASTC means ASX Settlement and Transfer Corporation Pty Limited (ABN 44 008 504 532).

ASTC Operating Rules means the operating rules of ASTC.

ASX means ASX Limited (ABN 98 008 624 691) or the securities market operated by it, as the context requires, or any successor.

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

ASX Market Rules means the market rules of ASX as amended, varied or waived (whether in respect of the Issuer or generally) from time to time.

Attorney has the meaning given in clause 9.2 (“Preference Share Exchange Notice”).

Bank Bill Rate has the meaning given in clause 2.1 (“Distribution”).

Banking Act means the Banking Act 1959 of Australia.

Business Day has the meaning given in the ASX Listing Rules with any modifications or waivers in their application to MCLML as responsible entity of the Macquarie CPS Trust which ASX may grant.

Control has the meaning given in the Corporations Act.

Conversion means, that the Issuer redeems the CPS upon:

- (a) MGL at the direction of the Issuer, issuing the Conversion Number of Ordinary Shares to the Holder on the Mandatory Conversion Date or Exchange Date; and
- (b) if the Issuer or MGL (in its discretion) determines to pay an amount by way of Distribution on the Mandatory Conversion Date or Exchange Date, the Issuer or MGL paying the Distribution.

and **Convert** and **Converted** have corresponding meanings.

Conversion Number has the meaning given in clause 6.1 (“Conversion”).

Corporations Act means the Corporations Act 2001 of Australia.

CPS has the meaning given in clause 1(a) (“Form of CPS”).

CS Facility has the same meaning as “prescribed CS Facility” in the Corporation Act.

CS Facility Operator means the operator of a CS Facility.

Cum Value has the meaning given in clause 6.2 (“Adjustments to VWAP”).

Deferred Acquisition Exchange Notice has the meaning given in clause 5.5 (“Deferred Exchange on Acquisition Event”).

Deferred Conversion Date has the meaning given in clause 4.5 (“Conditions to Conversion occurring once elected by the Issuer”).

Deferred Conversion Notice has the meaning given in clause 4.5 (“Conditions to Conversion occurring once elected by the Issuer”).

Deferred Exchange Date has the meaning given in clause 8.6 (“Effect of failure by the Nominated Purchaser to pay”).

Deferred Redemption Date has the meaning given in clause 3.5 (“Redemption where Mandatory Conversion Conditions are not satisfied”).

Delisting Event means, in respect of a date, that:

- (a) Ordinary Shares ceased to be listed or admitted to trading on ASX on or before that date (and where the cessation occurred before that date, Ordinary Shares continue not to be listed or admitted to trading on that date); or
- (b) trading of Ordinary Shares on ASX is suspended for a period of consecutive days which includes:
 - (i) at least five consecutive Business Days prior to that date; and
 - (ii) that date.

Directors means some or all of the voting directors of MGL acting as a board.

Distribution has the meaning given in clause 2.1 (“Distribution”).

Distribution Payment Date has the meaning given in clause 2.5 (“Distribution Payment Dates”) whether or not a Distribution is, or is able to be, paid on that date.

Distribution Period means the period for which a Distribution is calculated in accordance with clause 2.1 (“Distribution”).

Distribution Rate has the meaning given in clause 2.1 (“Distribution”).

Distributable Profits means:

- (a) the consolidated net profits after tax of the Macquarie Group which is attributable to the holders of the Ordinary Shares (determined before any interest, distributions or other distributions paid or payable by a member of the Macquarie Group on any instrument which constitutes Eligible Hybrid Capital for the Non-ADI Group) for the immediately preceding two half yearly financial periods for which results have been publicly announced by MGL; less
- (b) the aggregate amount of any interest, distributions or other distributions paid or payable by a member of the Macquarie Group on any instrument which constitutes Eligible Hybrid Capital for the Non-ADI Group (but not including any interest, distributions or other distributions paid or payable to a member of the Macquarie

Group by another member of the Macquarie Group) in the 12 month period up to and including the Distribution Payment Date (but excluding any Distribution payable on CPS on a Distribution Payment Date).

Eligible Asset means the LPS and any other notes, bonds, securities or shares issued by, or any loan to or investment in, any member of the Macquarie Group held by the RE as an asset of the Macquarie CPS Trust.

Eligible Capital has the same meaning as “eligible capital” in the conditions in the schedule on the NOHC Authority or the equivalent concept in any subsequent or replacement authority given by APRA in favour of MGL.

Eligible Hybrid Capital for the Non-ADI Group means hybrid capital that meets the conditions in Annexure 2 to the conditions in the schedule on the NOHC Authority or the equivalent concept in any subsequent or replacement authority given by APRA in favour of MGL.

Exchange means Conversion in accordance with and subject to clause 6 (“Conversion Mechanics”), Redemption in accordance with and subject to clause 7 (“Redemption Mechanics”), Resale in accordance with and subject to clause 8 (“Resale Mechanics”), or, where pursuant to clause 4.2 (“Contents of Exchange Notice”) the Issuer has specified Preference Share Exchange as the Exchange Method, Preference Share Exchange in accordance with clause 9 (“Preference Share Exchange”) and **Exchanged** has a corresponding meaning.

Exchange Date has the meaning given in clause 4.2(b) (“Contents of Exchange Notice”).

Exchange Method has the meaning given in clause 4.3 (“Exchange Method”).

Exchange Notice has the meaning given in clause 4.1 (“Optional Exchange by the Issuer”).

First Mandatory Conversion Condition has the meaning given in clause 3.3 (“Mandatory Conversion Conditions”).

First Optional Conversion Condition has the meaning given in clause 4.4 (“Conditions to election by the Issuer of Conversion as Exchange Method”).

First Test Date has the meaning given in clause 3.3 (“Mandatory Conversion Conditions”).

Fitch means Fitch Australia Pty Ltd (ACN 081 339 184) or any successor.

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

Holder means a person whose name is registered in the Register as the holder of a CPS.

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Implementation Deed means the deed so called dated on or about the Issue Date between MGL and the Issuer.

Initial Mandatory Conversion Date has the meaning given in clause 3.2 (“Mandatory Conversion Date”).

Issue Date means the date on which CPS are issued under the Offer.

Issue Date VWAP means the VWAP during the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the first date on which any CPS were issued, as adjusted in accordance with clauses 6.5 (“Adjustments to Issue Date VWAP for bonus and rights issues”) to 6.10 (“Directors’ sole discretion regarding adjustments to Issue Date VWAP”).

Issue Price has the meaning given in clause 1(b) (“Form of CPS”).

Issuer means RE in its capacity as responsible entity of the Macquarie CPS Trust.

Issuer Details Notice has the meaning given in clause 13.4(b).

Liquidation Amount means an amount equal to the Issue Price.

LLC Agreement means the limited liability company agreement of MCPDLLC dated on or before the Issue Date.

LPS means the preferred limited liability company interests by MCPDLLC on the LPS Terms.

LPS Terms means the terms of the LPS set out in Annex to the LLC Agreement.

Macquarie CPS Trust means the Australian registered managed investment scheme (ASRN 129 962 358) created pursuant to the Trust Constitution.

Macquarie Group means MGL and each entity it Controls.

Mandatory Conversion means the mandatory conversion under clause 3 (“Mandatory Conversion”) of CPS to Ordinary Shares on the Mandatory Conversion Date.

Mandatory Conversion Conditions has the meaning given in clause 3.3 (“Mandatory Conversion Conditions”).

Mandatory Conversion Date has the meaning given in clause 3.2 (“Mandatory Conversion Date”).

Margin has the meaning given in clause 2.1 (“Distribution”).

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

$$\text{Maximum Conversion Number} = \frac{\text{Issue Price}}{\text{Issue Date VWAP} \times 0.5}$$

MCPSLLC means Macquarie CPS LLC, a limited liability company to be established under the laws of Delaware, United States of America.

MGL means Macquarie Group Limited (ABN 94 122 169 279), a company incorporated under the laws of Australia.

MGL Breach of Undertakings Event means either that:

- (a) the Issuer duly gives a MGL Breach Notice to MGL in accordance with the Implementation Deed; or
- (b) Holders of CPS having an aggregate Face Value of not less than 10% of the aggregate Face Value of all outstanding CPS give a MGL Breach Notice to MGL in accordance with the MGL Deed of Undertaking

and, if the breach the subject to the MGL Breach of Undertakings Event is remediable, that breach has not been remedied to the satisfaction of the Issuer within three Business Days.

MGL Breach Notice means a notice given:

- (a) by the Issuer to MGL under the Implementation Deed; or
- (b) by Holders of CPS having an aggregate Face Value of not less than 10% of the aggregate Face Value of all outstanding CPS under the MGL Deed of Undertaking,

following a failure by MGL to comply with any of its undertakings in the Implementation Deed or the MGL Deed of Undertaking.

MGL Constitution means the constitution of MGL as amended from time to time.

MGL Deed of Undertaking means the deed so called dated on or about the Issue Date by MGL in favour of the Holders in which:

- (a) MGL gives the undertaking referred to in clauses 2.7 (“MGL’s undertaking in relation to unpaid Distributions”) and 2.8 (“Exclusions from undertaking”); and
- (b) agrees to pay, or procure the payment of, a Make-Whole Amount (as defined in the MGL Deed of Undertaking) in cash or by the issue of additional Ordinary Shares in certain circumstances occurring before the Initial Mandatory Conversion Date.

MGL Junior Securities means:

- (a) the Ordinary Shares;
- (b) any preference shares, securities or capital instruments issued by MGL and ranking:
 - (i) where clause 2.7(a) (“MGL’s undertaking in relation to unpaid Distributions”) applies, for the payment of interest, dividends

or distributions or other payments junior to the Preference Shares in respect of the payment of dividends; and

- (ii) where clause 2.7(b) (“MGL’s undertaking in relation to unpaid Distributions”) applies, for a return of capital in a winding up of MGL junior to the Preference Shares for such return of capital; and
- (c) any securities or other capital instruments issued by a member of the Macquarie Group or any other entity (other than Macquarie Bank Limited (ABN 46 008 583 542) or any entity it Controls), which at the option of such issuer or MGL, are convertible or exchangeable into:
 - (i) the Ordinary Shares;
 - (ii) where clause 2.7(a) (“MGL’s undertaking in relation to unpaid Distributions”) applies, any other junior ranking preference shares, securities or capital instruments referred to in paragraph (b)(i); or
 - (iii) where clause 2.7(b) (“MGL’s undertaking in relation to unpaid Distributions”) applies, any other junior ranking preference shares, securities or capital instruments referred to in paragraph (b)(i);

and, in any such case, which are included, or are eligible for inclusion, in Eligible Capital.

MGL Pari Passu and Junior Securities means the MGL Pari Passu Securities and the MGL Junior Securities.

MGL Pari Passu Securities means:

- (a) the Preference Shares;
- (b) any other preference shares, securities or capital instruments issued by MGL and ranking:
 - (i) where clause 2.7(a) (“MGL’s undertaking in relation to unpaid Distributions”) applies, for the payment of interest, dividends or distributions or other payments *pari passu* with the Preference Shares in respect of the payment of dividends; and
 - (ii) where clause 2.7(b) (“MGL’s undertaking in relation to unpaid Distributions”) applies, for a return of capital in a winding up of MGL *pari passu* with the Preference Shares for such return of capital; and
- (c) any securities or other capital instruments issued by a member of the Macquarie Group or any other entity (other than Macquarie Bank Limited (ABN 46 008 583 542) or any entity it Controls), which at the option of such issuer or MGL, are convertible or exchangeable into:
 - (i) the Preference Shares;

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- (ii) where clause 2.7(a) (“MGL’s undertaking in relation to unpaid Distributions”) applies, any other *pari passu* preference shares, securities or capital instruments referred to in paragraph (b)(i); or
- (iii) where clause 2.7(b) (“MGL’s undertaking in relation to unpaid Distributions”) applies, any other *pari passu* preference shares, securities or capital instruments referred to in paragraph (b)(ii);

and, in any such case, which are included, or are eligible for inclusion, in Eligible Capital.

Moody’s means Moody’s Investors Service Pty Limited (ACN 003 399 657) or any successor.

NOHC Authority means the authority to be a non-operating holding company of an authorised deposit-taking institution given by APRA in favour of MGL on 5 September 2007 under the Banking Act.

Nominated Purchaser means, subject to clause 8.3 (“Identity of Nominated Purchaser”), with respect to a Resale, one or more third parties selected by the Issuer in its absolute discretion.

Non-Conversion Notice has the meaning given in clause 3.4 (“Non Conversion Notices”).

Offer means the invitation under the Product Disclosure Statement made by the Issuer for persons to subscribe for CPS.

Optional Conversion Conditions has the meaning given in clause 4.4 (“Conditions to election by the Issuer of Conversion as Exchange Method”).

Optional Conversion Test Date has the meaning given in clause 4.4 (“Conditions to election by the Issuer of Conversion as Exchange Method”).

Optional Distribution has the meaning given in clause 2.3 (“Optional Distribution”).

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

Ordinary Shareholder means a person whose name is registered as the holder of an Ordinary Share.

Ordinary Share Issue Price has the meaning given in clause 6.1 (“Conversion”).

Ordinary Unit has the meaning given in the Trust Constitution.

Preference Share means a non-cumulative, perpetual preference share in the capital of MGL which confers on the Holder:

- (a) a right to distributions payable from time to time out of the profits of MGL at the discretion of the Directors and otherwise equivalent to the right to Distributions which would have been scheduled to be payable on the CPS at that time had the Preference Share Exchange

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Event not occurred, such distribution being payable in priority to distributions on Ordinary Shares;

- (b) a right to a return of capital in a winding up of MGL in an amount equal to the Liquidation Amount of the CPS, out of the surplus, if any, available to shareholders in priority to holders of Ordinary Shares;
- (c) no further or other right to participate in the assets of MGL or a return of capital in the winding up;
- (d) voting rights as permitted by ASX Listing Rules,

and which is:

- (i) mandatorily convertible into Ordinary Shares on terms and conditions equivalent to the terms and conditions on which CPS convert into Ordinary Shares; and
- (ii) otherwise on terms determined by the Directors as reasonably equivalent to the rights of Holders of CPS generally.

Preference Share Exchange means that the Issuer redeems each CPS upon MGL, at the direction of the Issuer, issuing a Preference Share to the Holder of that CPS on the Preference Share Exchange Date. The number of Preference Shares issued on a Preference Share Exchange must equal the number of outstanding CPS on the Preference Share Exchange Date.

Preference Share Exchange Event has the meaning given in clause 9.1 (“Preference Share Exchange”).

Preference Share Exchange Date means the date determined in accordance with clause 9.3 (“Preference Share Exchange Dates”).

Product Disclosure Statement means the product disclosure statement for the Offer including these Terms.

Record Date means for payment of:

- (a) a Distribution:
 - (i) the date which is seven Business Days before the Distribution Payment Date for that Distribution; or
 - (ii) such other date as is determined by the Issuer in its absolute discretion and communicated to ASX not less than seven Business Days before the specified Record Date; and
- (b) an Optional Distribution, the date prior to the payment of the Optional Distribution that is determined by the Issuer,

or in either case such other date as may be required by, or agreed with, ASX.

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Redeem means to redeem the CPS by payment of the Issue Price in accordance with clause 7 (“Redemption mechanics”) and **Redeemed**, **Redeemable** and **Redemption** have the corresponding meanings.

Redemption Date has the meaning given in clause 3.6 (“Contents of Redemption Notice”).

Redemption Notice has the meaning given in clause 3.5(a) (“Redemption where Mandatory Conversion Conditions are not satisfied”).

Redemption Price has the meaning given in clause 7 (“Redemption Mechanics”).

RE means Macquarie Capital Loans Management Limited (ABN 18 077 595 012, AFSL No. 241106), a company incorporated under the laws of Australia or such other entity which is either:

- (a) a member of the Macquarie Group; or
- (b) a person approved by MGL,

and which is appointed to act as the responsible entity of the Macquarie CPS Trust.

RE Removal Event means the Holders pass a resolution in accordance with section 601FM of the Corporations Act to remove the Issuer as the responsible entity of the Macquarie CPS Trust and the replacement responsible entity is not a member of the Macquarie Group or a person approved by MGL to act as responsible entity of the Macquarie CPS Trust.

Register means the register of CPS maintained by the Issuer or its agent and includes any subregister established and maintained under the Clearing House Electronic Subregister System operated by ASTC.

Registrar means Computershare Investor Services Pty Limited (ABN 48 078 279 277) or any other person appointed by the Issuer to maintain the Register.

Regulatory Event means:

- (a) the receipt by the Directors of an opinion from a reputable legal counsel that, as a result of any amendment to, clarification of or change (including any announcement of a prospective change) in, any law or regulation affecting securities laws of Australia or any official administrative pronouncement or action or judicial decision interpreting or applying such laws or regulations which amendment, clarification or change is effective, or pronouncement, action or decision is announced, on or after the Issue Date, additional requirements would be imposed on the Issuer or any member of the Macquarie Group in relation to or in connection with CPS which the Directors (having received all approvals they consider in their absolute discretion to be necessary (including from APRA)) determine at their absolute discretion, to be unacceptable; or
- (b) the determination by the Directors (having received all approvals they consider in their absolute discretion to be necessary (including

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from APRA)) that MGL is not or will not be entitled to treat all CPS as Eligible Capital, except where the reason the Issuer is not entitled to treat all CPS as Eligible Capital is because:

- (i) MGL has exceeded a limit on any component of Eligible Capital which was in effect on the date of the Product Disclosure Statement; or
- (ii) MGL has taken an action or actions in respect of CPS which directly has the effect that they are not treated as Eligible Capital.

Relevant Date has the meaning in clause 3.2 (“Mandatory Conversion Date”).

Resale means, in relation to a CPS, the sale of CPS in accordance with clause 8 (“Resale Mechanics”) and **Resell** and **Resold** have corresponding meanings.

Resale Notice has the meaning in clause 3.7(a) (“Resale on the Relevant Date”).

Restriction Agreement means an agreement which is required to be concluded under Chapter 9 of the ASX Listing Rules or in voluntarily concluded between the Issuer and one or more Holders.

Restricted Securities has the same meaning as in the ASX Listing Rules and extends to CPS which are subject to voluntary restrictions by agreement between the Issuer and one or more Holders.

Second Mandatory Conversion Condition has the meaning given in clause 3.3 (“Mandatory Conversion Conditions”).

Second Optional Conversion Condition has the meaning given in clause 4.4 (“Conditions to election by the Issuer of Conversion as Exchange Method”).

Second Test Period has the meaning given in clause 3.3 (“Mandatory Conversion Conditions”).

Special Dividend means a dividend in respect of Ordinary Shares which, in the absolute discretion of the Directors, is identified to be a special dividend.

Special Resolution means a resolution passed at a meeting of Holders by a majority of at least 75% of the votes validly cast by Holders in person or by proxy and entitled to vote on the resolution.

Standard & Poor’s means Standard & Poor’s (Australia) Pty Limited (ACN 007 324 852) or any successor.

Subsequent Mandatory Conversion Date has the meaning given in clause 3.2 (“Mandatory Conversion Date”).

Tax Act means:

- (a) the Income Tax Assessment Act 1936 of Australia or the Income Tax Assessment Act 1997 of Australia, as the case may be, and a reference to any section of the Income Tax Assessment Act 1936 includes a reference to that section as rewritten in the Income Tax Assessment Act 1997; and
- (b) any other Act setting the rate of income tax payable and any regulation promulgated under it.

Tax Event means the receipt by the Directors of an opinion from a reputable legal counsel or other tax adviser in the relevant jurisdiction, experienced in such matters to the effect that, as a result of a Tax Law Change, there is more than an insubstantial risk which the Directors determine (having received all approvals they consider in their absolute discretion to be necessary (including from APRA)), at their absolute discretion, to be unacceptable that:

- (a) there is a requirement to gross-up Distributions, interest payments or distributions on CPS or any Eligible Asset;
- (b) a payment in connection with the CPS or any Eligible Asset would be a frankable distribution or frankable distribution for Australian income tax purposes;
- (c) income of MCPSLLC or the Issuer would be subject to United States federal income tax or Australian income tax;
- (d) one or more members of the Macquarie Group would be exposed to more than a *de minimis* amount of other taxes, assessments or other governmental charges in connection with the CPS or any Eligible Asset;
- (e) taxes, duties or government charges would be imposed on the Issuer in connection with the CPS.

Tax Law Change means:

- (a) an amendment to, change in or announced prospective change in any laws or regulations under those laws;
- (b) a judicial decision interpreting, applying or clarifying those laws or regulations;
- (c) an administrative pronouncement or action that represents an official position, including a clarification of an official position of the governmental authority or regulatory body making the administrative pronouncement or taking the action (including, without limitation, any published or private ruling, any notice or announcement of intent to adopt an official position or publish a ruling and or any refusal or failure to give a requested ruling); or
- (d) a decision is made as a result of an audit of any member of the Macquarie Group, or a decision is made in relation to any other taxpayer that has raised capital through the issuance of securities that

are substantially similar to the CPS or any Eligible Assets (which that other taxpayer has either made a provision for in its financial statements or in relation to which that other taxpayer has issued a statement in writing),

by any legislative body, court, governmental authority or regulatory body on or after the Issue Date (irrespective of the manner in which it is made known, becomes effective, is announced or occurs).

Terms means these terms of issue of CPS.

Third Mandatory Conversion Condition has the meaning given in clause 3.3 (“Mandatory Conversion Conditions”).

Trust Constitution means the constitution of the Macquarie CPS Trust dated 21 February 2008 (as amended) of which these Terms form part.

Trust Income has the meaning given in the Trust Constitution.

Trust Winding Up (Holder Resolution) Event means a meeting is called to consider a resolution directing the Issuer as responsible entity of the Macquarie CPS Trust to wind up the Macquarie CPS Trust.

VWAP means, subject to any adjustments under clause 6 (“Conversion Mechanics”), the average of the daily volume weighted average sale prices (rounded to the nearest full cent) of Ordinary Shares sold on ASX during the relevant period or on the relevant days but does not include any “crossing” transacted outside the “Open Session State” or any “special crossing” transacted at any time, each as defined in the ASX Market Rules, or any overseas trades or trades pursuant to the exercise of options over Ordinary Shares.

VWAP Period means the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding the relevant Exchange Date.

Winding Up Event means :

- (a) an order is made by a court of competent jurisdiction for the winding up of MGL or MCPSLLC and 30 days have elapsed without that order having been successfully appealed, stayed or revoked; or
- (b) a resolution is duly passed by the members of MGL or MCPSLLC, as the case may be, for the winding up of MGL or MCPSLLC (as the case may be); or
- (c) the winding up of the Macquarie CPS Trust other than as the result of a Trust Winding Up (Holder Resolution) Event,

in each case other than for the purposes of a consolidation, amalgamation, merger or reconstruction (the terms of which have been approved by a Special Resolution of Holders).

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