

## AMENDMENTS TO THE CHALLENGER CAPITAL NOTES 2 TERMS

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**Challenger Limited (ASX:CGF)** today released amendments to the terms of Challenger Capital Notes 2 (ASX:CGFPB) (CCN2 Terms), to facilitate the Reinvestment Offer for Challenger Capital Notes 4.

Those amendments include terms permitting the resale of the Challenger Capital Notes 2 on the terms set out in the Challenger Capital Notes 4 Prospectus.

Full details of the Offer for Challenger Capital Notes 4 (including the Reinvestment Offer) are set out in the Prospectus that has been separately lodged with the Australian Securities and Investments Commission and on the Australian Securities Exchange today.

The amendments to the CCN2 Terms are set out in the attachment<sup>1</sup> and take effect from today. The amendments to the CCN2 Terms have been approved by Certane CT Pty Ltd as trustee under the Challenger Capital Notes 2 Trust Deed dated 28 February 2017 and the Australian Prudential Regulation Authority (APRA).

Defined terms referred to in this announcement have the same meaning given to them in the Challenger Capital Notes 4 Prospectus.

ENDS

This release has been authorised by Challenger's Continuous Disclosure Committee.

**About Challenger**

Challenger Limited (Challenger) is an investment management firm focused on providing customers with financial security for a better retirement.

Challenger operates a fiduciary Funds Management division, an APRA-regulated Life division and an APRA-regulated authorised deposit-taking institution. Challenger Life Company Limited (Challenger Life) is Australia's largest provider of annuities.

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**Important information:** Challenger Capital Notes 4 are not policy or deposit liabilities of Challenger, Challenger Life, Challenger Bank Limited or any other member of the Challenger Group, and are subordinated, unsecured and not guaranteed. Challenger Capital Notes 4 are complex and may not be suitable for all investors. The investment performance of Challenger Capital Notes 4 is not guaranteed by Challenger or any other member of the Challenger Group. This announcement is not financial product advice and has not taken into account your objectives, financial situation or needs. If you have any questions, you should seek professional advice from a qualified financial adviser which takes into account your particular investment objectives, financial situation and needs before deciding whether to invest in Challenger Capital Notes 4.

The offering of securities referred to in this release is open only to investors that are in Australia, and accordingly, this release does not constitute an offer to sell, or a solicitation of an offer to buy, securities in the United States or to, or for the account or benefit of, any U.S. person (as defined in Regulation S under the U.S. Securities Act of 1933, as amended). This information, the Prospectus or any other material relating to the Offer is not for distribution in the United States.

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<sup>1</sup> Provisions of the CCN2 Terms which will be removed by the amendments are shown with a line struck through the middle of the text. Provisions which will be inserted by the amendments are shown as underlined. All other text is unchanged by the amendments.

# Schedule 1 – Capital Notes 2 Terms

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## **1 Form of Capital Notes 2**

### **1.1 Constitution under Trust Deed**

Challenger Capital Notes 2 (the **Capital Notes**) are non-cumulative, convertible, transferable, redeemable, subordinated, perpetual, unsecured notes of the Issuer constituted by, and owing under, the Trust Deed.

### **1.2 Form**

The Capital Notes are issued in registered form by entry in the Register.

### **1.3 Face Value**

The Capital Notes have a Face Value of A\$100 and are issued fully paid.

### **1.4 Currency**

The Capital Notes are denominated in Australian dollars.

### **1.5 Clearing system**

The Capital Notes will be entered into and dealt with in CHESS. For so long as the Capital Notes remain in CHESS, the rights of a person holding an interest in the Capital Notes are subject to the rules and regulations of CHESS but without affecting any Term which may cause APRA to object to the Challenger Group using, or having used, the proceeds of the issue of some or all of the Capital Notes to fund Additional Tier 1 Capital of CLC.

### **1.6 No certificates**

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

### **1.7 ASX quotation**

The Issuer must use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure that the Capital Notes are, and until Redeemed, Converted or Written-Off remain, quoted on ASX.

### **1.8 No other rights**

The Capital Notes confer no rights on a Holder:

- (a) to vote at any meeting of shareholders of the Issuer;
- (b) to subscribe for new securities or to participate in any bonus issues of securities of the Issuer; or
- (c) to otherwise participate in the profits or property of the Issuer,

except as set out in these Terms or the Trust Deed.

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## 2 Status and ranking

### 2.1 Status and ranking

The Capital Notes constitute direct and unsecured subordinated obligations of the Issuer, ranking for payment of Distributions and for payment of the Redemption Price in a winding-up of the Issuer:

- (a) ahead of Ordinary Shares;
- (b) equally among themselves and with all other instruments issued as Relevant Perpetual Subordinated Instruments; and
- (c) behind the claims of Senior Creditors.

### 2.2 Unsecured Notes

The Capital Notes are unsecured notes for the purposes of section 283BH of the Corporations Act.

### 2.3 Not policies under Life Insurance Act

The Capital Notes are not policies with any member of the Challenger Group for the purposes of the Life Insurance Act.

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## 3 Distributions

### 3.1 Distributions

Subject to these Terms, each Capital Note entitles the Holder on a Record Date to receive, on the relevant Distribution Payment Date, interest (**Distribution**) on its Face Value calculated according to the following formula:

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

where:

**Distribution Rate** (expressed as a percentage per annum) is calculated according to the following formula:

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

where:

**Bank Bill Rate** (expressed as a percentage per annum) means, for a Distribution Period, the rate for prime bank eligible securities of a term of three months which is designated as "AVG MID" on the Thomson Reuters Screen BBSW page (or any designation which replaces that designation on that page or any page which replaces that page) at or about 10:15am (Sydney time) (or such other time at which such rate customarily appears on that page (**Publication Time**)) on the first Business Day of the Distribution Period or, if there is a manifest error in the calculation of that rate or that rate is not displayed by 10:30am (Sydney time) (or such other time that is 15 minutes after the then prevailing Publication Time) on that date, the rate specified in good faith by the Issuer at or around 10:30am (Sydney time) (or such other time that is 15 minutes after the then prevailing Publication Time) on that date having regard, to the extent possible, to:

- (a) the rates otherwise bid and offered for prime bank eligible securities of a term of three months at or around that time on that date; or
- (b) if bid and offer rates for prime bank eligible securities of a term of three months are not otherwise available, the rates otherwise bid and offered for funds of that tenor at or around that time on that date;

provided that the Bank Bill Rate for the Distribution Period commencing on the Reinvestment Date shall be the Bank Bill Rate for the Distribution Period ending immediately prior to the Reinvestment Date;

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

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

**N** means in respect of:

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

### 3.2 Franking Rate determination and adjustments to Distributions

- (a) The Issuer must determine the Franking Rate for each Distribution in accordance with the Tax Act so that (unless the Tax Act otherwise requires):
  - (i) the Franking Rate for a Distribution equals the Franking Rate of:
    - (A) a Dividend paid or expected to be paid by the Issuer during the Franking Period in which that Distribution is paid (**Applicable Franking Period**); or
    - (B) if a Dividend is not paid or expected to be paid by the Issuer in the Applicable Franking Period, a prior Distribution paid during the Applicable Franking Period; and
  - (ii) if the circumstances in paragraphs (i)(A) or (i)(B) do not apply in respect of a Distribution, then the Franking Rate for that Distribution will be determined at the absolute discretion of the Issuer.
- (b) If the Franking Rate for a Distribution is not 100%, the Distribution will be calculated according to the following formula:

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

where:

**D** means the Distribution calculated under clause 3.1;

**Tax Rate** has the meaning given in clause 3.1; and

**F** means the applicable Franking Rate.

### 3.3 Payment of a Distribution

The payment of any Distribution on a Distribution Payment Date is subject to:

- (a) the absolute discretion of the Issuer; and
- (b) no Payment Condition existing in respect of the relevant Distribution Payment Date.

### 3.4 Distributions are discretionary, non-cumulative and only payable in cash

- (a) Payments of Distributions are within the absolute discretion of the Issuer and are non-cumulative. If all or any part of a Distribution is not paid because of this clause 3.4 or because of any other reason:
  - (i) the Issuer has no liability to pay the unpaid amount of the Distribution;
  - (ii) Holders have no claim or entitlement in respect of such non-payment (including, without limitation, on a winding-up of the Issuer); and
  - (iii) such non-payment does not constitute an event of default.
- (b) No interest accrues on any unpaid Distributions and Holders have no claim or entitlement in respect of interest on any unpaid Distributions.
- (c) Any payments of Distributions to Holders must be made in the form of cash.

### 3.5 Distribution Payment Dates

Subject to this clause 3, Distributions will be payable in arrear in respect of a Capital Note on the following dates (each a **Distribution Payment Date**):

- (a) each 22 February, 22 May, 22 August and 22 November, commencing on 22 August 2017, until (but not including) the date on which the Capital Note is Converted or Redeemed in accordance with these Terms; ~~and~~
- (b) each date on which a Conversion, Redemption or Resale of the Capital Note occurs, in each case, in accordance with these Terms; ~~and~~
- (c) [the Reinvestment Date.](#)

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

### 3.6 Record Dates

A Distribution is only payable on a Distribution Payment Date to those persons registered as Holders on the Record Date for that Distribution.

### 3.7 Notification of Distribution, Distribution Rate and other items

For each Distribution Period, the Issuer must notify the Trustee, the Registrar and ASX of the Distribution Rate and the expected Distribution payable as soon as practicable, but in any event no later than the fourth Business Day of the Distribution Period.

### 3.8 Restrictions in the case of non-payment of a Distribution

Subject to clause 3.9, if for any reason a Distribution has not been paid in full on a Distribution Payment Date (the **Relevant Distribution Payment Date**), the Issuer must not,

without the approval of a Special Resolution, until and including the next Distribution Payment Date:

- (a) declare, determine to pay or pay a Dividend; or
- (b) undertake any Buy-Back or Capital Reduction,

unless the Distribution is paid in full within three Business Days of the Relevant Distribution Payment Date.

### **3.9 Exclusions from restrictions in case of non-payment**

The restrictions in clause 3.8 do not apply:

- (a) to a Buy-Back or Capital Reduction in connection with any employment contract, benefit plan or other similar arrangement; and
- (b) to the extent that at the time a Distribution has not been paid on the relevant Distribution Payment Date, the Issuer is legally obliged to pay on or after that date a Dividend or complete on or after that date a Buy-Back or Capital Reduction.

Nothing in these Terms prohibits the Issuer or a Controlled Entity from purchasing Challenger Shares (or an interest therein) in connection with a transaction for the account of a customer of the Issuer or a customer of a Controlled Entity or, with the prior written approval of APRA, in connection with the distribution or trading of Challenger Shares in the ordinary course of business. This includes where the Issuer or a Controlled Entity acquires Challenger Shares acting as trustee for another person and neither the Issuer nor any Controlled Entity has a beneficial interest in the trust (other than a beneficial interest that arises from a security given for the purposes of a transaction entered into in the ordinary course of business).

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## **4 Mandatory Conversion**

### **4.1 Mandatory Conversion**

Subject to clauses 5, 6 and 7, on the Mandatory Conversion Date the Issuer must Convert all (but not some) of the Capital Notes on issue at that date into Ordinary Shares in accordance with clause 8 and this clause 4.

### **4.2 Mandatory Conversion Date**

The **Mandatory Conversion Date** will be the first to occur of the following dates (each a **Relevant Date**) on which the Mandatory Conversion Conditions are satisfied:

- (a) 22 May 2025 (the Scheduled Mandatory Conversion Date); and
- (b) a Distribution Payment Date after the Scheduled Mandatory Conversion Date (a **Subsequent Mandatory Conversion Date**).

### **4.3 Mandatory Conversion Conditions**

The Mandatory Conversion Conditions for each Relevant Date are:

- (a) the VWAP on the 25th Business Day immediately preceding (but not including) the Relevant Date (the **First Test Date**, provided that if no trading in Ordinary Shares took place on that date, the First Test Date is the first Business Day before the 25th Business Day immediately preceding (but not including) the Relevant Date on which trading in Ordinary Shares took place) is greater than the First Test Date Percentage of the Issue Date VWAP (the **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 (the

**Second Test Period**) is greater than the Conversion Test Date Percentage of the Issue Date VWAP (the **Second Mandatory Conversion Condition**); and

- (c) no Delisting Event applies in respect of the Relevant Date (the **Third Mandatory Conversion Condition** and together with the First Mandatory Conversion Condition and the Second Mandatory Conversion Condition, the **Mandatory Conversion Conditions**).

In this clause 4.3:

**First Test Date Percentage** = 110% x **Relevant Fraction**  
(expressed as a percentage)

**Conversion Test Date Percentage** = 101.01% x **Relevant Fraction**  
(expressed as a percentage)

#### 4.4 Non-Conversion Notices

If:

- (a) the First Mandatory Conversion Condition is not satisfied in relation to a Relevant Date, the Issuer will give notice to Holders and the Trustee 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 give notice to Holders and the Trustee on or as soon as practicable after the Relevant Date,

that Mandatory Conversion will not (or, as the case may be, did not) occur on the Relevant Date (each such notice a **Non-Conversion Notice**).

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## 5 Conversion on Non-Viability Trigger Event

### 5.1 Non-Viability Trigger Event

- (a) A **Non-Viability Trigger Event** occurs when APRA provides a written determination to the Issuer that the conversion to Ordinary Shares or write-off of Relevant Perpetual Subordinated Instruments in accordance with their terms or by operation of law is necessary because:
  - (i) without the conversion to Ordinary Shares or write-off, APRA considers that the Issuer would become non-viable; or
  - (ii) without a public sector injection of capital into, or equivalent capital support, with respect to the Issuer, APRA considers that the Issuer would become non-viable.

A determination by APRA under this clause 5.1(a) is a **Non-Viability Determination**.

- (b) If a Non-Viability Trigger Event occurs, the Issuer must convert to Ordinary Shares or write-off:
  - (i) all Relevant Perpetual Subordinated Instruments; or
  - (ii) where clause 5.1(a)(i) applies, an amount of the Relevant Perpetual Subordinated Instruments if APRA is satisfied that conversion to Ordinary Shares or write-off of that amount will be sufficient to ensure that the Issuer does not become non-viable.



## 5.2 Consequences of a Non-Viability Trigger Event

- (a) If a Non-Viability Trigger Event occurs:
  - (i) on that date, whether or not that day is a Business Day (the **Non-Viability Conversion Date**), the Issuer must immediately determine in accordance with the Non-Viability Determination:
    - (A) the amount of Capital Notes that will be Converted into Ordinary Shares and the amount of other Relevant Perpetual Subordinated Instruments which will be converted into Ordinary Shares or written-off; and
    - (B) the identity of the Holders whose Capital Notes will Convert at the time that the Conversion is to take effect and in making that determination the Issuer may make any decisions with respect to the identity of the Holders at that time as may be necessary or desirable to ensure Conversion occurs in an orderly manner, including disregarding any transfers of Capital Notes that have not been settled or registered at that time;
  - (ii) subject only to clauses 5.1(b)(ii) and 8.14 and despite any other provision in these Terms, on the Non-Viability Conversion Date the relevant amount of Capital Notes will be Converted, and the relevant amount of other Relevant Perpetual Subordinated Instruments will be converted to Ordinary Shares or written-off, in each case immediately and irrevocably; and
  - (iii) the Issuer must give notice of the Non-Viability Trigger Event (a **Non-Viability Trigger Event Notice**) to Holders and the Trustee as soon as practicable that Conversion has occurred which notice must state the Non-Viability Conversion Date, the amount of Capital Notes Converted and the relevant amount of Relevant Perpetual Subordinated Instruments converted to Ordinary Shares or written-off.
- (b) If in accordance with clause 5.1(b)(ii) the Issuer is required to convert or write-off some (but not all) Relevant Perpetual Subordinated Instruments, the Issuer must endeavour to treat Holders and holders of other Relevant Perpetual Subordinated Instruments on an approximately proportionate basis, but may discriminate to take account of the effect on marketable parcels and other logistical considerations and the need to effect the conversions or write-offs immediately.
- (c) None of the following shall prevent, impede or delay the Conversion of Capital Notes as required by this clause 5.2:
  - (i) any failure or delay in the conversion to Ordinary Shares or write-off of any other Relevant Perpetual Subordinated Instruments;
  - (ii) any failure or delay in giving a Non-Viability Trigger Event Notice;
  - (iii) any failure or delay in quotation of the Ordinary Shares to be issued on Conversion;
  - (iv) any decision as to the identity of Holders whose Capital Notes are to be Converted in accordance with clause 5.2(a)(i)(B); or
  - (v) any requirement to treat Holders and holders of other Relevant Perpetual Subordinated Instruments as required by clause 5.2(b).
- (d) From the Non-Viability Conversion Date, the Issuer shall treat the Holder in respect of the Capital Notes as the holder of the Conversion Number of Ordinary Shares and

will take all such steps, including updating any of its registers, required to record the Conversion.

### 5.3 Priority of Conversion obligations

- (a) Conversion on account of the occurrence of a Non-Viability Trigger Event is not subject to the Mandatory Conversion Conditions.
- (b) A Conversion required on account of a Non-Viability Trigger Event takes place on the date, and in the manner, required by clause 5.2 notwithstanding anything in clauses 4.1, 6, 7 or 16.
- (c) If on the Non-Viability Conversion Date an Inability Event subsists, then to the extent such event prevents the Issuer from Converting Capital Notes within five Business Days of that date:
  - (i) Conversion on account of the Non-Viability Trigger Event will not occur; and
  - (ii) clause 8.14 shall apply.

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## 6 Optional Exchange by the Issuer

### 6.1 Optional Exchange by the Issuer

The Issuer may with APRA's prior written approval by notice to Holders [of the relevant Capital Notes](#) and the Trustee (an **Exchange Notice**) elect to Exchange:

- (a) all or some Capital Notes on an Exchange Date following the occurrence of a Tax Event or a Regulatory Event;
- (b) all (but not some only) Capital Notes on an Exchange Date following the occurrence of a Potential Acquisition Event; ~~or~~
- (c) all or some Capital Notes on the Optional Exchange Date; ~~or~~
- (d) all (but not some only) Reinvestment Capital Notes on the Reinvestment Date.

An Exchange Notice under this clause 6:

- (i) cannot be given in the period of 20 Business Days preceding (and not including) a Relevant Date where the First Mandatory Conversion Condition has been met in respect of that Relevant Date; and
- (ii) once given is irrevocable, except as set out in these Terms or the Trust Deed.

### 6.2 Contents of Exchange Notice

An Exchange Notice must specify:

- (a) where clause 6.1(a) or clause 6.1(b) applies, the details of the Tax Event, Regulatory Event or Potential Acquisition Event to which the Exchange Notice relates;
- (b) the date on which Exchange is to occur (the **Exchange Date**), which:
  - (i) in the case of a Potential Acquisition Event, is the Business Day prior to the date reasonably determined by the Issuer to be the last date on which holders of Ordinary Shares can participate in the bid or scheme concerned or such other earlier date as the Issuer may reasonably determine having

regard to the timing for implementation of the bid or scheme concerned or such later date as APRA may require;

- (ii) in the case of a Tax Event or a Regulatory Event, is the last Business Day of the month following the month in 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; ~~or~~
- (iii) in the case of clause 6.1(c), is the Optional Exchange Date, which must fall:
  - (A) no earlier than:
    - (aa) 25 Business Days, where the Exchange Method elected is Conversion; or
    - (ab) 15 Business Days, where the Exchange Method elected is Redemption or Resale; and
  - (B) in any case no later than 50 Business Days,  
after the date on which the Exchange Notice is given; or
- (iv) \_\_\_\_\_ in the case of clause 6.1(d), is a date specified in accordance with clause 6.1(d).
- (c) the Exchange Method in accordance with clause 6.3;
- (d) if less than all Capital Notes are subject to Exchange, the proportion of the Capital Notes that are to be Exchanged;
- (e) if the Exchange Notice provides that any Capital Notes are to be Resold, the identity of the Nominated Purchaser or Nominated Purchasers for that Resale; and
- (f) whether any Distribution will be paid in respect of the Capital Notes to be Exchanged on the Exchange Date.

### 6.3 Exchange Method

- (a) If the Issuer elects to Exchange Capital Notes in accordance with clause 6.1, it must, subject to clauses 6.3(b), 6.4 and 6.5 and subject to APRA's prior written approval, elect which of the following it intends to do in respect of Capital Notes (the **Exchange Method**):
  - (i) Convert Capital Notes into Ordinary Shares in accordance with clause 8;
  - (ii) Redeem Capital Notes in accordance with clause 9; or
  - (iii) Resell Capital Notes in accordance with clause 10.

*Holders should not expect that APRA's approval will be given for any Exchange of Capital Notes under these Terms.*

- (b) Subject to clauses 6.4 and 6.5, in the election under clause 6.3(a), the Issuer may specify which of Conversion, Redemption or Resale applies to a particular Capital Note. Without limitation to the foregoing:
  - (i) the Issuer may select any one or more of Conversion, Redemption or Resale to apply to the Capital Notes held by a Holder; and

- (ii) the Issuer may select a different combination of Conversion, Redemption and Resale in respect of Capital Notes held by different Holders,

but otherwise the Issuer must endeavour to treat Holders, in the case of an Exchange of only some Capital Notes, on an approximately proportionate basis (although it may discriminate to take account of the effect on marketable parcels and other logistical considerations).

#### 6.4 Restrictions on election by the Issuer of Redemption or Resale as Exchange Method

The Issuer may elect:

(a) Redemption or Resale as the Exchange Method in respect of an Exchange under this clause 6:

~~(i)~~ on the Optional Exchange Date; and

~~(ii)~~ in the case of a Tax Event or Regulatory Event; and

(b) Resale (but not Redemption) as the Exchange Method in respect of an Exchange under clause 6.1(d).

but may not elect Redemption or Resale in any other case of Exchange and provided in all cases where the Issuer elects Redemption that APRA is satisfied that either:

- (i) Capital Notes the subject of the Exchange are replaced concurrently or beforehand with a Relevant Perpetual Subordinated Instrument of the same or better quality or Ordinary Shares and the replacement of the instrument is done under conditions that are sustainable for the Issuer's income capacity; or
- (ii) having regard to the projected capital position of the Issuer and the Challenger Group, the Issuer does not have to replace the Capital Notes the subject of the Redemption.

#### 6.5 Restrictions on election by the Issuer of Conversion as Exchange Method

The Issuer may not elect Conversion as the Exchange Method in respect of an Exchange under this clause 6 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) (the **Non-Conversion Test Date**) the VWAP on that date is less than or equal to the First Test Date Percentage of the Issue Date VWAP (the **First Optional Conversion Restriction**); ~~or~~

(b) a Delisting Event applies in respect of the Non-Conversion Test Date (the **Second Optional Conversion Restriction** and together with the First Optional Conversion Restriction, the **Optional Conversion Restrictions**); ~~or~~

(c) the Exchange is in respect of Reinvestment Capital Notes as contemplated by clause 6.1(d).

#### 6.6 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 4, 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 4 (the **Deferred Conversion Date**);
- (b) the Issuer must Convert the Capital Notes on the Deferred Conversion Date (unless the Capital Notes are Exchanged earlier in accordance with these Terms); and
- (c) until the Deferred Conversion Date, all rights attaching to the Capital Notes will continue as if the Exchange Notice had not been given.

The Issuer will notify Holders and the Trustee on or as soon as practicable after an Exchange Date in respect of which this clause 6.6 applies that Conversion did not occur on that Exchange Date (a **Deferred Conversion Notice**).

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## **7 Conversion on Acquisition Event**

### **7.1 Notice of Acquisition Event**

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

### **7.2 Conversion on occurrence of Acquisition Event**

If an Acquisition Event occurs, subject to clause 7.4 and clause 7.5 the Issuer must give notice to Holders and the Trustee (an **Acquisition Conversion Notice**) and Convert all (but not some only) Capital Notes on the Acquisition Conversion Date in accordance with this clause 7 and clause 8.

### **7.3 Contents of Acquisition Conversion Notice**

An Acquisition Conversion Notice must specify:

- (a) the details of the Acquisition Event to which the Acquisition Conversion Notice relates;
- (b) the date on which Conversion is to occur (the **Acquisition Conversion Date**), which must be:
  - (i) the Business Day prior to the date reasonably determined by the Issuer to be the last date on which holders of Ordinary Shares can participate in the bid or scheme concerned or such other earlier date as the Issuer may reasonably determine having regard to the timing for implementation of the bid or scheme concerned; or
  - (ii) such later date as APRA may require; and
- (c) whether any Distribution will be paid in respect of the Capital Notes on the Acquisition Conversion Date.

### **7.4 Where Acquisition Conversion Notice not required**

Notwithstanding any provision of clause 7.2 or clause 7.3, the Issuer is not required to give an Acquisition Conversion Notice if either or both of the Optional Conversion Restrictions would apply if the Acquisition Conversion Notice were an Exchange Notice under clause 6 and in this case the provisions of clause 7.5 will apply.

## 7.5 Deferred Conversion on Acquisition Event

If clause 7.4 applies or the Issuer has given an Acquisition Conversion Notice but, if the Acquisition Conversion Date were a Relevant Date for the purposes of clause 4.2, 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 (but without limitation to the operation of clause 5.3):

- (a) the Acquisition Conversion Notice, if given, is taken to be revoked and Conversion will not occur on the Acquisition Conversion Date specified in the Acquisition Conversion Notice;
- (b) the Issuer will notify Holders and the Trustee as soon as practicable that Conversion will not (or, as the case may be, did not) occur (a **Deferred Acquisition Conversion Notice**); and
- (c) the Issuer must, unless clause 7.4 then applies, give an Acquisition Conversion Notice (or, as the case may be, a new Acquisition Conversion Notice) on or before the 25th Business Day prior to the immediately succeeding Distribution Payment Date which is at least 25 Business Days after the date on which the Deferred Acquisition Conversion Notice was given.

The Acquisition Conversion Notice given in accordance with paragraph (c) above must comply with the requirements in clause 7.3.

If this clause 7.5 applies but:

- (i) clause 7.4 applies in respect of the Distribution Payment Date referred to in paragraph (c) such that no Acquisition Conversion Notice (or, as the case may be, no new Acquisition Conversion Notice) is given under this clause 7.5; or
- (ii) an Acquisition Conversion Notice (or, as the case may be, a new Acquisition Conversion Notice) is given under this clause 7.5 but, if the Acquisition Conversion Date specified in the Acquisition Conversion Notice were a Relevant Date for the purposes of clause 4.2, either the Second Mandatory Conversion Condition or the Third Mandatory Conversion Condition would not be satisfied in respect of that date,

then this clause 7.5 will be reapplied in respect of each subsequent Distribution Payment Date until a Conversion occurs.

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## 8 Conversion mechanics

### 8.1 Conversion

If the Issuer elects to Convert Capital Notes (with APRA's prior written approval) or must Convert Capital Notes in accordance with these Terms, then, subject to this clause 8, the following provisions shall apply:

- (a) each Capital Note that is being Converted will Convert into the Conversion Number of Ordinary Shares. The Conversion Number will be calculated by the Issuer in accordance with the following formula:

$$\text{Conversion Number} = \frac{\text{Face Value}}{99\% \times \text{VWAP}}$$

subject always to the Conversion Number being no greater than the Maximum Conversion Number.

where:

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

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

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

**Relevant Fraction** means:

- (i) in the case of a Mandatory Conversion, 0.5; and
  - (ii) in the case of any other Conversion, 0.2;
- (b) each Holder's rights in relation to each Capital Note that is being Converted will be immediately and irrevocably terminated (except for rights relating to Distributions which have been determined to be payable but have not been paid on or before the Mandatory Conversion Date, the Non-Viability Conversion Date, the Exchange Date or the Acquisition Conversion Date (as the case may be), which rights will continue) for an amount equal to the Face Value and the Issuer will apply the Face Value of each Capital Note by way of payment for the subscription for the Ordinary Shares to be allotted and issued under clause 8.1(a). Each Holder is taken to have irrevocably directed that any amount payable under this clause 8.1 is to be applied as provided for in this clause 8.1 and Holders do not have any right to payment in any other way;
- (c) if the total number of Ordinary Shares to be allotted and issued in respect of a Holder's aggregate holding of Capital Notes upon Conversion includes a fraction of an Ordinary Share, that fraction of an Ordinary Share will be disregarded; and
- (d) upon Conversion, a Holder will be given all of the rights attaching to the Conversion Number of Ordinary Shares allotted and issued in respect of such Holder's aggregate holding of Capital Notes but these rights do not take effect until 5:00pm Sydney time on the Mandatory Conversion Date, the Exchange Date or the Acquisition Conversion Date (as the case may be) or, in the case of a Conversion on the Non-Viability Conversion Date, the time at which such Conversion occurs on that date. At that time:
- (i) all other rights conferred or restrictions imposed on that Capital Note under these Terms will no longer have effect (except for rights relating to a Distribution which has been determined to be payable but has not been paid on or before the Mandatory Conversion Date, the Non-Viability Conversion Date, the Exchange Date or the Acquisition Conversion Date (as the case may be), which rights will continue); and
  - (ii) the Ordinary Share resulting from the Conversion will rank equally with all other Ordinary Shares.

## 8.2 Adjustments to VWAP

For the purposes of calculating the VWAP in these Terms:

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

quoted cum dividend or cum any other distribution or entitlement shall be reduced by an amount (the **Cum Value**) equal to:

- (i) (in the case of a dividend or other distribution), the amount of that dividend or other distribution including, if the dividend or other distribution is franked, the amount that would be included in the assessable income of a recipient of the dividend or other distribution who is both a resident of Australia and a natural person under the Tax Act;
  - (ii) (in the case of any other entitlement that is not a dividend or other distribution under clause 8.2(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 dividend or ex any other distribution or entitlement, and Capital Notes will Convert into Ordinary Shares in respect of which the relevant dividend or other distribution or entitlement would be payable, the VWAP on the Business Days on which those Ordinary Shares have been quoted ex dividend or ex any other distribution or entitlement shall be increased by the Cum Value.

### **8.3 Adjustments to VWAP for divisions and similar transactions**

- (a) Where during the relevant VWAP Period there is a change in the number of Ordinary Shares on issue as a result of a Reorganisation, in calculating the VWAP for that VWAP Period the VWAP on each Business Day in the relevant VWAP Period which falls before the date on which trading in Ordinary Shares is conducted on a post-Reorganisation basis shall be adjusted by the following formula:

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

where:

- A** means the aggregate number of Ordinary Shares immediately before the Reorganisation; and
- B** means the aggregate number of Ordinary Shares immediately after the Reorganisation.
- (b) Any adjustment made by the Issuer in accordance with clause 8.3(a) 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.

### **8.4 Adjustments to Issue Date VWAP**

For the purposes of determining the Issue Date VWAP, adjustments to the VWAP will be made in accordance with clauses 8.2 and 8.3 during the VWAP Period for the Issue Date VWAP. On and from the Issue Date, adjustments to the Issue Date VWAP:

- (a) may be made by the Issuer in accordance with clauses 8.5 to 8.7 (inclusive); and
- (b) if so made, will correspondingly:



- (i) affect the application of the Mandatory Conversion Conditions and the Optional Conversion Restrictions; and
- (ii) cause an adjustment to the Maximum Conversion Number.

## 8.5 Adjustments to Issue Date VWAP for bonus issues

- (a) Subject to clause 8.5(b), if at any time after the Issue Date the Issuer makes a pro rata bonus issue of Ordinary Shares to holders of Ordinary Shares generally, the Issue Date VWAP will be adjusted in accordance with the following formula:

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

where:

- V** means the Issue Date VWAP applying immediately after the application of this formula;
  - V<sub>o</sub>** means the Issue Date VWAP applying immediately prior to the application of this formula;
  - RD** means the number of Ordinary Shares on issue immediately prior to the allotment of new Ordinary Shares pursuant to the bonus issue; and
  - RN** means the number of Ordinary Shares issued pursuant to the bonus issue.
- (b) Clause 8.5(a) does not apply to Ordinary Shares issued as part of a bonus share plan, employee or executive share plan, executive option plan, share top-up plan, share purchase plan or a dividend reinvestment plan.
  - (c) For the purposes of clause 8.5(a), an issue will be regarded as a pro rata bonus issue notwithstanding that the Issuer does not make offers to some or all holders of Ordinary Shares with registered addresses outside Australia, provided that in so doing the Issuer is not in contravention of the ASX Listing Rules.
  - (d) No adjustments to the Issue Date VWAP will be made under this clause 8.5 for any offer of Ordinary Shares not covered by clause 8.5(a), including a rights issue or other essentially pro rata issue.
  - (e) The fact that no adjustment is made for an issue of Ordinary Shares except as covered by clause 8.5(a) shall not in any way restrict the Issuer from issuing Ordinary Shares at any time on such terms as it sees fit nor be taken to constitute a modification or variation of rights or privileges of Holders or otherwise requiring any consent or concurrence of the Holders.

## 8.6 Adjustment to Issue Date VWAP for divisions and similar transactions

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

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

where:

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

**B** means the aggregate number of Ordinary Shares immediately after the Reorganisation.

(b) Any adjustment made by the Issuer in accordance with clause 8.6(a) will be effective and binding on Holders under these Terms and these Terms will be construed accordingly.

(c) Each Holder acknowledges that the Issuer may consolidate, divide or reclassify securities so that there is a lesser or greater number of Ordinary Shares at any time in its absolute discretion without any such action constituting a modification or variation of rights or privileges of Holders or otherwise requiring any consent or concurrence.

### **8.7 No adjustment to Issue Date VWAP in certain circumstances**

Despite the provisions of clauses 8.5 and 8.6, no adjustment shall be made to the Issue Date VWAP where such adjustment (rounded if applicable) would be less than one percent of the Issue Date VWAP then in effect.

### **8.8 Announcement of adjustments**

The Issuer will notify Holders and the Trustee (an **Adjustment Notice**) of any adjustment to the Issue Date VWAP under this clause 8 within 10 Business Days of the Issuer determining the adjustment.

### **8.9 Ordinary Shares**

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

### **8.10 Foreign Holders**

Where Capital Notes held by a Foreign Holder are to be Converted, unless the Issuer is satisfied that the laws of 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 number of Ordinary Shares which the Foreign Holder is obliged to accept will be issued to a nominee appointed by the Issuer (which must not be a member of the Challenger Group or a Related Entity of the Issuer) who will sell that number of Ordinary Shares and pay a cash amount equal to the Proceeds to the Foreign Holder accordingly.

### **8.11 Conversion where the Holder does not wish to receive Ordinary Shares**

If the Issuer has elected or is required to Convert Capital Notes and the Holder has notified the Issuer that it does not wish to receive Ordinary Shares as a result of Conversion, which notice may be given by the Holder at any time on or after the Issue Date and no less than 15 Business Days prior to the date scheduled for Conversion then, on the date for Conversion, the number of Ordinary Shares which that Holder is obliged to accept will be issued to a nominee appointed by the Issuer (which must not be a member of the Challenger Group or a Related Entity of the Issuer) who will sell that number of Ordinary Shares and pay a cash amount equal to the Proceeds to the relevant Holder.

### **8.12 No duty on sale**

For the purposes of clauses 8.10 and 8.11:

(a) the issue of Ordinary Shares to the nominee satisfies the obligation of the Issuer to issue Ordinary Shares in connection with the Conversion and on and from the issue

of those Ordinary Shares, the rights of a Holder the subject of, as applicable, clause 8.10 or 8.11 in respect of those Ordinary Shares are limited to its rights in respect of the Proceeds as provided in, as applicable, clause 8.10 or 8.11; and

- (b) neither the Issuer nor the nominee owes any obligations or duties to the Holders in relation to the price for which, or other terms on which, Ordinary Shares are sold and has no liability for any loss suffered by a Holder as a result of the sale of Ordinary Shares.

### 8.13 Listing Ordinary Shares issued on Conversion

The Issuer shall use all reasonable endeavours to list the Ordinary Shares issued upon Conversion of Capital Notes on ASX.

### 8.14 Write-Off

- (a) Notwithstanding any other provisions of these Terms, if for any reason (including, without limitation, an Inability Event) Conversion of any Capital Notes on account of a Non-Viability Trigger Event does not occur within five Business Days of the Non-Viability Conversion Date, then Conversion of those Capital Notes will not occur and the relevant Holder's rights (including to Distributions and payment of Face Value in relation to such Capital Notes, and to be issued with Ordinary Shares), are immediately and irrevocably written-off and terminated (**Written-Off**) with effect on and from the Non-Viability Conversion Date.
- (b) The Issuer may, but is not required to, seek advice from reputable legal counsel as to whether an Inability Event has occurred and is subsisting. An Inability Event is taken to have occurred and subsist if the Issuer receives advice to that effect from such counsel. The seeking of advice by the Issuer under this clause 8.14(b) shall not delay or impede the Write-Off of the Capital Notes when required under clause 8.14(a).
- (c) The Issuer must give notice to Holders and the Trustee if Conversion has not occurred by operation of this clause 8.14 but failure to give that notice shall not affect the operation of this clause 8.14.

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## 9 Redemption mechanics

### 9.1 Redemption mechanics

If, subject to APRA's prior written approval and compliance with the conditions in clause 6.4, the Issuer elects to Redeem Capital Notes in accordance with these Terms, the provisions of this clause 9 apply to that Redemption.

*Holders should not expect that APRA's approval will be given for any Redemption of Capital Notes under these Terms.*

### 9.2 Redemption

- (a) A Capital Note will be Redeemed by payment:
  - (i) except where sub-paragraph (ii) applies, on the Exchange Date of the Face Value to the relevant Holder (**Redemption Price**); and
  - (ii) in the case of a Reinvestment Capital Note being Redeemed pursuant to clause 10.8, on the date specified in accordance with clause 10.8.
- (b) Redemption may occur even if the Issuer, in its absolute discretion, does not pay a Distribution for the final Distribution Period.

### 9.3 Effect of Redemption on Holders

On the Exchange Date the only right Holders will have in respect of Capital Notes will be to obtain the Redemption Price payable in accordance with these Terms and upon payment of the Redemption Price, all other rights conferred, or restrictions imposed, by Capital Notes will no longer have effect.

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## 10 Resale mechanics

### 10.1 Resale mechanics

If, subject to APRA's prior written approval and compliance with clause 6.4, the Issuer elects to Resell Capital Notes in accordance with these Terms, the provisions of this clause 10 apply to that Resale.

*Holders should not expect that APRA's approval will be given for any Resale of Capital Notes under these Terms.*

### 10.2 Appointment of Nominated Purchaser

The Issuer must appoint one or more Nominated Purchasers for the Resale on such terms as may be agreed between the Issuer and the Nominated Purchasers. If the Issuer appoints more than one Nominated Purchaser in respect of a Resale, all or any of the Capital Notes held by a Holder which are being Resold may be purchased by any one or any combination of the Nominated Purchasers, as determined by the Issuer for the Resale Price.

The obligation of a Nominated Purchaser to pay the Resale Price on the Exchange Date may be subject to such conditions as the Issuer may reasonably determine.

Any terms of the appointment or of the Resale which may cause APRA to object to Challenger Group using, or having used, the proceeds of the issue of some or all of the Capital Notes to fund Additional Tier 1 Capital of CLC, are subject to the prior written consent of APRA.

### 10.3 Identity of Nominated Purchasers

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 [whose Capital Notes are the subject of a Resale](#) to acquire each [such](#) Capital Note from each [relevant](#) Holder for the Resale Price on the Exchange Date;
- (b) has a long-term counterparty credit rating from one of S&P Global Ratings, Moody's Investors Service, Inc. or Fitch Ratings Ltd. of not less than investment grade; and
- (c) is not a Related Entity of the Issuer.

### 10.4 Irrevocable offer to sell Capital Notes

Each Holder on the Exchange Date is taken irrevocably to offer to sell Capital Notes the subject of a Resale to the Nominated Purchaser or Nominated Purchasers on the Exchange Date for the Resale Price.

### 10.5 Effect of Resale

On the Exchange Date subject to payment by the Nominated Purchaser of the Resale Price to the Holders, all right, title and interest in such Capital Notes (excluding the right to any Distribution payable on that date) will be transferred to the Nominated Purchaser free from Encumbrances.

## 10.6 Effect of failure by Nominated Purchaser or Nominated Purchasers to pay

If a Nominated Purchaser does not pay the Resale Price to the Holders on the Exchange Date (a **Defaulting Nominated Purchaser**) (whether as a result of a condition to purchase not being satisfied or otherwise):

- (a) the Exchange Notice as it relates to the Defaulting Nominated Purchaser will be void;
- (b) Capital Notes will not be transferred to the Defaulting Nominated Purchaser on the Exchange Date; and
- (c) Holders will continue to hold the Capital Notes referable to the Defaulting Nominated Purchaser until they are otherwise Redeemed, Converted or Resold in accordance with these Terms.

## 10.7 Payment of Resale Price

Clause 14 applies to payment of the Resale Price as if a reference in that clause to the Redemption Price includes a reference to the Resale Price.

## 10.8 Redemption of Reinvestment Capital Notes in hands of Nominated Purchaser or Nominated Purchasers

On the Reinvestment Date, the Issuer may Redeem all or some Reinvestment Capital Notes Resold to the Nominated Purchaser or Nominated Purchasers pursuant to clause 6.1(d) and this clause 10 by payment to the Nominated Purchaser or Nominated Purchasers (as the case may be) of an amount equal to the Face Value in respect of each Reinvestment Capital Note being Redeemed.

## 10.9 Completion of Resale of Reinvestment Capital Notes

- (a) If, for any reason, the Capital Notes 4 Prospectus is withdrawn, any Exchange Notice given under clause 6.1(d) shall be taken to have been revoked in full and no Resale of Reinvestment Capital Notes shall occur.
- (b) If, and to the extent that, the Issuer determines not to issue Capital Notes 4 to a Holder on the Reinvestment Date, any Exchange Notice given under clause 6.1(d) shall be taken to have been revoked to that extent and no Resale of that Holder's Reinvestment Capital Notes shall occur to the extent of such revocation.

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## 11 General rights

### 11.1 Power of attorney

- (a) Each Holder appoints each of the Issuer, its officers and any External Administrator of the Issuer (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, effecting any Conversion, Redemption or Resale or making any entry in the Register or the register of any Ordinary Shares.
- (b) The power of attorney given in this clause 11.1 is given for valuable consideration and to secure the performance by the Holder of the Holder's obligations under these Terms and is irrevocable.

### 11.2 Consent to receive Ordinary Shares and other acknowledgements

Each Holder irrevocably:

- (a) upon receipt of the Conversion Number of Ordinary Shares following Conversion of Capital Notes, consents to becoming a member of the Issuer and agrees to be bound

by the constitution of the Issuer, in each case in respect of Ordinary Shares issued on Conversion;

- (b) acknowledges and agrees that it is obliged to accept Ordinary Shares on Conversion notwithstanding anything that might otherwise affect a Conversion of Capital Notes including:
  - (i) any change in the financial position of the Issuer or any member of the Challenger Group since the Issue Date;
  - (ii) any disruption to the market or potential market for Ordinary Shares or capital markets generally; or
  - (iii) any breach by the Issuer of any obligation in connection with the Capital Notes;
- (c) acknowledges and agrees that:
  - (i) where clause 5.2 applies:
    - (A) there are no other conditions to a Non-Viability Conversion occurring as and when provided in clauses 5.1 to 5.3 (inclusive);
    - (B) Conversion must occur immediately on the Non-Viability Conversion Date and that Conversion or Write-Off may result in disruption or failures in trading or dealings in Capital Notes;
    - (C) it will not have any rights to vote in respect of any Non-Viability Conversion; and
    - (D) the Ordinary Shares issued on Non-Viability Conversion may not be quoted at the time of issue, or at all;
  - (ii) the only conditions to a Mandatory Conversion are the Mandatory Conversion Conditions;
  - (iii) the only conditions to a Conversion on account of an Exchange under clause 6 or a Conversion under clause 7 are the conditions expressly applicable to such Conversion as provided in clauses 6 and 7 of these Terms and no other conditions or events will affect Conversion; and
  - (iv) clause 8.14 is a fundamental term and where clause 8.14 applies, no other conditions or events will affect the operation of that clause and it will not have any rights to vote in respect of any Write-Off;
- (d) agrees to provide to the Issuer any information necessary to give effect to a Conversion; and
- (e) acknowledges and agrees that:
  - (i) a Holder has no right to request a Conversion, Redemption or Resale of any Capital Note or to determine the Exchange Method;
  - (ii) a Holder has no right to apply for the Issuer to be wound up, or placed in administration, or to cause a receiver, or a receiver and manager, to be appointed in respect of the Issuer merely on the grounds that the Issuer does not or is or may become unable to pay a Distribution when scheduled in respect of Capital Notes;

- (iii) these Terms contain no events of default. Accordingly (but without limitation) failure to pay in full, for any reason, a Distribution on a scheduled Distribution Payment Date will not constitute an event of default; and
- (iv) it has no remedy on account of a failure by the Issuer to issue Ordinary Shares to a Holder or a nominee in accordance with these Terms other than (and subject always to clause 8.14) to seek specific performance of the obligation to issue Ordinary Shares.

### **11.3 No other rights**

A Capital Note confers no rights on a Holder:

- (a) to participate in the profits or property of the Issuer, except as set out in these Terms; or
- (b) to subscribe for new securities in the Issuer or to participate in any bonus issues of shares in the Issuer's capital.

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## **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 the Issuer which will result in a person other than the Issuer 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:

- (c) the Issuer will not be permitted to elect to Exchange the Capital Notes in accordance with clause 6 or to Convert the Capital Notes in accordance with clause 7; or
- (d) the Second Mandatory Conversion Condition or the Third Mandatory Conversion Condition will not be satisfied in respect of the Acquisition Conversion Date in accordance with clause 7,

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.

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## **13 Title and transfer of Capital Notes**

### **13.1 Title**

Title to Capital Notes passes when details of the transfer are entered in the Register.

### **13.2 Effect of entries in Register**

Each entry in the Register in respect of a Capital Note constitutes a separate and independent acknowledgement to the relevant Holder of the obligations of the Issuer to the relevant Holder.

### **13.3 Register conclusive as to ownership**

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

#### **13.4 Non-recognition of interests**

- (a) Except as required by law, the Issuer, the Trustee and the Registrar must treat the person whose name is entered in the Register as the Holder of a Capital Note as the absolute owner of that Capital Note. This clause 13.4 applies whether or not payment has not been made as scheduled in respect of a Capital Note and despite any notice of ownership, trust or interest in the Capital Note.
- (b) No notice of any trust, Encumbrance or other interest in, or claim to any Note will be entered in the Register.

#### **13.5 Joint Holders**

Where two or more persons are entered in the Register as the joint Holders of a Capital Note then they are taken to hold the Capital Note as joint tenants with rights of survivorship, but the Registrar is not bound to register more than four persons as joint Holders of any Capital Note.

#### **13.6 Transfers in whole**

Capital Notes may be transferred in whole but not in part.

#### **13.7 Transfer**

A Holder may, subject to this clause 13.7, transfer any Capital Notes:

- (a) by a proper Transfer according to the ASX Settlement 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 Capital Notes 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 Capital Note.

#### **13.8 Market obligations**

The Issuer must comply with all Applicable Regulations and any other relevant obligations imposed on it in relation to the transfer of a Capital Note.

#### **13.9 Issuer may request holding lock or refuse to register transfer**

If Capital Notes 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 Capital Notes approved by and registered on the CS Facility's electronic sub-register or Capital Notes registered on an issuer-sponsored sub-register, as the case may be; or
- (b) refuse to register a transfer of Capital Notes.

#### **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 Capital Notes approved by and registered on the CS Facility's electronic sub-register or Capital Notes registered on an issuer-sponsored sub-register, as the case may be, if the Corporations Act, the



ASX 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 Capital Notes 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 other distribution on), 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 and 13.10, the Issuer requests the application of a holding lock to prevent a transfer of Capital Notes or refuses to register a transfer of Capital Notes, it must, within five Business Days after the date the holding lock is requested or the refusal to register a transfer, 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 Capital Notes according to clause 13.7, 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 Capital Notes.

### **13.13 Refusal to register**

The Issuer may only refuse to register a transfer of any Capital Notes if such registration would contravene or is forbidden by Applicable Regulations 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 Capital Note remains the Holder in respect of that Capital Note 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 the Trust Deed in respect of the transferred Capital Notes and the transferee becomes so entitled in accordance with clause 13.2.

### **13.16 Estates**

A person becoming entitled to a Capital Note 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 Capital Note or, if so entitled, become registered as the Holder of the Capital Note.

### **13.17 Transfer of unidentified Capital Notes**

Where the transferor executes a transfer of less than all Capital Notes registered in its name, and the specific Capital Notes to be transferred are not identified, the Registrar may register the transfer in respect of such of the Capital Notes registered in the name of the transferor as the Registrar thinks fit, provided the aggregate of the Face Value of all the Capital Notes

registered as having been transferred equals the aggregate of the Face Value of all the Capital Notes expressed to be transferred in the transfer.

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## **14 Payments**

### **14.1 Payments subject to law**

All payments are subject to applicable law, but without prejudice to the provisions of clause 15.

### **14.2 Payments on Business Days**

If a payment in respect of a Capital Note:

- (a) is due on a day which is not a Business Day, then the due date for payment will be postponed to the first following day that is a Business Day; or
- (b) is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment to that Holder will be the first following day on which banks are open for general banking business in that place and the Holder is not entitled to any additional payment in respect of that delay.

Nothing in this clause applies to any payment referred to in clause 8.1(b), which occurs on the date of Conversion as provided in clause 8.1.

### **14.3 Payment of Redemption Price**

Payments of the Redemption Price will be made to each person registered at 10:00 am on the payment date as the Holder of a Capital Note.

### **14.4 Payment of Distribution**

Payments of Distributions will be made to each person registered at the close of business on the Record Date as the Holder of a Capital Note.

### **14.5 Payments to accounts**

Monies payable by the Issuer to a Holder in respect of a Capital Note may be paid in any manner in which cash may be paid as the Issuer decides, including 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.

### **14.6 Unsuccessful attempts to pay**

Subject to applicable law and the ASX Listing Rules, 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;
- (c) has made reasonable efforts to locate a Holder but is unable to do so; or
- (d) has issued a cheque which has not been presented within six months of its date, then the Issuer may cancel such cheque,

then, in each case, 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 monies.

## **14.7 Payment to joint Holders**

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

## **14.8 Time limit for claims**

A claim against the Issuer for a payment under a Capital Note is void unless made within 10 years (in the case of the Redemption Price) or five years (in the case of Distributions and other amounts) from the date on which payment first became due.

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# **15 Taxation**

## **15.1 No set-off, counterclaim or deductions**

All payments in respect of the Capital Notes must be made in full without set-off or counterclaim, and without any withholding or deduction in respect of Taxes, unless prohibited by law.

## **15.2 Withholding tax**

- (a) If a law requires the Issuer to withhold or deduct an amount in respect of Taxes from a payment in respect of the Capital Notes such that the Holder would not actually receive on the due date the full amount provided for under the Capital Notes, then the Issuer agrees to deduct the amount for the Taxes.
- (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 a penalty under the applicable law.
- (c) If:
  - (i) a deduction is made;
  - (ii) the amount of the deduction is accounted for by the Issuer to the relevant revenue authority; and
  - (iii) 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 FATCA**

- (a) If requested by the Issuer, each Holder agrees to provide certain information required by it or the Trustee to comply with any applicable law, including FATCA and the OECD Common Reporting Standard.
- (b) The Issuer may withhold or make deductions from payments or from the issue of Ordinary Shares to a Holder where it is required to do so under or in connection with FATCA, or where it has reasonable grounds to suspect that the Holder or a beneficial owner of Capital Notes may be subject to FATCA, and may deal with such amount deducted or withheld, and any Ordinary Shares deducted or withheld, in accordance with FATCA and, in the case of Ordinary Shares, clause 8.11 of these Terms. If any withholding or deduction arises under or in connection with FATCA, the Issuer will not be required to pay any further amounts and the Issuer will not be required to issue any further Ordinary Shares on account of such withholding or deduction or otherwise reimburse or compensate, or make any payment to, a Holder or a beneficial owner of Capital Notes for or in respect of any such withholding or deduction. A dealing with such payment and any Ordinary Shares in accordance

with FATCA satisfies the Issuer's obligations to that Holder to the extent of the amount of that payment or issue of Ordinary Shares.

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## **16 Winding-up and Subordination**

### **16.1 Winding-up**

If an order of a court of competent jurisdiction is made (other than an order successfully appealed or permanently stayed within 30 days), or an effective resolution is passed, for the winding-up of the Issuer in Australia (a **Winding-up Event**), the Issuer is liable to Redeem each Capital Note for its Redemption Price in accordance with, and subject to, this clause 16.

### **16.2 Subordination**

In a winding-up of the Issuer:

- (a) a Holder (and the Trustee) shall be entitled to prove for the Redemption Price in respect of a Capital Note only subject to, and contingent upon, the prior payment in full of, the Senior Creditors; and
- (b) the Holder's (and the Trustee's) claim for payment of the Redemption Price ranks equally with, and shall be paid in proportion to, the claims of holders of other instruments issued as Relevant Perpetual Subordinated Instruments,

so that the Holder receives, for the Capital Note, an amount equal to the amount it would have received if, in the winding up of the Issuer, it had held an issued and fully paid Preference Share.

### **16.3 Agreements of Holders and Trustee as to subordination**

Each Holder (and the Trustee) irrevocably agrees:

- (a) that clause 16.2 is a debt subordination for the purposes of section 563C of the Corporations Act;
- (b) that it does not have, and waives to the maximum extent permitted by law, any entitlement to interest under section 563B of the Corporations Act to the extent that a holder of a preference share which is a Relevant Perpetual Subordinated Instrument would not be entitled to such interest;
- (c) that it shall not have, and is taken to have waived, to the fullest extent permitted by law, any right to prove in a winding-up of the Issuer as a creditor in respect of the Capital Notes so as to diminish any distribution, dividend or payment that any Senior Creditor would otherwise receive;
- (d) not to exercise any voting rights as a creditor in the winding-up or administration of the Issuer:
  - (i) until after all Senior Creditors have been paid in full; or
  - (ii) otherwise in a manner inconsistent with the ranking and subordination contemplated by clause 2 and clause 16.2;
- (e) that it must pay or deliver to the liquidator or administrator any amount or asset received on account of its claim in the winding-up or administration of the Issuer in respect of the Capital Notes in excess of its entitlement under clause 2 and clause 16.2;
- (f) that it must pay in full all liabilities it owes the Issuer before it may receive any amount or asset on account of its claim in the winding-up or administration in respect of a Capital Note;

- (g) that the debt subordination effected by clause 2 and clause 16.2 is not affected by any act or omission of the Issuer or a Senior Creditor which might otherwise affect it at law or in equity; and
- (h) that it has no remedy for the recovery of the Redemption Price other than to prove in the winding up in accordance with this clause 16.

#### **16.4 No further rights**

A Capital Note does not confer on the Holders any further right to participate in the winding-up of the Issuer beyond payment of the Redemption Price.

#### **16.5 No set-off**

Neither the Issuer nor any Holder shall be entitled to set-off any amounts, merge accounts or exercise any other rights the effect of which is or may be to reduce any amount payable by the Issuer in respect of the Capital Notes held by the Holder or by the Holder to the Issuer (as applicable).

#### **16.6 No consent of Senior Creditors**

Nothing in clause 2 or this clause 16 shall be taken:

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

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## **17 General**

### **17.1 Enforcement by Trustee**

Subject to clause 17.2, only the Trustee may enforce the provision of the Trust Deed or these Terms and only in accordance with their terms and subject to the limitation and to the protections of the Trustee set out in the Trust Deed.

### **17.2 Holder's right to take action**

No Holder shall be entitled to proceed directly against the Issuer to enforce any right or remedy under or in respect of any Capital Note or the Trust Deed unless the Trustee, having become bound to proceed, fails to do so within 21 days and such failure is continuing, in which case any Holder may itself institute proceedings against the Issuer for the relevant remedy to the same extent (but not further or otherwise) that the Trustee would have been entitled to do so.

### **17.3 Voting**

- (a) The Trust Deed contains provisions for convening meetings of the Holders to consider any matter affecting their interests including certain variations of these Terms which require the consent of the Holders.
- (b) A Holder has no right to attend or vote at any general meeting of the shareholders of the Issuer.

### **17.4 Alterations without consent**

At any time and from time to time, but subject to compliance with the Corporations Act and all other applicable laws, the Issuer may, with the approval of the Trustee (such approval not to be unreasonably withheld or delayed), but without the consent of the Holders, alter these Terms if the Issuer is of the opinion that such alteration is:

- (a) of a formal, technical or minor nature;

- (b) made to cure any ambiguity or correct any manifest error;
- (c) necessary or expedient for the purpose of enabling the Capital Notes to be:
  - (i) listed for quotation, or to retain quotation, on any securities exchange; or
  - (ii) offered for subscription or for sale under the laws for the time being in force in any place;
- (d) necessary to comply with:
  - (i) the provisions of any statute or the requirements of any statutory authority; or
  - (ii) the ASX Listing Rules or the listing or quotation requirements of any securities exchange on which the Issuer may propose to seek a listing or quotation of the Capital Notes;
- (e) made in accordance with the Issuer's adjustment rights in clause 8;
- (f) in respect of any date or time period stated, required or permitted in connection with any Mandatory Conversion, Non-Viability Conversion or Exchange in a manner necessary or desirable to facilitate the Mandatory Conversion, Non-Viability Conversion or Exchange (including without limitation where in connection with a Redemption the proceeds of Redemption are to be reinvested in a new security to be issued by the Issuer or a Related Entity);
- (g) made to:
  - (i) alter the terms of any Capital Notes to align them with any Relevant Perpetual Subordinated Instruments issued after the date of such Capital Notes; or
  - (ii) alter the definition of "Relevant Perpetual Subordinated Instruments" on account of the issue (after the date of any Capital Notes) of capital instruments of the Challenger Group; or
- (h) in any other case, not materially prejudicial to the interests of the Holders as a whole,

provided that, in the case of an alteration pursuant to paragraph (c), (d) or (h), the Issuer has provided to the Trustee an opinion which is addressed to it and in a form reasonably satisfactory to it of independent legal advisers of recognised standing in New South Wales that such alteration is otherwise not materially prejudicial to the interests of Holders as a whole.

For the purposes of determining whether an alteration is not materially prejudicial to the interests of Holders as a whole, the taxation and regulatory capital consequences to a Holder (or any class of Holders) and other special consequences or circumstances which are personal to a Holder (or any class of Holders) do not need to be taken into account by the Issuer or its legal advisers.

## **17.5 Alteration with consent**

At any time and from time to time, but subject to compliance with the Corporations Act and all other applicable laws, the Issuer may, with the approval of the Trustee (such approval not to be unreasonably withheld or delayed), alter these Terms:

- (a) except as otherwise provided in paragraphs (b), (c) and (d) below, if such alteration is authorised by a Holder Resolution;

- (b) in the case of an alteration to this clause 17.5 or any clause of the Trust Deed providing for Holders to give a direction to the Trustee by a Special Resolution, if a Special Resolution is passed in favour of such alteration;
- (c) in the case of an alteration to the Meeting Provisions and to which clause 17.4 does not apply, if a Special Resolution is passed in favour of such alteration; and
- (d) otherwise in accordance with the Trust Deed.

## **17.6 Consents**

Prior to any alteration under this clause 17, the Issuer must obtain any consent needed to the alteration and, in particular, any alteration which may cause APRA to object to Challenger Group using, or having used, the proceeds of the issue of some or all of the Capital Notes to fund Additional Tier 1 Capital of CLC, is subject to the prior written consent of APRA.

## **17.7 Interpretation**

In this clause 17, “alter” includes modify, cancel, amend, waive or add to, and “alteration” has a corresponding meaning.

## **17.8 Notices**

The Trust Deed contains provisions for the giving of notices.

## **17.9 Further issues**

The Issuer may from time to time, without the consent of any Holder, issue any securities ranking equally with the Capital Notes (on the same terms or otherwise) or ranking in priority or junior to the Capital Notes, or incur or guarantee any indebtedness upon such terms as it may think fit in its sole discretion.

## **17.10 Purchase by agreement**

Subject to APRA’s prior written approval, the Issuer or any member of the Challenger Group may purchase Capital Notes at any time and at any price. Any Capital Note purchased by or on behalf of the Issuer shall be cancelled.

## **17.11 Governing law**

These Terms and the Capital Notes are governed by the laws in force in New South Wales.

## **17.12 Rounding**

For the purposes of any calculations required under these Terms:

- (a) all percentages resulting from the calculations must be rounded, if necessary, to the nearest ten-thousandth of a percentage point (with 0.00005% being rounded up to 0.0001%);
- (b) all figures must be rounded to four decimal places (with 0.00005 being rounded up to 0.0001); and
- (c) all amounts that are due and payable must be rounded to the nearest one Australian cent (with 0.5 of a cent being rounded up to 1 cent).

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# **18 Interpretation and definitions**

## **18.1 Interpretation**

In these Terms, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a document includes all schedules or annexes to it;
- (d) a reference to a clause or paragraph is to a clause or paragraph of these Terms;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to “**Australia**” includes any political sub-division or territory in the Commonwealth of Australia;
- (g) a reference to “**Australian dollars**”, “**A\$**” or “**Australian cent**” is a reference to the lawful currency of Australia;
- (h) a reference to time is to Sydney, Australia time;
- (i) other than:
  - (i) in relation to a Non-Viability Trigger Event and a Conversion or Write-Off, in each case on account of a Non-Viability Trigger Event; and
  - (ii) where a contrary intention is expressed,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;
- (j) a reference to a person includes a reference to the person’s executors, administrators, successors and permitted assigns and substitutes;
- (k) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (l) a reference to a statute, ordinance, code, rule, directive or law (however described) includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (m) the meaning of general words is not limited by specific examples introduced by “including”, “for example” or similar expressions;
- (n) any agreement, representation or warranty by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of these Terms;
- (p) if the principal securities exchange on which Ordinary Shares are listed becomes other than ASX, unless the context otherwise requires, a reference to ASX shall be read as a reference to that principal securities exchange and a reference to the ASX Listing Rules, ASX Settlement Operating Rules or any term defined in any such rules, shall be read as a reference to the corresponding rules of that exchange or corresponding defined terms in such rules (as the case may be);



- (q) any provisions which refer to the requirements of APRA or any other prudential regulatory requirements will apply to the Issuer only if the Issuer is an entity subject to regulation and supervision by APRA at the relevant time;
- (r) a reference to any term defined by APRA (including, without limitation, **Additional Tier 1 Capital**) shall, if that term is replaced or superseded in any of APRA's applicable prudential regulatory requirements or standards, be taken to be a reference to the replacement or equivalent term;
- (s) any provisions which require APRA's consent or approval (written or otherwise) will apply only if APRA requires that such consent or approval be given at the relevant time; and
- (t) any provisions in these Terms requiring the prior approval of APRA for a particular course of action to be taken by the Issuer do not imply that APRA has given its consent or approval to the particular action as of the Issue Date or that it will at any time give its consent or approval to the particular action.

## 18.2 Definitions

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

**Acquisition Conversion Date** has the meaning given in clause 7.3.

**Acquisition Conversion Notice** has the meaning given in clause 7.2.

**Acquisition Event** means:

- (a) either:
  - (i) a takeover bid is made to acquire all or some Ordinary Shares and the offer is, or becomes, unconditional and:
    - (A) the bidder has a relevant interest in more than 50% of the Ordinary Shares on issue; or
    - (B) the Directors issue a statement that at least a majority of the Directors who are eligible to do so recommend acceptance of the offer (which may be stated to be in the absence of a higher offer); or
  - (ii) a court approves a scheme of arrangement which, when implemented, will result in a person other than the Issuer having a relevant interest in more than 50% of Ordinary Shares; and
- (b) all regulatory approvals necessary for the acquisition to occur have been obtained.

**Acquisition Event Notice** has the meaning given in clause 7.1.

**Additional Tier 1 Capital** means Additional Tier 1 Capital as defined by APRA from time to time.

**Adjustment Notice** has the meaning given in clause 8.8.

**Applicable Franking Period** has the meaning given in clause 3.2.

**Applicable Regulations** means such provisions of the ASX Listing Rules, the ASX Settlement Operating Rules, the ASX 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.

**APRA** means the Australian Prudential Regulation Authority.

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

**ASX Listing Rules** means the listing rules of ASX.

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

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

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

**Attorney** has the meaning given in clause 11.1.

**Bookbuild** means the process conducted prior to the opening of the Offer whereby certain investors and brokers lodge bids for Capital Notes 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.

**Business Day** means:

- (a) a day which is a business day within the meaning of the ASX Listing Rules; and
- (b) for the purposes of calculation or payment of Distributions or any other amount, a day on which banks are open for business in Sydney, New South Wales.

**Buy-Back** means a transaction involving the acquisition by the Issuer of Ordinary Shares pursuant to an offer made at the Issuer's discretion in any way permitted by the provisions of Part 2J of the Corporations Act.

**Capital Notes 4** means [the perpetual, subordinated, unsecured notes to be issued by the Issuer on the terms and conditions set out in the Capital Notes 4 Prospectus.](#)

**Capital Notes 4 Prospectus** means [the prospectus lodged by the Issuer with ASIC on or around 7 March 2023 and any replacement or supplementary prospectus.](#)

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

**Challenger Capital Notes 1** means the perpetual, subordinated, unsecured notes issued by the Issuer on 9 October 2014 and constituted by the trust deed between the Issuer and The Trust Company (Australia) Limited (ABN 21 000 000 993) dated 27 August 2014, as amended and restated on 3 September 2014.

**Challenger Group** means the Issuer and its Controlled Entities.

**Challenger Shares** means Ordinary Shares or any other shares in the capital of the Issuer.

**CHES** means the Clearing House Electronic Subregister System operated by ASX Settlement or any other applicable securities trading and/or clearance system on which the Capital Notes are lodged and traded.

**CLC** means Challenger Life Company Limited (ABN 44 072 486 938).

**Control** has the meaning given in the Corporations Act.

**Controlled Entity** means, in respect of the Issuer, an entity the Issuer Controls.

**Conversion** means, in relation to a Capital Note, the conversion of the Capital Note into an Ordinary Share in accordance with and subject to clause 8 as it may be amended. “**Convert**”, “**Converting**” and “**Converted**” have corresponding meanings.

**Conversion Number** has the meaning given in clause 8.1.

**Conversion Test Date Percentage** has the meaning given in clause 4.3.

**Corporations Act** means the *Corporations Act 2001* (Cth).

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

**CS Facility Operator** means the operator of a CS Facility.

**Cum Value** has the meaning given in clause 8.2(a).

**Defaulting Nominated Purchaser** has the meaning given in clause 10.6.

**Deferred Acquisition Conversion Notice** has the meaning given in clause 7.5.

**Deferred Conversion Date** has the meaning given in clause 6.6.

**Deferred Conversion Notice** has the meaning given in clause 6.6.

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

- (a) the Issuer has ceased to be listed or Ordinary Shares have ceased to be quoted on ASX on or before that date (and where the cessation occurred before that date, the Issuer or the Ordinary Shares continue not to be listed or quoted (as applicable) on that date);
- (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; or
- (c) an Inability Event subsists.

**Directors** means some or all of the directors of the Issuer acting as a board.

**Distribution** has the meaning given in clause 3.1.

**Distribution Payment Date** has the meaning given in clause 3.5.

**Distribution Period** means in respect of:

- (a) the first Distribution Period, the period from (and including) the Issue Date until (but not including) the first Distribution Payment Date after the Issue Date; and
- (b) each subsequent Distribution Period, the period from (and including) the preceding Distribution Payment Date until (but not including) the next Distribution Payment Date.

**Distribution Rate** has the meaning given in clause 3.1.

**Dividend** means any interim, final or special dividend payable in accordance with the Corporations Act and the Issuer's constitution in relation to Ordinary Shares.

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

**Exchange** means:

- (a) Conversion in accordance with and subject to clause 8;
- (b) Redemption in accordance with and subject to clause 9;
- (c) Resale in accordance with clause 10; or
- (d) a combination of two or more of Conversion, Redemption or Resale in accordance with clause 6.3(b),

and **Exchanged** has a corresponding meaning.

**Exchange Date** has the meaning given in clause 6.2(b).

**Exchange Method** has the meaning given in clause 6.3.

**Exchange Notice** has the meaning given in clause 6.1.

**External Administrator** means, in respect of a person:

- (a) a liquidator, a provisional liquidator, an administrator or a statutory manager of that person; or
- (b) a receiver, or a receiver and manager, in respect of all or substantially all of the assets and undertakings of that person,

or in either case any similar official.

**Face Value** means the principal amount of a Capital Note, being A\$100.

**FATCA** means the *Foreign Account Tax Compliance Act* provisions, being Sections 1471 through 1474 of the United States *Internal Revenue Code of 1986*, as amended (or any consolidation, amendment, re-enactment or replacement of those sections and including any current or future regulations or official interpretations issued, agreements entered into or non-US laws enacted with respect to those provisions).

**First Mandatory Conversion Condition** has the meaning given in clause 4.3.

**First Optional Conversion Restriction** has the meaning given in clause 6.5.

**First Test Date** has the meaning given in clause 4.3.

**First Test Date Percentage** has the meaning given in clause 4.3.

**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.

**Franking Period** means the franking period within the meaning of Part 3-6 of the Tax Act or any provisions that revise or replace that part applicable to the Issuer.

**Franking Rate** (expressed as a decimal) means the franking percentage (within the meaning of Part 3-6 of the Tax Act or any provisions that revise or replace that Part) applicable to the franking account of the Issuer at the relevant Distribution Payment Date, as determined by the Issuer in accordance with clause 3.2.

**Holder** means, in respect of a Capital Note, the person whose name is entered on the Register as the holder of that Capital Note.

**Holder Resolution** means a resolution passed:

- (a) at a meeting of Holders of the Capital Notes, duly called and held under the Meeting Provisions:
  - (i) by at least 50% of the persons voting on a show of hands (unless paragraph (b) below applies); or
  - (ii) if a poll is duly demanded, by a majority consisting of at least 50% of the votes cast; or
- (b) by postal ballot or written resolution under the Meeting Provisions by Holders representing (in aggregate) at least 50% of the aggregate Face Value of the outstanding Capital Notes.

**Inability Event** means the Issuer is prevented by applicable law, or order of any court, or action of any government authority (including regarding the insolvency, winding-up or other external administration of the Issuer) or any other reason from Converting the Capital Notes.

**Issue Date** means the date on which the issue and allotment of Capital Notes to successful applicants is completed, in accordance with these Terms.

**Issue Date VWAP** means the VWAP during the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the Issue Date, as adjusted in accordance with clauses 8.4 to 8.7 (inclusive).

**Issuer** means Challenger Limited (ABN 85 106 842 371).

**Life Insurance Act** means the *Life Insurance Act 1995* (Cth).

**Mandatory Conversion** means the mandatory conversion of Capital Notes to Ordinary Shares on the Mandatory Conversion Date in accordance with clause 4.

**Mandatory Conversion Conditions** has the meaning given in clause 4.3.

**Mandatory Conversion Date** has the meaning given in clause 4.2.

**Margin** has the meaning given in clause 3.1.

**Maximum Conversion Number** has the meaning given in clause 8.1.

**Meeting Provisions** means the provisions for meetings of the Holders set out in schedule 2 to the Trust Deed.

**Nominated Purchasers** means, subject to clause 10.3, one or more third parties selected by the Issuer in its absolute discretion.

**Non-Conversion Notice** has the meaning given in clause 4.4.

**Non-Conversion Test Date** has the meaning given in clause 6.5.

**Non-Viability Conversion** means the Conversion of Capital Notes to Ordinary Shares on the Non-Viability Conversion Date in accordance with clause 5.

**Non-Viability Conversion Date** has the meaning given in clause 5.2.

**Non-Viability Trigger Event** has the meaning given in clause 5.1.

**Non-Viability Trigger Event Notice** has the meaning given in clause 5.2.

**Offer** means the invitation under the Prospectus made by the Issuer for persons to subscribe for Capital Notes.

**Optional Conversion Restrictions** has the meaning given in clause 6.5.

**Optional Exchange Date** means 22 May 2023.

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

**Payment Condition** means, with respect to the payment of a Distribution on the Capital Notes on a Distribution Payment Date:

- (a) the consolidated retained earnings of the Challenger Group as at the Distribution Payment Date are, or would on payment of the Distribution become, negative;
- (b) the payment would result in the Issuer becoming, or being likely to become, insolvent for the purposes of the Corporations Act; or
- (c) APRA objecting to the payment.

**Potential Acquisition Event** means:

- (a) an event within paragraph (a) of the definition of Acquisition Event occurs (without the need that all regulatory approvals necessary for the acquisition to occur have been obtained); or
- (b) a court orders the holding of meetings to approve a scheme of arrangement under Part 5.1 of the Corporations Act and the scheme would result in a person having a relevant interest in more than 50% of the Ordinary Shares that will be on issue after the scheme is implemented.

**Preference Share** means a notional preference share in the capital of the Issuer conferring a claim in the winding up of the Issuer equal to the Redemption Price and ranking in respect of return of capital in the winding up ahead only of Ordinary Shares and equally with Relevant Perpetual Subordinated Instruments.

**Proceeds** means the net proceeds of a sale of Ordinary Shares attributable to the Holder actually received by the nominee calculated after deduction of any applicable brokerage, stamp duty and other taxes and charges, including the nominee's reasonable out of pocket costs, expenses and charges properly incurred by it or on its behalf in connection with such sale from the sale price of the Ordinary Shares.

**Prospectus** means the prospectus relating to the Offer dated on or about 28 February 2017 published by the Issuer and any supplementary or replacement prospectus.

**Record Date** means, for payment of a Distribution:

- (a) the date which is eight calendar days before the Distribution Payment Date for that Distribution (or, in the case of the first Distribution Payment Date, if the Issue Date is less than eight calendar days before the first Distribution Payment Date, the Issue Date); or
- (b) such other date as is determined by the Directors in their absolute discretion and communicated to ASX not less than seven Business Days before the specified Record Date,

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

**Redemption** means the redemption of a Capital Note in accordance with clause 9 and the words **Redeem**, **Redeemable** and **Redeemed** have corresponding meanings.

**Redemption Price** has the meaning given in clause 9.2.

**Register** means the register of Holders (established and maintained under clause 13 of the Trust Deed) and, where appropriate, the term Register includes:

- (a) a sub-register maintained by or for the Issuer under the Corporations Act, the ASX Listing Rules or the ASX Settlement Operating Rules; and
- (b) any branch register.

**Registrar** means Computershare Investor Services Pty Limited or any other person appointed by the Issuer to maintain the Register and perform any payment and other duties as specified in that agreement.

**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 change that will be introduced) in any law or regulation 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 (and which the Issuer does not expect, as at the Issue Date, may come into effect) (a **Change in Law**), additional requirements would be imposed on the Issuer in relation to or in connection with Capital Notes which the Directors determine, in their absolute discretion, to be unacceptable; or
- (b) as a result of a Change in Law or a statement received from APRA, the Directors determine that the Issuer is not or will not be entitled to treat some or all Capital Notes as a Relevant Perpetual Subordinated Instrument, (including where APRA has notified the Issuer in writing that it objects to the Challenger Group using or having used the proceeds of the Capital Notes to fund Additional Tier 1 Capital of CLC) except where the reason the Issuer is not or will not be entitled to treat some or all Capital Notes as a Relevant Perpetual Subordinated Instrument is because of a prudential limit or other restriction which is in effect on the Issue Date or which on the Issue Date is expected by the Issuer may come into effect.

**Reinvestment Capital Note** means any Capital Note which is to be reinvested in the Capital Notes 4 under the Reinvestment Offer.

**Reinvestment Date** means the issue date of the Capital Notes 4, as described in the Capital Notes 4 Prospectus.

**Reinvestment Offer** means the invitation made by the Issuer to eligible Holders to offer to reinvest all or some of the proceeds of the Resale of the Capital Notes in the Capital Notes 4 on the terms and conditions set out in the Capital Notes 4 Prospectus.

**Related Entity** has the meaning given by APRA from time to time.

**Relevant Date** has the meaning given in clause 4.2.

**Relevant Distribution Payment Date** has the meaning given in clause 3.8.

**Relevant Fraction** has the meaning given in clause 8.1.

**Relevant Perpetual Subordinated Instrument** means a perpetual subordinated instrument (whether in the form of a note, preference share or other security or obligation) issued by the Issuer or another member of the Challenger Group which:

- (a) in accordance with its terms or by operation of law, is capable of being converted into Ordinary Shares or written-off where APRA makes a determination as referred to in clause 5.1(a); and
- (b) has been confirmed in writing by APRA to the Issuer as constituting as at the date of its issue an instrument the proceeds of which APRA does not object to the Challenger Group using to fund Additional Tier 1 Capital of CLC,

and includes the Capital Notes and the Challenger Capital Notes 1.

**Reorganisation** means, in relation to the Issuer, a division, consolidation or reclassification of the Issuer's share capital not involving any cash payment or other distribution to or by holders of Ordinary Shares.

**Resale** means the sale of a Capital Note to a Nominated Purchaser in accordance with clause 10, and **Resold** and **Resell** have corresponding meanings.

**Resale Price** means, for a Capital Note, a cash amount equal to its Face Value.

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

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

**Scheduled Mandatory Conversion Date** has the meaning given in clause 4.2.

**Second Mandatory Conversion Condition** has the meaning given in clause 4.3.

**Second Optional Conversion Restriction** has the meaning given in clause 6.5.

**Second Test Period** has the meaning given in clause 4.3.

**Senior Creditors** means all creditors of the Issuer (present and future), including all holders of the Issuer's senior or subordinated debt whose claims:

- (a) are admitted in a winding-up of the Issuer; and
- (b) are not in respect of a Relevant Perpetual Subordinated Instrument.

**Special Resolution** means:

- (a) a resolution passed at a meeting of the Holders duly called and held under the Meeting Provisions:



- (i) by at least 75% of the persons voting on a show of hands (unless paragraph (b) below applies); or
  - (ii) if a poll is duly demanded, then by a majority consisting of at least 75% of the votes cast; or
- (b) a resolution passed by postal ballot or written resolution under the Meeting Provisions by Holders representing (in aggregate) at least 75% of the aggregate Face Value of the outstanding Capital Notes.

**Subsequent Mandatory Conversion Date** has the meaning given in clause 4.2.

**Tax Act** means:

- (a) the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth) as the case may be and a reference to any section of the *Income Tax Assessment Act 1936* (Cth) includes a reference to that section as rewritten in the *Income Tax Assessment Act 1997* (Cth); 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 Australia, experienced in such matters to the effect that, as a result of:

- (a) any amendment to, clarification of, or change (including any announcement of a change that will be introduced), in the laws or treaties or any regulations of Australia or any political subdivision or taxing authority of Australia affecting taxation;
- (b) any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) (**Administrative Action**); or
- (c) any amendment to, clarification of, or change in an Administrative Action that provides for a position that differs from the current generally accepted position,

in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known, which amendment, clarification, change or Administrative Action is effective, or which pronouncement or decision is announced, on or after the Issue Date and which is not expected by the Issuer on the Issue Date, 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:

- (i) any Distribution would not be a frankable distribution within the meaning of Division 202 of the Tax Act; or
- (ii) the Issuer would be exposed to more than a de minimis increase in its costs (including without limitation through the imposition of any taxes, duties, assessments or other charges) in relation to Capital Notes.

**Tax Rate** has the meaning given in clause 3.1.

**Taxes** means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them, except if imposed on, or calculated having regard to, the net income of the Holder.

**Terms** means these terms and conditions.

**Transfer** has the meaning given in the ASX Settlement Operating Rules.

**Trust Deed** means the deed entitled “Challenger Capital Notes 2 Trust Deed” between the Issuer and the Trustee and dated on or about 28 February 2017.

**Trustee** means ~~Australian Executor Trustees Limited~~ [Certane CT Pty Ltd](#) (ABN ~~84 007 869 794~~ [12 106 424 088](#)).

**VWAP** means, subject to any adjustments under clause 8, the average of the daily volume weighted average sale prices (such average being 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 Operating Rules, or any overseas trades or trades pursuant to the exercise of options over Ordinary Shares.

**VWAP Period** means:

- (a) in the case of a Conversion resulting from a Potential Acquisition Event or an Acquisition Event, the lesser of:
  - (i) 20 Business Days on which trading in Ordinary Shares takes place; and
  - (ii) the number of Business Days on which trading in Ordinary Shares takes place and on which Ordinary Shares are quoted for trading on ASX after the occurrence of the Potential Acquisition Event or Acquisition Event (as the case may be),  
  
in each case immediately preceding (but not including) the Business Day before the Exchange Date or Acquisition Conversion Date in respect of that event (as the case may be);
- (b) in the case of a Conversion resulting from a Non-Viability Trigger Event, the period of five Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the Non-Viability Conversion Date;
- (c) in the case of any other Conversion, the period of 20 Business Days on which trading in Ordinary Shares took place immediately preceding (but not including) the date on which Conversion is to occur in accordance with these Terms; or
- (d) otherwise, the period for which VWAP is to be calculated in accordance with these Terms.

**Winding-up Event** has the meaning given in clause 16.1.

**Written-Off** has the meaning given in clause 8.14 and **Write-Off** has a corresponding meaning.