

Deed

Subordinated Notes Trust Deed

Colonial Holding Company Limited

The Trust Company (Australia) Limited

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Table of contents

1	Definitions and interpretation	2
1.1	Definitions	2
1.2	Interpretation	5
1.3	Business Day	6
1.4	Compliance with law	6
2	Appointment of Trustee and declaration of trust	6
2.1	Appointment	6
2.2	Declaration of trust	6
2.3	Application of moneys	7
3	Issue, ownership and transfer of Notes	7
3.1	Issue	7
3.2	Ownership	7
3.3	Holders bound	8
3.4	Brokerage	8
4	Terms of Notes	8
4.1	Terms of Issue	8
4.2	Payments	8
4.3	Status and subordination	9
4.4	Not deposit liabilities or other obligations of CBA	9
5	Undertakings of Issuer	9
6	Enforcement of this deed	10
6.1	Enforcement by Trustee	10
6.2	Enforcement on direction by Holders	10
7	Powers, duties and discretions of Trustee	11
7.1	Powers generally	11
7.2	Duties	11
7.3	Discretions	12
7.4	Holders bound	13
8	Trustee protections	14
8.1	Trustee not responsible for certain matters	14
8.2	Knowledge of the Trustee	14
8.3	Confidential information	14
8.4	Capacity as Holder	14
8.5	Other dealings with Issuer and Holders	15
8.6	Indemnity for Trustee	15
8.7	Continuing indemnity	15
8.8	Exclusions of liability	15
8.9	Limitation of liability	16
8.10	Trustee capacity	17
8.11	Notice of this deed	17
9	Trustee's remuneration and expenses	17
9.1	Remuneration	17
9.2	Reimbursement	18
9.3	No indemnity by Holders	19

9.4	GST.....	19
9.5	Priority and survival.....	19
10	Retirement and removal of Trustee	19
10.1	Retirement.....	19
10.2	Removal.....	19
10.3	Appointment of new Trustee.....	20
10.4	Release.....	20
10.5	Obligations of Trustee.....	20
11	Meetings of Holders	21
11.1	Meetings of Holders.....	21
11.2	Power of Holders.....	21
11.3	Passing of resolution.....	21
12	Notes Register	21
12.1	Maintenance of the Notes Register.....	21
12.2	Joint Holders.....	22
12.3	Holding statements.....	23
12.4	Location of Notes.....	23
13	Transfers	23
13.1	Transfer.....	23
13.2	Transaction advice after transfer.....	23
13.3	Participation in transfer systems.....	23
14	Amendments to deed	23
14.1	Amendment of Terms of Issue.....	23
14.2	Amendment without consent.....	23
14.3	Amendments with consent.....	24
14.4	Amendments.....	24
15	Termination and release	24
15.1	Termination of trust.....	24
15.2	Disposal of assets.....	25
15.3	Confirmation of release.....	25
16	Confidentiality	25
16.1	Confidential information.....	25
16.2	Permitted disclosure.....	25
16.3	Disclosure to third parties.....	25
17	Representations and warranties	26
18	Substitution of Issuer	26
18.1	Successor may substitute Issuer.....	26
18.2	Subordination.....	27
18.3	Effect of substitution.....	27
19	General	28
19.1	Notices.....	28
19.2	Service of Notices by the Issuer or the Trustee to any Holder.....	29
19.3	Service of Notices by the Holders to the Issuer or the Trustee.....	29
19.4	Notice to Transferor Binds Transferee.....	29
19.5	Notices when Issuer is in liquidation.....	29
19.6	Service on Deceased Holders.....	30

Contents

19.7 Prohibition and enforceability.....	30
19.8 Governing law and submission to jurisdiction.....	30
19.9 Waivers	30
19.10 Cumulative rights	30
19.11 Further assurances	30
19.12 To the extent not excluded by law	31
19.13 Counterparts	31

Schedules

Terms of Colonial Group Subordinated Notes	33
Deed poll - Substitution of the Issuer (Clause 18)	55
Meetings of Holders	63
Signing page	69

Subordinated Notes Trust Deed

Date ► 15 February 2012

Between the parties

Issuer	Colonial Holding Company Limited (ABN 61 074 706 782) of Ground Floor, Darling Park Tower 1 201 Sussex Street, Sydney NSW 2000 (Issuer)
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Trustee	The Trust Company (Australia) Limited (ACN 000 000 993) of Level 3, 530 Collins Street, Melbourne, VIC 3000 (Trustee)
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Recitals	<ol style="list-style-type: none">1 The Issuer wishes to issue subordinated, unsecured notes under this deed.2 The Trustee has agreed to act as trustee on behalf of the holders of the Notes on the terms and conditions contained in this deed.
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This deed witnesses as follows:

1 Definitions and interpretation

1.1 Definitions

The meanings of capitalised terms used in this deed are set out below. Capitalised terms which are not set out below have the meaning given to them in the Terms of Issue.

Term	Meaning
ASIC	the Australian Securities and Investments Commission.
ASTC	ASX Settlement and Transfer Corporation Pty Limited
ASX Settlement Operating Rules	the operating rules of ASX Settlement Pty Limited and, to the extent that they are applicable, the operating rules of the ASX and the operating rules of ASX Clear Pty Limited.
ASX	ASX Limited
Authorisation	includes: <ol style="list-style-type: none">1 any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval (including any planning approval), authority or exemption from, by or with a Government Agency (including, without limitation, the Foreign Investment Review Board of Australia); or2 in relation to anything which could be fully or partly prohibited or restricted by law if a Government Agency intervenes or acts in any way within a specified period the expiry of that period without intervention or action.
CHESS Approved Securities	securities in respect of which approval has been given by ASTC in accordance with ASX Settlement Operating Rules.
Colonial Group Subordinated Notes	Notes having the terms set out in schedule 1 to this deed.
Confidential Information	all information and other material (other than information or material in the public domain) provided to or obtained by the Trustee, or any officer, employee, delegate, adviser or other consultant of the Trustee under, in connection with or related to this deed or any obligation, duty or power of the Trustee under this deed.

Term	Meaning
Costs	includes costs, charges, fees, expenses (including expenses of advisors), commissions, liabilities, losses, damages and Taxes and all amounts payable in respect of any of them or like payments.
Deed Poll	has the meaning in clause 18.1
Default	an Event of Default or event which, with the giving of notice or lapse of time would become an Event of Default.
Government Agency	any government or any governmental, semi governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.
GST	any goods and services tax, consumption tax, value added tax or any similar tax, impost or duty.
Guarantee	has the meaning in clause 18.1
Holder	a person entered in the Register as the holder of a Note
Indirect Tax	means any goods and services tax, consumption tax, value added tax or any tax of similar nature
Listing Rules	the Listing Rules of ASX and any other rules of ASX which are applicable while the Issuer is admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any express waiver by ASX.
Meeting	a meeting of Holders convened in accordance with this deed.
Note	a debt obligation of the Issuer constituted and issued under this deed, including the Colonial Group Subordinated Notes
Register	the register of Notes maintained by or on behalf of the Issuer and includes any sub-register established and maintained under the Clearing House Electronic Sub-Register System operated by ASX Settlement Pty Limited (ABN 49 008 504 532).
Official List	the Official List of the ASX.

Term	Meaning
Officially Quoted	quoted on the ASX or any other securities exchange on which the Notes are quoted
Ordinary Resolution	A resolution that is passed at a Meeting of Holders by at least 50% of the votes validly cast by Holders in person or by proxy and entitled to vote on the resolution.
Power	a right, power, authority, discretion or remedy conferred on the Trustee by this deed or the Terms of Issue or by law.
Related Body Corporate	has the meaning given to that term in the Corporations Act.
Statutory Obligation	any obligation of any kind imposed on the Trustee under applicable law, regulation, ruling, confirmation, advice or action that represent the official requirements of any Government Agency, ASIC, ASX or the law in force in New South Wales, Australia or any other State or Territory in Australia in relation to the Trustee's role under or in connection with this deed, the Notes or any documents contemplated by or related to any of them.
Subsidiary	a subsidiary of an entity as defined in section 46 of the Corporations Act.
Successor	has the meaning in clause 18.
Terms of Issue	the terms of issue of a Note, as set out in: <ul style="list-style-type: none">• schedule 1 to this deed (in respect of Colonial Group Subordinated Notes); and• any additional schedule to this deed (in respect of any further series of Notes which may be issued under this deed from time to time).
Trust	the trust established by this deed.
Trustee	the trustee for the time being of the Trust (being initially the person named as party to this deed as Trustee) in its capacity as such trustee.
Trustee Company	a body corporate eligible under section 283AC of the Corporations Act to act as a trustee for the holders of unsecured notes offered to the public.

1.2 Interpretation

In this deed, headings and boldings are for convenience only and do not affect the interpretation of this deed and, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) terms defined in the Corporations Act have the same meaning in this deed;
- (f) a reference to any thing (including, but not limited to, any right) includes a part of that thing;
- (g) an annexure, exhibit or schedule to this deed forms part of this deed;
- (h) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to a part and clause of, and a party, annexure, exhibit and schedule to, this deed, a reference to this deed includes any schedule, annexure or exhibit;
- (i) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (j) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (k) a reference to a party to a document includes that party's successors and permitted assigns;
- (l) no provision of this deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or that provision;
- (m) a reference to an agreement other than this deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (n) a reference to an asset includes all property of any nature, including, but not limited to, a business, and all rights, revenues and benefits;
- (o) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (p) a reference to a body, other than a party to this deed (including, without limitation, an institute, association or authority), whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (q) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or

any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death; and

- (r) a reference to 'wilful default' in relation to the Trustee means any wilful failure to comply with, or wilful breach by, the Trustee of any of its obligations under this deed or at law other than a failure or breach which:
- (1) is in accordance with a lawful court order or direction or required by law; or
 - (2) is in accordance with any proper instruction or direction of the Holders given at a Meeting of Holders convened pursuant to clause 11 of this deed.

1.3 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the succeeding Business Day.

1.4 Compliance with law

- (a) This deed applies subject to all applicable laws, including any declarations made or exemptions granted by ASIC which are current in respect of or applicable to this deed.
- (b) Without limiting the generality of clause 1.4(a), to the extent a provision of this deed breaches or contravenes, or if complied with would result in a breach or contravention of any requirement of:
 - (1) the law; or
 - (2) a Statutory Obligation of the Trustee or any other party,this deed is taken not to contain that provision.
- (c) Without limiting clause 1.4(a), this deed and the Terms are to be construed so as to not:
 - (1) limit the Trustee's liability for breach of section 283DA of the Corporations Act for failing to show the degree of care and diligence required of it as trustee; or
 - (2) entitle the Trustee to be indemnified against that liability.This clause 1.4(c) has effect subject to section 283DB of the Corporations Act.
- (d) This clause 1.4 prevails over all other provisions of this deed including any that are expressed to prevail over it.

2 Appointment of Trustee and declaration of trust

2.1 Appointment

The Trustee is hereby appointed by the Issuer as trustee for the Holders subject to and in accordance with this deed.

2.2 Declaration of trust

The Trustee declares that it enters into this deed as trustee for the Holders, and will hold the benefit of:

- (a) this deed and any deed executed under clause 18;
- (b) the right to enforce the Issuer's duty to repay the Notes and to pay interest on the Notes;
- (c) the right to enforce all other duties of the Issuer under the Terms of Issue, the provisions of this deed and Chapter 2L of the Corporations Act; and
- (d) any other Powers and any other property which the Trustee may receive or which may be vested in the Trustee,

in trust for the Holders subject to and in accordance with this deed and the Terms of Issue.

2.3 Application of moneys

All money received by the Trustee in respect of amounts payable under this deed must be held by the Trustee on trust to be applied in the following order:

- (a) firstly, in payment of all Costs incurred by or other amounts owing to the Trustee under or in connection with this deed (including all remuneration and other amounts payable to the Trustee under this deed);
- (b) secondly, in or towards payment equally or rateably of all arrears of interest remaining unpaid in respect of the Notes and all principal due in respect of the Notes; and
- (c) thirdly, in payment of the balance (if any) to the Issuer.

3 Issue, ownership and transfer of Notes

3.1 Issue

- (a) Subject to the terms of this deed, the Issuer may issue Notes to any person in accordance with the applicable Terms of Issue.
- (b) The Issuer may issue Notes to any person by causing that person to be entered in the Register as the Holder of those Notes.
- (c) Upon the issue of a Note in accordance with clause 3.1(a) the Note will be duly constituted as a debt obligation by, and owing under, this deed.
- (d) Despite clause 3.1(c), the issue of a Note will be void, and the Note will confer no rights against the Issuer on the Holder or any other person, unless the Issuer has received payment in cleared funds in full of the moneys due on application for the Note.

3.2 Ownership

- (a) Notes are regarded as issued or transferred to a person if and when the person's name is recorded in the Register as the holder of the Notes in accordance with this deed.
- (b) Title to a Note vests in the Holder of the Note. The Issuer and the Trustee may treat Holders as the absolute beneficial owners of Notes held by them and are not bound by or obliged to recognise any other person as having any right or interest in any Note whether or not they have notice of such right or interest.
- (c) Despite clause 3.2(a), the Holder's title to a Note is subject to rectification of the Register for fraud or error.

3.3 Holders bound

The Holders and any persons claiming through any of them are deemed to have notice of, and are bound by, all the provisions of this deed and the Terms of Issue. This clause is a condition of each Holder's rights in relation to a Note under this deed and the Terms of Issue.

3.4 Brokerage

The Issuer may pay a commission, procuration fee, brokerage or any other fees to any person for subscribing or underwriting the subscription of or subscription for the Colonial Group Subordinated Notes.

4 Terms of Notes

4.1 Terms of Issue

The Notes are issued on and subject to the terms and conditions set out in the Terms of Issue and the Issuer undertakes to perform its obligations in respect of each Note under the Terms of Issue.

4.2 Payments

- (a) Without limiting clause 4.1, the Issuer must pay to the Trustee when due all amounts stated or determined to be payable on a Note under the Terms of Issue. The Trustee directs the Issuer to pay the amounts referred to in this clause 4.2(a) to the Holders, in accordance with their rights and entitlements unless the winding up of the Issuer has commenced in which case the payment must be made to the Trustee.
- (b) Payment of an amount payable in respect of a Note to the Holder of the Note (or to the person who was the holder at the time the entitlement to the payment is determined under the Terms of Issue) discharges the Issuer's obligation to pay that amount to the Trustee under clause 4.2(a).
- (c) Payment of an amount payable in respect of a Note to the Trustee discharges the Issuer's obligation to pay that amount to the Holder of the Note (or to the person who was the Holder at the time the entitlement to the payment is determined under the Terms of Issue) under the applicable Terms of Issue.
- (d) Subject to all applicable law, where the Issuer is unable to make a payment or relieved from the obligation to make a payment under the applicable Terms of Issue, 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 first of the following to occur:
 - (1) the Holder or a legal representative of the Holder (or the person who was the Holder at the time the entitlement to the payment is determined under the Terms of Issue) claims the amount and provides evidence of its entitlement and details for payment to be effected to the satisfaction of the Issuer;
 - (2) the Issuer pays the amount in accordance with the law relating to unclaimed money; and
 - (3) the claim for payment of the amount becomes void under the applicable Terms of Issue.

- (e) The Issuer's obligations to make payments in respect of the Notes are subject to all applicable laws. If a payment could not lawfully be made to a particular Holder due to any circumstance or matter affecting the Holder without the approval of a Government Agency or the satisfaction of some other condition then the Holder is not entitled to receive that payment, and the Issuer is not obliged to make that payment, unless that approval has been obtained or that other condition is satisfied. The Issuer is not obliged to pay any further interest to the affected Holder in such circumstances on account of the delay.
- (f) If the Issuer has determined that a person other than the Holder is or may be entitled to be registered as a Holder and receive a payment in respect of a Note, the Issuer may withhold the payment until it has established the respective entitlements of those persons to its satisfaction and (if applicable) the persons entitled have been registered as Holder and provided details for the payment to be effected to the satisfaction of the Issuer. The Issuer is not obliged to pay any further interest on account of the delay.

4.3 Status and subordination

Without limiting clause 4.1 or 4.2:

- (a) the Notes constitute subordinated unsecured notes of the Issuer;
- (b) the Issuer's obligation to pay amounts due on a Note is subject to, and subordinated on the terms set out in, the applicable Terms of Issue;
- (c) the Notes rank equally without any preference among themselves;
- (d) the Terms of Issue are binding on the Trustee in relation to any amount due on a Note that it recovers or seeks to recover and applies to the Trustee as if references to the Holders in the Terms of Issue were references to the Trustee.

To avoid doubt, this clause does not affect the Trustee's entitlement to be paid any amount under clause 9.

4.4 Not deposit liabilities or other obligations of CBA

The Issuer is not an ADI and Colonial Subordinated Notes do not constitute deposit liabilities, Protected Accounts or other liabilities of CBA or any other ADI in the CBA Group. No member of the CBA Group has any liability for (except in the case of the Issuer) or guarantees Colonial Subordinated Notes.

5 Undertakings of Issuer

Subject to this deed, the Issuer undertakes to the Trustee that for so long as any principal or interest due on Notes remains outstanding, it will:

- (a) comply with its obligations under Chapter 2L and section 318 of the Corporations Act;
- (b) comply with the provisions of this deed and the Terms of Issue;
- (c) use all reasonable endeavours and furnish all such documents, information and undertakings as may be reasonably necessary in order to procure that:
 - (1) the Notes are officially quoted on the Official List of the ASX;
 - (2) such quotation is maintained in accordance with the Terms of Issue;
- (d) do all things which are reasonably requested by the Trustee to enable the Trustee to comply with the Trustee's obligations under this deed, the

- Corporations Act (or any other laws binding on the Trustee with respect to the trust or the Notes), the Listing Rules or the ASX Settlement Operating Rules;
- (e) promptly notify the Trustee after it becomes aware of a breach by the Issuer of any obligation of this deed, Chapter 2L of the Corporations Act, Chapter 6CA of the Corporations Act, the Listing Rules, the ASX Settlement Operating Rules or the Terms of Issue;
 - (f) provide to the Trustee at the same time as their issue (to the extent not already provided to the Trustee):
 - (1) all documents sent to Holders; and
 - (2) all documents lodged with ASX in relation to the Notes; and
 - (g) provide to the Trustee all other information or reports required to be provided to the Trustee under the Corporations Act or requested by the Trustee which are reasonably required for the purposes of discharging the duties, trusts, Statutory Obligations and Powers vested in the Trustee under this deed or imposed upon it by law.

6 Enforcement of this deed

6.1 Enforcement by Trustee

- (a) Subject to clause 6.2, the Trustee and only the Trustee is entitled to take any action against the Issuer to enforce any provision of this deed or the obligation to repay the Notes or the interest thereon.
- (b) No Holder shall be entitled to take any action to enforce any right or remedy under or in respect of this deed or the obligation to repay the Notes or to pay interest thereon unless the Trustee, having become bound to take that action under clause 6.2, fails to do so within a reasonable period and such failure shall be continuing. In that case any Holder may, upon giving an indemnity satisfactory to the Trustee, in the name of the Trustee (but not otherwise) and subject to clause 6.2, itself take the action the Trustee was bound to take to the same extent (but not further or otherwise) as the Trustee would have been entitled to do so.
- (c) The Issuer is not liable in damages for breach of any provision of this deed other than in respect of the Trustee's remuneration and expenses due and payable under clause 9. This does not affect the Issuer's obligation under the Terms of Issue to pay the Face Value, Interest, Redemption Amount or other amounts payable in respect of the Notes and Costs and other amounts due to the Trustee.

6.2 Enforcement on direction by Holders

Subject to clause 7, the Trustee must take action in relation to a Default or to otherwise enforce this deed where all the following conditions are met:

- (a) the Trustee has been directed to take that action by a Special Resolution of the Holders or the Terms of Issue otherwise oblige it to act; and
- (b) the Trustee is indemnified to its reasonable satisfaction:
 - (1) for all actions, proceedings, claims and demands to which the Trustee may render itself liable by taking such action ; and

- (2) in respect of all costs, charges, damages and expenses which the Trustee may thereby incur and remuneration which the Trustee may thereby become entitled;

the Trustee is not restricted or prohibited from taking such action by any order of any competent court or any applicable law.

If the Trustee forms the view that action it has been directed to take is or could be inconsistent with this deed, the Terms of Issue or any applicable law or is or could be otherwise objectionable, it may take steps to seek (and, if the court so determines, to obtain) as soon as reasonably practicable a court direction or order to set aside or vary the direction, and, while those steps are underway, the Trustee is not obliged to take any action or proceedings it has been directed to take.

For the avoidance of doubt, the Trustee may take action in relation to a Default or to otherwise enforce this deed or the Terms of Issue in any other circumstances and in its absolute discretion but (subject to the Corporations Act) is not obliged to act unless the conditions of this clause are satisfied.

7 Powers, duties and discretions of Trustee

7.1 Powers generally

- (a) Subject to this deed, the Trustee has in acting as trustee of the Trust and in relation to all property of the Trust all the powers of a natural person or which it is otherwise possible to confer on a trustee.
- (b) Subject to applicable law, the Trustee may exercise its rights, powers and discretions under this deed in any manner it thinks fit.

7.2 Duties

- (a) The Trustee must:
 - (1) comply with its duties under the Corporations Act;
 - (2) act honestly and in good faith and comply with all laws in performing its duties and in the exercise of its Powers;
 - (3) exercise such diligence and prudence as a person qualified to be a trustee under the Corporations Act in the position of the Trustee would exercise in performing its duties and in the exercise of its Power;
 - (4) if and to the extent the Trustee holds Trust assets, keep accounting records which correctly record and explain all amounts paid and received by the Trustee in its capacity as trustee under this deed; and
 - (5) if and to the extent the Trustee holds Trust assets, keep the assets of the Trust separate from all other assets of the Trustee which are held in a capacity other than trustee under this deed.
- (b) Except to the extent that the following is inconsistent with the requirements of the Corporations Act, the Trustee has no obligation to exercise or to exercise in a particular way any of its rights, powers or discretions unless:
 - (1) it is directed to do so by a Meeting of Holders called under clause 11 or in accordance with the provisions of the Corporations Act;
 - (2) its liability is limited in a manner consistent with clause 8;
 - (3) it is indemnified to its satisfaction against any expense or liability which it may incur as a result of doing so.

- (c) The Trustee must not interfere with the conduct of the ordinary business of the Issuer unless required to do so in order to comply with its duties under the Corporations Act.
- (d) The Trustee has no obligations or duties except those expressly set out in this deed and those imposed on it by any law that cannot be excluded.

7.3 Discretions

Subject to this deed, the Trustee may:

- (a) **delegation:** by power of attorney or otherwise, authorise:
 - (1) a Related Body Corporate of the Trustee; or
 - (2) any other person (including, without limitation, the Issuer and persons associated with the Issuer),to do anything which the Trustee may lawfully do (on such terms and conditions as the Trustee may think fit) including, without limitation, holding any trust property and executing documents on its behalf;
- (b) **directions:** apply to the Court for directions in relation to any question arising either before or after the Holder's rights become enforceable;
 - (1) assent to and approve of or oppose any application to the Court made by or at the instance of any Holder or by Issuer; and
 - (2) at any time after the Holder's rights become enforceable, apply to the Court for an order:
 - (A) that the Trust be carried into execution under the direction of the Court; and
 - (B) for any other order or direction in relation to the administration of the Trust hereof as the Trustee may deem expedient.
- (c) **reliance:** rely and act upon (without enquiry) any communication or document that it reasonably believes to be genuine and correct and to have been signed or sent by the appropriate person or persons;
- (d) **expert advice:** engage and rely and act upon (without enquiry) the advice or opinion of or information of any barrister, solicitor, accountant, auditor, actuary, valuer or other consultant or adviser of the Issuer or the Trustee;
- (e) **certificates:** accept as conclusive evidence and act upon:
 - (1) a certificate which purports to be signed by any two directors of the Issuer as to any fact or matter, including without limitation as to whether or not any particular dealing, transaction, step or thing is commercially desirable or detrimental to the interests of the Holders;
 - (2) any information, report, accounts, certificate or statement supplied by the Issuer, or the auditor or solicitor of the Issuer, including without limitation, any statements or opinions contained therein; and
 - (3) any reports required to be provided under a provision of the Corporations Act.The Trustee is not required to call for further evidence or information and is not responsible for any loss occurring as a result of such reliance, except to the extent that its reliance amounts to fraud, negligence or wilful default;
- (f) **documents:** accept as conclusive evidence and act upon, any document, communication, information, report, balance sheet, profit and loss account, certificate or statement supplied by the Issuer or any Subsidiary or by any

director, secretary, auditor, solicitor or duly authorised officer of the Issuer or any Subsidiary (including any electronic transmission);

- (g) **statements:** accept as conclusive evidence and act upon, all statements (including statements made or given to the best of knowledge and belief or similarly qualified) contained in any statement, certificate, report, balance sheet or profit and loss account given pursuant to the provisions of, or in any way in relation to, this deed;
- (h) **Trustee determinations:** except as otherwise expressly provided for in this deed, determine as between itself and the Holders all questions and matters of doubt arising in relation to this deed or the Terms of Issue and every such determination shall be conclusive and binding on all Holders;
- (i) **Issuer determinations:** accept as conclusive evidence and act upon (without enquiry), any determination by the Issuer, including without limitation, a determination as to:
 - (1) the Market Rate (as defined in the Terms of Issue);
 - (2) the existence of circumstances justifying early redemption of the Notes under the Terms of Issue due to (without limitation):
 - (A) changes to withholding tax;
 - (B) loss of tax deductibility; or
 - (C) regulatory reasons; and
 - (3) the need for APRA approval prior to the redemption or purchase of the Notes by the Issuer or other member of the CBA Group;
- (j) **exercise of powers:** determine in any manner it thinks fit whether to exercise, and the manner, mode and time of exercise of, the Trustee's Powers. Subject to the Corporations Act and any law applicable to the Trustee, unless the Trustee is fraudulent, negligent or wilfully defaults, it is not liable in its personal capacity for any loss, cost, claim, damage or expense which may result from the exercise or failure to exercise any of its rights, powers or discretions; and
- (k) **waiver:** waive, so long as it is in writing, at any time and on any terms or conditions, any breach by the Issuer under this deed or the Terms of Issue but where a breach is the failure of the Issuer to redeem or repay any Notes or to pay interest on any Notes in accordance with the Terms of Issue, or to the extent required by this deed, the Trustee may waive the breach only if the Holders have consented to or authorised the waiver, or the breach has been remedied.

7.4 Holders bound

- (a) The exercise by the Trustee of the Powers (including the discretions referred to in clause 7.3) binds all the Holders, whether or not the Holders gave an instruction or concurred in their exercise.
- (b) Each Holder (and any person claiming through or under a Holder) is bound by and Notes are issued on the condition that each Holder (and any person claiming through or under a Holder) is taken to have notice of and is bound by this deed and the Terms of Issue.

8 Trustee protections

8.1 Trustee not responsible for certain matters

Except to the extent required by the Corporations Act or otherwise provided by this deed, the Trustee:

- (a) **(form of documents)** has no responsibility for the form or contents of this deed and will have no liability arising as a result of or in connection with any inadequacy, invalidity or unenforceability of any provision of this deed except insofar as it relates to any representation or warranty given by the Trustee;
- (b) **(monitoring)** is not required to:
 - (1) provide to any person any information concerning the business, financial condition, status or affairs of the Issuer;
 - (2) investigate the adequacy, accuracy or completeness of any information provided by the Issuer;
 - (3) assess, investigate or keep under review the business, financial condition, status or affairs of the Issuer;
 - (4) monitor compliance by the Issuer of its obligations under this deed or take any steps to ascertain whether a Default has occurred;
 - (5) investigate or consider whether any issue of Notes or any payment in respect of a Note will be an unfair preference or other similar voidable transaction for the purposes of Chapter 5 of the Corporations Act;
- (c) **(notice)** is not required to notify any person of the execution of this deed or the occurrence of any Default or breach of this deed or any other document relating to the Notes; and
- (d) **(notices)** is not required to (and, to avoid doubt, in the case of Confidential Information, must not) provide to the Holders copies of notices, documents or other information received from the Issuer.

8.2 Knowledge of the Trustee

The Trustee

- (a) will only be considered to have knowledge or notice of or be aware of any matter or thing if the Trustee has knowledge, notice or awareness of that matter or thing by virtue of the actual notice or awareness of the officers or employees of the Trustee who have day to day responsibility for the administration of the Trust; and
- (b) will be taken not to have knowledge of the occurrence of a Default unless the Trustee has received written notice from a Holder or the Issuer stating that a Default has occurred and describing it.

8.3 Confidential information

Nothing in this deed requires the Trustee to disclose information or provide documents relating to the Issuer or any other person if the Trustee reasonably believes that to do so would constitute a breach of law or duty of confidentiality.

8.4 Capacity as Holder

If the Trustee is also a Holder, then in its capacity as a Holder it:

- (a) has the same rights and obligations as the other Holders; and

- (b) may exercise those rights and agrees to comply with those obligations independently from its role as Trustee as if it were not the Trustee.

8.5 Other dealings with Issuer and Holders

The Trustee may, without being liable to account to the Issuer or any Holder:

- (a) hold Notes, shares or any other marketable securities issued by the Issuer in any capacity;
- (b) represent or act for, or contract with, individual Holders in any capacity;
- (c) deal in any capacity with the Issuer or any of its Related Bodies Corporate or associates; or
- (d) act in any capacity in relation to any other trusts,

provided that to do so would not preclude the Trustee from acting as Trustee under the Corporations Act.

8.6 Indemnity for Trustee

- (a) Without prejudice to any right of indemnity by any applicable law given to trustees, the Trustee and every person appointed by it pursuant to this deed is indemnified by the Issuer in respect of all liabilities including any fines or penalties in respect of a charge and expenses including legal fees (charged at the usual commercial rates charged by the provider of the legal services) incurred by it in the execution of the trusts, authorities, discretions or Powers constituted or conferred by this deed or an amendment to this deed, and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to this deed, or any amendment to this deed, other than:

- (1) a claim arising out of the Trustee's fraud, negligence or wilful default (including any breach of section 283DA of the Corporations Act) and;
- (2) any Taxes (excluding any Indirect Tax) imposed on the Trustee's remuneration for its services as Trustee.

- (b) The Trustee may retain and pay out of any moneys in its hands in priority to any claim by a Holder, all sums necessary to effect and satisfy such indemnity or an amount due and payable to the Trustee under clause 9
- (c) This clause 8.6 has effect subject to section 283DB of the Corporations Act.

8.7 Continuing indemnity

The indemnity contained in clause 8.6(a) is a continuing and independent obligation of the Issuer and survives:

- (a) winding up or termination of the Trust under this deed;
- (b) the retirement or removal of the Trustee as trustee; and
- (c) the substitution of the Issue by a Successor under clause 18.1, subject to clause 18.3.

8.8 Exclusions of liability

Neither the Trustee nor any of its directors, officers, employees, agents or attorneys or Related Bodies Corporate will be responsible for or liable to the Issuer or any Holder or any other person for loss caused by:

- (a) the Trustee's acts or omissions in accordance with the terms of this deed in reliance on:
 - (1) the Register;
 - (2) information or documents supplied by the Issuer or any agent of the Issuer;
 - (3) the authenticity of any document it reasonably believes to be genuine and correct;
 - (4) opinion, advice or information of any consultant or adviser of the Trustee;
 - (5) acting on any instruction or direction properly given to it by the Issuer or Holders under this deed;
- (b) any loss arising due to the acts or omissions of any delegate, attorney or agent of the Trustee (other than a Related Body Corporate of the Trustee), unless the Trustee fails to use reasonable care in selecting and monitoring them or the act or omission was caused or contributed to by the Trustee's negligence, wilful misconduct or fraud;
- (c) any act, omission, neglect or default of the Issuer or any other person under or in connection with this deed or the Notes;
- (d) any act or omission required by law or by any court of competent jurisdiction;
- (e) any act or omission of an operator of any securities title, transfer or holding system or any absence of, or defect in, the title of the Issuer to any asset;
- (f) any payment having been made to any fiscal authority;
- (g) the Trustee waiving or excusing, subject to any conditions that the Trustee thinks fit, any breach by the Issuer of the Issuer's obligations under this deed;
- (h) the subscription of moneys by applicants for Notes or to see to the application of those moneys; or
- (i) the form or contents of this deed and will have no liability arising as a result of or in connection with any inadequacy, invalidity or unenforceability of any provision of this deed insofar as it applies to the Trustee or to any representation or warranty given by the Trustee.

8.9 Limitation of liability

- (a) The Trustee enters this deed as trustee of the Trust and in no other capacity.
- (b) Subject to clause 8.9(e), a liability to the Holders arising under or in connection with this deed is limited to and can be enforced by the Holders against the Trustee only to the extent to which it can be satisfied out of the Assets against which the Trustee is actually indemnified in respect of the liability incurred by it as trustee of the Trust. This limitation of the Trustee's liability applies despite any other provision of this deed (subject to clause 8.9(e)) and extends to all Obligations in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (c) The Issuer and the Holders may not
 - (1) have recourse to the Trustee, or enforce their rights against the Trustee arising from breach or non-performance of the Obligations by the Trustee, beyond the Assets against which the Trustee is actually indemnified; or
 - (2) seek the appointment of a receiver, a liquidator, an administrator or any other similar person to the Trustee (except in relation to property

of the Trust) or prove in any liquidation of or affecting the Trustee (exception in relation to the property of the Trust).

- (d) The Holders and the Issuer may only enforce any rights they may have against the Trustee arising from the breach or non-performance of the Obligations only to the extent to which it can be satisfied out of the Assets against which the Trustee is actually indemnified in respect of the liability incurred by it as trustee of the Trust.
- (e) The provisions of clause 8.8 and this clause 8.9 will not apply to any obligation or liability of the Trustee to the extent arising or not satisfied as a result of the Trustee's fraud, negligence or wilful default.
- (f) The Issuer acknowledges that it is responsible under this deed and the Terms of Issue for performing a variety of obligations under this deed and the Terms of Issue. No act or omission of the Trustee (including any related failure to satisfy its obligations or breach of representation or warranty under this deed) will be considered fraud, negligence or wilful default of the Trustee to the extent to which the act or omission was caused or contributed to by any failure of the Issuer or any other person (other than a Related Body Corporate of the Trustee) to fulfil its obligations relating to the Trust or by any other act or omission of the Issuer or any other person (other than a Related Body Corporate of the Trustee).
- (g) For the purposes of this clause:
Obligations means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Trustee under or in respect of this deed; and
Assets includes all assets, property and rights, real and personal of any value whatsoever.

8.10 Trustee capacity

In this deed, except where expressly provided to the contrary:

- (a) a reference to the Trustee is a reference to the Trustee in its capacity as trustee of the trust created by this deed only, and in no other capacity; and
- (b) a reference to the undertaking, assets, business, money or any other thing of or in relation to the Trustee is a reference to such undertaking, assets, business, money or other thing of or in relation to the Trustee only in its capacity as trustee of the trust created by this deed, and in no other capacity.

8.11 Notice of this deed

- (a) The Issuer will give notice of the execution of this deed to ASIC in accordance with its obligations under the Corporations Act and provide a copy of the notice to the Trustee.
- (b) For the avoidance of doubt, the Trustee is not bound to give notice to any person of the execution of this deed.

9 Trustee's remuneration and expenses

9.1 Remuneration

- (a) The Issuer must pay to the Trustee by way of remuneration for its services as trustee under this Deed a fee or such other remuneration as may be agreed

between the parties, and in the manner notified by the Trustee to the Issuer, from time to time.

- (b) If the Trustee is required at any time to:
- (1) undertake duties which relate to the enforcement of the terms of this deed by the Trustee upon a default by any other party under the terms of this deed;
 - (2) undertake activities outside of the normal day to day scope of the Trustee's duties in respect of Corporate Transactions; or
 - (3) undertake duties which are agreed by the Issuer to be of an exceptional nature or otherwise outside the scope of the normal duties of the Trustee,

then the Trustee is entitled to additional remuneration as may be agreed between the Trustee and the Issuer or, failing agreement, determined by reference to the reasonable time and attendance costs at the prevailing hourly rates for legal work or executive time (exclusive of GST) of the Trustee's employees required in respect of such activities to the extent outside the normal day-to-day scope of the Trustee's duties.

In this clause 9.1, **Corporate Transactions** means a transaction or proposed transaction affecting the Issuer or the CBA Group that involves:

- (1) equity raisings;
- (2) mergers and acquisitions;
- (3) divestments;
- (4) significant restructures;
- (5) responding to significant regulatory inquiries; and
- (6) debt refinancing.

9.2 Reimbursement

- (a) The Issuer must pay to the Trustee on demand all reasonable out of pocket Costs properly incurred by or on behalf of the Trustee in connection with:
- (1) the negotiation, preparation and execution of this deed, registration, stamping, administration and any subsequent consent, agreement, approval, waiver or amendment required under this deed;
 - (2) the carrying out or exercise or the purported carrying out or exercise by the Trustee of any duty, obligation or power imposed or conferred expressly or impliedly by this deed on the Trustee or upon Holders or by law;
 - (3) the exercise, preservation of, or enforcement of, any rights in connection with any breach or default in the observance or performance by the Issuer of any of the covenants, obligations, conditions and provisions of this deed;
 - (4) the service of Notices to any Holder, the convening and holding of any Meeting of Holders and the carrying out of any proper directions or resolutions of Holders; or
 - (5) all actions taken under this deed in relation to complying with any notice, request or requirement of any Government Agency and any investigation by any Government Agency into the affairs of the Issuer.
- (b) If the Issuer or any of its assets are placed in liquidation, the Trustee is entitled (as between itself, the Issuer and the Holders) to claim and receive from any

receiver, receiver and trustee, official trustee, liquidator, administrator or similar official amounts by way of reimbursement of all costs, charges, fees and expenses incurred by the Trustee (including on its own account) in connection with any enforcement or other action taken by it as trustee of the Trust.

9.3 No indemnity by Holders

Except as otherwise agreed with any Holder or Holders in connection with the taking of any action by the Trustee, the Trustee is not entitled to be indemnified by any Holder personally.

9.4 GST

The Issuer must pay to the Trustee on demand any goods and services tax, value added tax or any like tax (**GST**) which is payable as a consequence of any supply made or deemed to be made or other matter or thing done under or in connection with this deed by the Trustee (together with any fine, penalty or interest payable because of a default by the Issuer). The amount paid by the Issuer to the Trustee on account of the GST must be sufficient to ensure that the economic benefit to the Trustee of this deed remains the same whether or not GST applies. The Trustee will give the Issuer a tax invoice.

9.5 Priority and survival

All remuneration and expenses referred to in this clause 9 shall be paid in priority to any claim by any Holder and continue to be payable until paid notwithstanding that this deed or the Trust may be terminated, or the Trust may be wound up or subject to administration by or under the order of any court.

10 Retirement and removal of Trustee

10.1 Retirement

Subject to compliance with the relevant statutory requirements for the time being, the Trustee may retire by giving notice to the Issuer, but such retirement will not be effective until the last to occur of the following:

- (a) the day which is 60 days after the date of the notice (or such shorter period as the Trustee and the Issuer may agree); and
- (b) the day upon which the appointment of a new Trustee becomes effective under clause 10.3.

10.2 Removal

- (a) Subject to compliance with the relevant statutory requirements for the time being, the Trustee must retire as trustee for the Holders under this deed and the Issuer may by written notice remove the Trustee if:
 - (1) the Trustee is in material breach of its obligations under this deed and has not rectified the breach within 10 Business Days of receiving a written notice from the Issuer to rectify the breach;
 - (2) the Trustee ceases or refuses to act as trustee under this deed;
 - (3) the Trustee ceases to carry on business;
 - (4) the Trustee has not been validly appointed;

- (5) the Trustee is placed in liquidation or is wound up or dissolved;
 - (6) a receiver, receiver and trustee, official trustee, liquidator, administrator or similar official is appointed to the Trustee;
 - (7) any licence, consent, Authorisation, permit or similar thing the Trustee is required to hold to carry out its obligations and duties under or in respect of this deed is revoked or not renewed;
 - (8) the Issuer reasonably believes that any of the things referred to in section 283BD of the Corporations Act have occurred;
 - (9) the Trustee ceases to be a person who can be appointed a trustee under section 283AC(1) of the Corporations Act;
 - (10) the Trustee cannot continue to act as Trustee because of the operation of section 283AC(2) of the Corporations Act; or
 - (11) the Issuer is authorised or requested to do so by a Meeting of the Holders called in accordance with clause 11;
- (b) Any removal of the Trustee by the Issuer under this clause 10.2 will only take effect upon the appointment of a new Trustee under clause 10.3.
- (c) On the retirement or removal of the Trustee, the Trustee must at the cost of the Issuer do all such things and execute all such deeds and assurances as are necessary for the purpose of vesting in a new trustee all money, property, rights, powers, authorities and discretions vested in the Trustee under this deed.

10.3 Appointment of new Trustee

- (a) Subject to section 283AC of the Corporations Act, the Issuer may appoint a Trustee Company to be a new Trustee following the retirement or removal of the Trustee in accordance with this clause 10, but if the Issuer fails to do so within 60 days after receiving a notice from the Trustee under clause 10.1 then the Trustee may appoint a new Trustee (or, if possible, apply to the court for the appointment of a new Trustee).
- (b) A new Trustee may be appointed by deed executed under seal by the new Trustee and the Issuer or the Trustee (as applicable) and such execution shall by force of this clause 10.3 vest in the new Trustee all Powers and all right title and interest of the Trustee in this deed and the Terms of Issue.

10.4 Release

- (a) When the Trustee retires or is removed, the Trustee is by force of this clause 10.4 discharged and released from its obligations, covenants and liabilities under this deed arising after the date it retires or is removed. The Issuer must then, if required by the Trustee, execute a confirmation of release in favour of the Trustee in a form and substance reasonably acceptable to the Trustee.
- (b) The retirement, removal or departure of the Trustee does not prejudice any accrued right or obligation of the Trustee (including, without limitation, its right of indemnity or entitlement to be paid fees that continue to accrue up to the date of appointment of the new trustee).

10.5 Obligations of Trustee

On the retirement or removal of the Trustee, the Trustee must do all such things and execute all such deeds and assurances as are reasonably necessary for the purpose of vesting in a new trustee all money, property, rights, powers, authorities and discretions vested in the Trustee under this deed.

11 Meetings of Holders

11.1 Meetings of Holders

- (a) Subject to the Corporations Act, the Trustee or the Issuer may at any time convene a Meeting.
- (b) The Issuer must convene a Meeting on receipt of a direction in writing by Holders who hold 10% or more of the Notes stating the object of the Meeting and the terms of any proposed resolution. The Issuer must serve a copy of the direction on the Trustee together with all other relevant information and comply with the Corporations Act.
- (c) The provisions of Part 2L.5 of the Corporations Act and (to the extent not inconsistent with those provisions) Schedule 3 of this deed apply to any Meeting of Holders.
- (d) The Trustee may do all things (including executing documents) it reasonably considers necessary or desirable under or in connection with any Ordinary Resolution or Special Resolution.

11.2 Power of Holders

Subject to this deed and the Terms of Issue, the Holders may by Ordinary Resolution:

- (a) give a direction to the Trustee as to; or
- (b) authorise, ratify or confirm anything done or not done by the Trustee in respect of,

the performance or exercise of any of the duties, rights, powers and remedies of the Trustee under or relating to this deed or the Notes, and may by Special Resolution approve any amendment to the Trust Deed or the Terms of Issue or do anything else for which the Trust Deed or the Terms of Issue provide for a Special Resolution.

11.3 Passing of resolution

A resolution passed at a Meeting of Holders held in accordance with this deed is binding on all Holders.

12 Notes Register

12.1 Maintenance of the Notes Register

- (a) The Issuer must establish and maintain (or cause to be established and maintained) a Notes Register and enter (or cause to be entered) on the Notes Register:
 - (1) all information required by section 171 of the Corporations Act;
 - (2) the terms and conditions of the Notes ; and
 - (3) any other particulars which the Issuer thinks fit or that it is required to include on the Notes Register under this deed.
- (b) The Issuer must promptly, on receipt of details of any change of name or address of a Holder notified in writing and accompanied, in the case of change of name, by any evidence which the Issuer may reasonably require, alter (or

cause to be altered) the details recorded on the Notes Register in respect of that Holder.

- (c) On giving a notice by advertisement or otherwise as may be required by law, or the requirements of the Listing Rules, the Issuer may from time to time close the Notes Register for any period or periods not exceeding in any one year the maximum period permitted by law or those requirements in aggregate in any calendar year.
- (d) No notice of any trust (whether express, implied or constructive) will be entered in the Notes Register except as may be ordered by a court of competent jurisdiction.
- (e) At any time the Issuer may (on such terms as it thinks fit) appoint a person to establish and maintain a Notes Register and may terminate such appointment, however the Issuer will remain responsible for maintaining or ensuring that there is maintained the Notes Register and the Trustee may rely on the Notes Register as conclusive evidence of the Notes issued under this deed.
- (f) The Issuer must give a copy of the Notes Register to the Trustee within 48 hours of a request by the Trustee for a copy of such Notes Register. A Holder must advise the Issuer of any change to the information noted in the Register in respect of that Holder.
- (g) The Trustee and the Issuer are entitled to accept the correctness of all information contained in a Register without investigation and are not liable to any person for any error in it.
- (h) The Issuer may at any time rectify any error in the Register. None of the Issuer or the Trustee is liable for any loss, Costs or liability incurred by any person as a result of doing so.
- (i) Where a Holder transfers some but not all of its Notes, the transfer may be recorded in the Register in respect of any of the Holder's Notes.

12.2 Joint Holders

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

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

- (g) a payment to any one of the Joint Holders will discharge the Issuer's liability with respect to that payment.

12.3 Holding statements

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

12.4 Location of Notes

The Notes are to be treated as located in the place where the Register is kept.

13 Transfers

13.1 Transfer

- (a) The Notes may be transferred in accordance with the Terms.
- (b) A transferor of Notes remains the Holder until the transfer is registered and the name of the transferee is entered in the applicable Notes Register in respect of the Notes.

13.2 Transaction advice after transfer

If the Issuer accepts a transfer under this clause 13, the Issuer may issue a transaction advice for:

- (a) the Notes which have been transferred; and
- (b) the balance of any Notes which were not transferred.

13.3 Participation in transfer systems

If the Notes are lodged or approved for entry on CHESS, then ASX Settlement Operating Rules prevail to the extent of any inconsistency with clause 12 or this clause 13.

14 Amendments to deed

14.1 Amendment of Terms of Issue

The Terms of Issue of a Note may only be amended in accordance with the Terms of Issue.

14.2 Amendment without consent

Subject to clause 14.1 and all applicable laws, the Issuer may with the consent of the Trustee (such consent not to be unreasonably withheld), by an instrument in writing and without the authority, assent or approval of Holders, amend the Terms or this deed if such amendment is, in the opinion of the Issuer:

- (a) of a formal, minor or technical nature;
- (b) made to cure any ambiguity or correct any manifest error;
- (c) necessary or expedient for the purpose of:
 - (1) enabling Colonial Subordinated Notes to be listed for quotation, or to retain quotation, on any securities exchange or to be offered for subscription or for sale under the laws for the time being in force in any place; or
 - (2) complying with the provisions of any statute or the requirements of any statutory authority or 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 Colonial Subordinated Notes; or
 - (3) correcting or supplementing any defective provision of the Terms or amending any provision of this deed,

and in the case of any amendment under clause 14.2(c) the Issuer has provided to the Trustee (or the Trustee has obtained) an opinion of reputable legal counsel of recognised standing in Australia, addressed to the Trustee, that such alteration is otherwise not materially prejudicial to the interests of Holders as a whole.

The Trustee may treat an amendment to this deed proposed under this clause as being an amendment for the purposes of this clause if it is provided with a notice by the Issuer stating its opinion to that effect.

14.3 Amendments 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 amend the Terms or this deed with the consent of the Trustee (such consent not to be unreasonably withheld) if such alteration is approved by a Special Resolution.

14.4 Amendments

In this clause 14 'amend' includes modify, cancel, alter or add to.

15 Termination and release

15.1 Termination of trust

This deed terminates on the earlier of:

- (a) if no Notes have been issued, any date specified by the Issuer by notice to the Trustee;
- (b) if Notes have been issued, the date the last of the following occurs:
 - (1) the redemption of all Notes;
 - (2) payment of all amounts of principal and distributions due on Notes;
 - (3) payment of all Costs reasonably and properly incurred by the Trustee; and
 - (4) payment of all other amounts payable by the Issuer to the Trustee or Holders;

- (c) the date on which Holders unanimously determine that the Trust be wound up;
or
- (d) the date required by law.

15.2 Disposal of assets

If the Trust is terminated in accordance with clause 15.1, the Trustee must distribute the balance of any income and capital in accordance with clause 2.3.

15.3 Confirmation of release

- (a) At any time after the Issuer's obligations have been discharged under clause 15.1, either party (**Released Party**) may request the other to execute in favour of the Released Party, certification that the Released Party is released from the obligations under this deed and the other party must provide the Released Party with the confirmation and release so requested.
- (b) Without limiting the generality of clause 7.3(e), where the Trust terminates following satisfaction of the conditions in clause 15.1(a), neither party is required to execute a release in favour of the Released Party unless and until the Issuer has procured an auditor of the Issuer to certify the satisfaction of the conditions specified in clause 15.1(a) (**Termination Certificate**), and the Trustee may rely and act on the Termination Certificate.

16 Confidentiality

16.1 Confidential information

The Trustee acknowledges that all Confidential Information is confidential to the Issuer and must not be disclosed to any person except as permitted by clause 16.2.

16.2 Permitted disclosure

The Trustee may disclose Confidential Information:

- (a) to the extent required by this deed or by law, but only to the extent so required;
- (b) to its officers, employees and professional advisers, but only to the extent that such disclosure is considered by the Trustee appropriate or necessary in order for the Trustee to perform its obligations (including exercising the Powers) under this deed; or
- (c) with the prior written consent of the Issuer (which may be given or withheld in its absolute discretion).

16.3 Disclosure to third parties

The Trustee must use its best endeavours to ensure that every person to whom it provides Confidential Information under clause 16.2 is informed in writing of the terms of this clause 16.

17 Representations and warranties

The Trustee and the Issuer each represents and warrants to the other that as at the date of this deed:

- (a) **incorporation:** it is duly incorporated and has the power to own its property and to carry on its business as it is now being conducted;
- (b) **requirements:** in the case of the Trustee only, it meets the requirements of a trustee as provided in sections 283AC(1) and 283AC(2) of the Corporations Act;
- (c) **authority:** it has full power and authority to enter into, deliver and perform its obligations under this deed;
- (d) **authorisations:** it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms; and
- (e) **documents binding:** this deed constitutes (or will, when signed and delivered constitute) legal, valid and binding obligations enforceable against it in accordance with its terms, subject to stamping and any necessary registration and except as such enforceability may be limited by any applicable bankruptcy, insolvency, reorganisation, moratorium or trust or general principles of equity or other similar laws affecting creditors' rights generally; and
- (f) **no misrepresentation:** in the case of the Issuer only, to the best of its information, knowledge and belief after having made due inquiry, all written information provided by the Issuer to the Trustee is true in all material respects at the date it was provided or as at the date (if any) it was stated and that neither that information nor its conduct and the conduct of anyone on its behalf in relation to the transactions contemplated by this deed or the Notes, was or is misleading in a material respect, by omission or otherwise.

Each representation and warranty in this clause is deemed to be repeated by the Issuer and the Trustee on each date Notes are issued with reference to the facts and circumstances existing on that date.

18 Substitution of Issuer

18.1 Successor may substitute Issuer

The Issuer may, without the approval of the Trustee or the Holders, substitute for itself any Related Body Corporate of the Issuer (the **Successor**) in place of the Issuer (or of any previous substitute under this clause 18) as the principal debtor under this deed provided that:

- (a) each of the Successor and CHCL executes a deed poll (substantially in the form of Schedule 2 of this deed) (**Deed Poll**) providing that, among other things, CHCL agrees to irrevocably and unconditionally guarantee, and undertake other obligations in respect of, the obligations of the Successor under this Trust Deed and the Terms of Issue (**Guarantee**) on the terms set out in the Deed Poll;
- (b) immediately after giving effect to such substitution, no Event of Default, and no event which, on the giving of notice or lapse of time or both, would become an Event of Default, will have occurred;
- (c) the Successor delivers to the Trustee:
 - (1) a certificate signed by two directors or a director and a secretary of the Successor stating that the Deed Poll complies with this clause 18 and the Terms of Issue, that all required conditions precedent have

been satisfied and that the substitution is not in the reasonable opinion of the Issuer materially prejudicial to the interests of the Holders as a whole; and

- (2) opinions from reputable legal counsel of recognised standing in the jurisdiction of incorporation of the Successor, and in such other jurisdictions as are relevant and in relation to the governing law of this deed confirm that the Deed Poll is the legal, valid and binding obligation of the Successor and is enforceable in accordance with its terms;
- (d) the Issuer and the Successor instruct the Registry to notify each Holder; and
- (e) the Issuer has given notice to the Trustee and the Holders in accordance with the Terms of Issue.

18.2 Subordination

- (a) Without limiting the provisions of the Deed Poll:
 - (1) the Guarantee constitutes an unsecured monetary obligation of the Issuer which is subordinated to other obligations of the Issuer in the manner specified in the Deed Poll;
 - (2) the claims of Holders and the Trustee against the Issuer in respect of the Guarantee (**Guarantee Claim**) will, in the event of a winding-up of the Issuer, be subordinated and postponed and subject in right of payment to payment in full of the claims of all Senior Creditors;
 - (3) each Holder and Trustee must not, 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 any Guarantee Claim other than as a claim which is subject to and contingent upon prior payment in full of the claims of Senior Creditors;
 - (4) no Holder or the Trustee may exercise its voting rights (as a creditor in respect of the Guarantee) in a winding-up of the Issuer so as to defeat the subordination in this clause 18.2;
 - (5) no Holder or the Trustee 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 the amount payable by the Issuer in respect of the Guarantee; and
 - (6) the Issuer has no obligation to pay Interest under the Guarantee whilst the payment of that interest is deferred under clause 2 of Terms.
- (b) To avoid doubt, this clause does not affect the Trustee's entitlement to be paid any amount under clause 9.

18.3 Effect of substitution

On any such substitution:

- (a) the Successor will assume all of the obligations of, succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this deed and the Terms with the same effect as if the Successor had been named as the Issuer in these Terms; and
- (b) the Issuer (or any corporation which has previously assumed the obligations of the Issuer) will be released from its liability as the Issuer under this deed and the Terms,

and, from that time:

- (c) references to the Issuer in clauses 2.5(b)(ii), 2.6, 6.1, 7.3 and in the definitions of Change of Control Event, Equal Ranking Securities, Junior Ranking Securities and Senior Creditor in clause 12.2 of the Terms of Issue, and to the corresponding provisions of this deed, will be taken to be references to CHC or the Successor; and
- (d) references to the Issuer in any other provisions of this deed or the Terms will be taken to be references to the Successor only.

19 General

19.1 Notices

Any notice or other communication including, but not limited to, any demand, consent or approval to or by a party under this deed:

- (a) must be in legible writing and in English addressed as shown below:
 - (1) if to the Issuer:
 - Address: Level 25 Tower 1, 201 Sussex Street, Sydney NSW 2000
 - Attention: Head of Capital and Regulatory Strategy
 - Facsimile: (02) 9118 1014
 - Email: tricia.ho-hudson@cba.com.au
 - (2) if to the Trustee:
 - Address: Level 3, 560 Collins Street, Melbourne, VIC 3000
 - Attention: Sten Silavecky, Head of Structured Finance Services
 - Facsimile: +61 3 9620 5826
 - Email: ssilavecky@thetrustcompany.com.au
- or to any other address specified to the sender by any party by notice;
- (b) must be signed by an officer or under the common seal of the sender;
 - (c) is deemed to be given by the sender and received by the addressee:
 - (1) when delivered by hand to the street address during the hours of 9.00 am to 5.00 pm on a Business Day;
 - (2) within Australia, on the day following the day on which the envelope containing the same was posted with postage prepaid to the postal address and, outside Australia, on the seventh day following the day on which the envelope containing the same was posted with postage prepaid to the postal address; and
 - (3) if sent by facsimile transmission, when receipt of a legible transmission has been acknowledged, unless that local time is not on a Business Day, or is after 5.00 pm on a Business Day, when that communication is taken to be received at 9.00 am on the next Business Day; and
 - (4) if sent by email, on production of a report by the system by which the email is sent indicating that the email has been transmitted to the correct electronic address and without error. However, if the time of

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

- (5) if a notice is published in a newspaper, on the first date that publication has been made in all the required newspapers.
- (d) any information provided by the Issuer to the Trustee under clause 5 may be sent by email to the Trustee's email address specified in clause 19.1(a). In addition, any communication (including notices, consents, approvals, requests and demands) under or in connection with this deed to the Issuer or the Trustee may be given by email where the recipient has separately agreed in writing that such communication or communications of that type may be given by email. Any communication sent by email in accordance with this clause 19.1(d) is deemed to have been received on the date the email is received (unless the sender receives notice that there has been an error with the transmission of the email to the intended electronic address). However, if the time of the deemed receipt is after 5:00 pm local time on a Business Day at the address of the recipient it is deemed to have been received at the commencement of business on the next Business Day.

19.2 Service of Notices by the Issuer or the Trustee to any Holder

A notice given to a Holder by the Issuer or the Trustee must comply with the notice provisions of the Terms of Issue of the Notes.

19.3 Service of Notices by the Holders to the Issuer or the Trustee

A notice given by a Holder to the Issuer or the Trustee must:

- (a) be in writing and signed by a person duly authorised by the sender; and
- (b) be left at, or sent by prepaid post (airmail if posted from a place outside Australia) to the address set out in clause 19.1 or the address last notified by the Issuer or the Trustee (as applicable), or sent by facsimile transmission or email to the fax number or email set out in clause 19.1 or the fax number or email last notified by the Issuer or the Trustee (as applicable).
- (c) Notices are considered to be received at the times set out in clause 19.1(c) and 19.1(d).

19.4 Notice to Transferor Binds Transferee

Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any of the Notes is bound by every notice which, prior to the person's name and address being entered in the applicable Notes Register, was properly given to the person from whom the person derived title to those Notes.

19.5 Notices when Issuer is in liquidation

If the Issuer or any of its assets are placed in liquidation, then the receiver, receiver and trustee, official trustee, liquidator, administrator or similar official appointed to the Issuer or its assets (as applicable) must:

- (a) if the Trustee has not already done so, notify the Holders of each relevant Event of Default and of the receiver's, receiver and trustee's, official trustee's, liquidator's, administrator's or similar official's appointment; and
- (b) provide regular updates to the Trustee and the Holders as to the status of the liquidation and any other material developments affecting the Issuer or its assets.

19.6 Service on Deceased Holders

A notice served in accordance with this clause 19 is (despite the fact that the Holder is then dead and whether or not the Issuer has notice of the Holder's death) considered to have been properly served in respect of any of the Notes, whether held solely or jointly with other persons by the Holder, until some other person is registered in the Holder's place as the Holder or joint Holder. The service is sufficient service of the notice or document on the Holder's legal personal representative and any person jointly interested with the Holder in the Notes.

19.7 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this deed which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- (b) If any clause is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this deed.

19.8 Governing law and submission to jurisdiction

- (a) This deed is governed by the laws of New South Wales.
- (b) The Issuer and the Trustee each submit to the non-exclusive jurisdiction of the courts of New South Wales for the purpose of any legal proceedings arising out of this deed.

19.9 Waivers

- (a) Waiver of any right arising from a breach of this deed or of any Power arising upon default under this deed must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a right arising from a breach of this deed; or
 - (2) a Power created or arising upon default under this deed,does not result in a waiver of that right or Power.
- (c) A party is not entitled to rely on a delay in the exercise or non exercise of a right or Power arising from a breach of this deed or on a default under this deed as constituting a waiver of that right or Power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right or Power by that other party.

19.10 Cumulative rights

The rights, powers, authorities, discretions and remedies arising out of or under this deed are cumulative and do not exclude any other right, power, authority, discretion or remedy.

19.11 Further assurances

Each party must do all things and execute at the Issuer's cost all further documents necessary to give full effect to this deed.

19.12 To the extent not excluded by law

The rights, duties and remedies granted or imposed under the provisions of this deed operate to the extent not excluded by law.

19.13 Counterparts

This deed may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A party may execute this deed by signing any counterpart.

Table of contents

Terms of Colonial Group Subordinated Notes	33
Deed poll - Substitution of the Issuer (Clause 18)	55
Meetings of Holders	63

Terms of Colonial Group Subordinated Notes

TERMS OF COLONIAL GROUP SUBORDINATED NOTES

1 Form of Colonial Group Subordinated Notes

1.1 Constitution under Trust Deed

Colonial Group Subordinated Notes are subordinated unsecured notes of the Issuer constituted by, and owing under, the Trust Deed.

1.2 Form

Colonial Group Subordinated Notes are issued in registered form by entry in the Register.

1.3 No certificates

No certificates will be issued to Holders unless the Issuer is required to provide certificates by any applicable law or regulation.

1.4 Face Value

Each Colonial Group Subordinated Note is issued fully paid with a principal amount of A\$100 (**Face Value**).

1.5 Currency

Colonial Group Subordinated Notes are denominated in Australian dollars.

1.6 Clearing system

The rights of a person holding an interest in Colonial Group Subordinated Notes registered in CHESS are subject to the rules and regulations of CHESS.

1.8 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 Colonial Group Subordinated Notes are quoted on ASX on or as soon as possible after the Issue Date and remain quoted on ASX until Redeemed.

1.9 No other rights

Colonial Group Subordinated Notes confer no rights on a Holder:

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

2 Interest

2.1 Interest

Each Colonial Group Subordinated Note bears Interest on its Face Value during each Interest Period from (and including) the Issue Date to (but excluding) the Redemption Date for that Colonial Group Subordinated Note at the Interest Rate.

Interest on each Colonial Group Subordinated Note under this clause 2.1 accrues daily and, subject to clause 8.3, is payable in arrears on each Interest Payment Date or (in the case of the final Interest Period) on the Redemption Date.

2.2 Interest Rate determination

The Interest Rate (expressed as a percentage per annum) for each Interest Period is:

- (a) for the first Interest Period, the higher of 7.50% per annum and the rate calculated according to the formula in clause 2.2(b); and
- (b) for all other Interest Periods, the rate calculated according to the following formula:

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

where:

Market Rate means the rate (expressed as a percentage per annum) which is the average mid-rate for Bills for a term of 90 days as displayed on the “BBSW” page of the Reuters Monitor System (or any page that replaces that page) on the first Business Day of the Interest Period. However, if the average mid-rate is not displayed by 10:30 am on that day, or if it is displayed but the Issuer determines that there is a manifest error in that rate, **Market Rate** means the rate specified by the Issuer in good faith at or around 10:30 am on that day, having regard, to the extent possible, to:

- (a) the rates otherwise bid and offered for Bills of a term of 90 days at or around that time on that day (including any displayed on the “BBSW” page of the Reuters Monitor System (or its successor or replacement page)); and
- (b) if bid and offer rates for Bills of a term of 90 days are not otherwise available, the rates otherwise bid and offered for funds of a term of 90 days at or around that time on that day;

Bill has the meaning it has in the Bills of Exchange Act 1909 (Cth); and

Margin means, subject to clause 4.8, the rate (expressed as a percentage per annum) determined under the Bookbuild and announced by the Issuer prior to the opening of the Offer.

2.3 Deferral of Interest

The Issuer may, in its sole discretion, defer payment of all or any part of an amount of Interest otherwise payable on an Interest Payment Date until payable under clause 2.5.

Any amount deferred under this clause 2.3 and which remains unpaid will constitute a **Deferred Interest Amount**.

If the Issuer decides to defer payment of an amount of Interest, it must notify the Trustee, the Registry and ASX at least five Business Days prior to the relevant Record Date.

2.4 Interest on Deferred Interest Amounts

Interest accrues daily on each Deferred Interest Amount from (and including) the date on which the Deferred Interest Amount would otherwise have been due to (but excluding) the date on which the Deferred Interest Amount is paid in full.

Interest accrues under this clause 2.4 on each day of an Interest Period at the Interest Rate for that Interest Period and will be added to the Deferred Interest Amount on the last day of that Interest Period unless paid on or before that date. Interest added to or accrued on a Deferred Interest Amount in accordance with this clause 2.4 must be paid with the Deferred Interest Amount in accordance with clause 2.5.

For the avoidance of doubt, Interest added to a Deferred Interest Amount on the last day of an Interest Period in accordance with this clause 2.4 will itself bear Interest in accordance with this clause from (but excluding) that day.

2.5 Payment of Deferred Interest Amounts

Deferred Interest Amounts:

- (a) may be paid by the Issuer in whole or part at any time, following the giving of notice by the Issuer to the Trustee, the Registry and ASX specifying:
 - (i) the proposed Record Date for the payment (which must be not less than seven Business Days after the date of the notice unless otherwise approved by ASX);
 - (ii) the proposed payment date (which must be eight days after the proposed Record Date unless otherwise approved by ASX); and
 - (iii) the Deferred Interest Amounts (and any Interest on the Deferred Interest Amounts) to be paid in respect of each Colonial Group Subordinated Note; and
- (b) must be paid by the Issuer in full on the earliest of the following dates:
 - (i) the date which is five years after the Interest Payment Date on which the then longest outstanding Deferred Interest Amount was originally scheduled to be paid;
 - (ii) the date on which there is any breach of clause 2.6 by the Issuer; and
 - (iii) any Redemption Date.

2.6 Dividend and capital restrictions whilst Deferred Interest Amounts outstanding

If:

- (a) any Deferred Interest Amount (or any Interest on any Deferred Interest Amount) is outstanding or any amount of Interest is otherwise not paid when required under these Terms because of a default in payment by the Issuer and remains outstanding; or
- (b) any Colonial Group Subordinated Notes are not Redeemed when required under these Terms because of a default in payment by the Issuer and the Redemption Amount remains outstanding,

then the Issuer must not without the approval of a Special Resolution pay any interest, declare or pay a dividend or distribution from the income or capital of the Issuer, return any capital or undertake any buy-backs, redemptions or repurchases, in relation to any Equal Ranking Securities or Junior Ranking Securities (**Restricted Actions**) except for:

- (c) pro-rata payments on Colonial Group Subordinated Notes and any Equal Ranking Securities;
- (d) Restricted Actions in connection with an acquisition transaction entered into prior to the date of the earliest notice under clause 2.3 in relation to any of the outstanding Deferred Interest Amounts (or any of the Deferred Interest Amounts to which the outstanding Interest on Deferred Interest Amounts related); and
- (e) Restricted Actions only in the form of, or for a consideration provided by the Issuer only in the form of, securities, warrants, options or other rights where the securities, or the securities issuable upon exercise of the warrants, options or other rights, constitute Equal Ranking Securities (if the Restricted Action relates to Equal Ranking Securities) or Junior Ranking Securities (if the Restricted Action relates to Equal Ranking Securities or Junior Ranking Securities).

3 General provisions applicable to Interest

3.1 Calculation of Interest

The amount of Interest payable on each Colonial Group Subordinated Note for an Interest Period under clause 2.1 is calculated according to the following formula:

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

where:

N means, in respect of an Interest Period, the number of days in that Interest Period.

The amount of Interest accruing on any Deferred Interest Amount under clause 2.4 is calculated assuming a year of 365 days.

3.2 Notification of Interest Rate, Interest payable and other items

The Issuer must notify the Trustee, the Registry and ASX of the Interest Payment Date, the Interest Rate and the amount of Interest payable for each Interest Period.

The Issuer must give notice under this clause 3.2 as soon as practicable after it makes its calculations and by no later than the fourth Business Day of the relevant Interest Period.

The Issuer may amend its calculation or determination of any amount, item or date (or make appropriate alternative arrangements by way of adjustment) as a result of the extension or reduction of the Interest Period or calculation period without prior notice but must notify the Trustee, the Registry and ASX promptly after doing so.

3.3 Determination final

The determination by the Issuer of all amounts, rates and dates falling to be calculated or determined by it under these Terms is, in the absence of wilful default, bad faith or manifest error, final and binding on the Issuer, the Trustee, the Registry and each Holder.

3.5 Calculations

For the purposes of any calculations required under these Terms:

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

4 Redemption and purchase

4.1 Scheduled redemption

Each Colonial Group Subordinated Note must be redeemed by the Issuer paying the Redemption Amount in accordance with clause 8 (**Redemption**) on the Maturity Date unless:

- (a) the Colonial Group Subordinated Note has been previously Redeemed; or
- (b) the Colonial Group Subordinated Note has been purchased by the Issuer and cancelled.

4.2 Early redemption of Colonial Group Subordinated Notes at the option of the Issuer

The Issuer may at its option Redeem all or some Colonial Group Subordinated Notes on the Call Date, or any Interest Payment Date occurring after the Call Date, for their Redemption Amount.

However, the Issuer may only Redeem under this clause 4.2 if the Issuer has given notice of its election to do so at least 30 days (and no more than 60 days) prior to the proposed Redemption Date to the Trustee, the Registry and ASX.

If only some Colonial Group Subordinated Notes are to be Redeemed under this clause 4.2, the Colonial Group Subordinated Notes to be Redeemed will be specified in the notice and selected:

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

4.3 Early redemption of Colonial Group Subordinated Notes for withholding tax reasons

If, as a result of any change in, or amendment to, the laws of a Relevant Tax Jurisdiction, or any change in their application or official or judicial interpretation or administration, which change or amendment becomes effective on or after the Issue Date, the Issuer is or would be required to pay an Additional Amount, the Issuer may Redeem all (but not some) Colonial Group Subordinated Notes before their Maturity Date for their Redemption Amount.

However, the Issuer may only Redeem under this clause 4.3 if:

- (a) the Issuer has given notice of its election to do so at least 30 days (and no more than 60 days) prior to the proposed Redemption Date to the Trustee, the Registry and ASX;
- (b) before the Issuer gives the notice under paragraph (a), the Trustee and Registry have each received a certificate signed by two directors or a director and a secretary of the Issuer stating that the Issuer is entitled to Redeem Colonial Group Subordinated Notes under this clause 4.3 and setting out a statement of the facts showing that the conditions giving rise to the right of the Issuer to Redeem under this clause 4.3 have occurred;
- (c) the proposed Redemption Date is an Interest Payment Date; and
- (d) the notice of Redemption is not given earlier than 90 days before the Interest Payment Date occurring immediately before the earliest date on which the Issuer would be obliged to pay any Additional Amounts.

4.4 Early redemption of Colonial Group Subordinated Notes for loss of tax deductibility

If the Issuer receives an opinion from reputable legal counsel or tax advisers that, as a result of any change in, or amendment to, applicable laws, or any change in their application or official or judicial interpretation or administration, which change or amendment becomes effective on or after the Issue Date, there is a material risk that payment of Interest on a Colonial Group Subordinated Note will not be allowed as a deduction for the purposes of calculating the Australian taxable income of the income tax consolidated group of which the Issuer is a member, the Issuer may Redeem all (but not some) Colonial Group Subordinated Notes before their Maturity Date for their Redemption Amount.

However, the Issuer may only Redeem under this clause 4.4 if:

- (a) the Issuer has given notice of its election to do so at least 30 days (and no more than 60 days) prior to the proposed Redemption Date to the Trustee, the Registry and ASX;
- (b) before the Issuer gives the notice under paragraph (a), the Trustee and the Registry have each received a certificate signed by two directors or a director and a secretary of the Issuer stating that the Issuer is entitled to Redeem Colonial Group Subordinated Notes under this clause 4.4 and setting out a statement of the facts showing that the conditions giving rise to the right of the Issuer to Redeem under this clause 4.4 have occurred;
- (c) the proposed Redemption Date is an Interest Payment Date; and
- (d) the notice of Redemption is not given earlier than 90 days before the Interest Payment Date occurring immediately before the earliest date from which the opinion states there is a material risk that payment of Interest will not be allowed as a deduction for the purposes of calculating the Australian taxable income of the income tax consolidated group of which the Issuer is a member.

4.5 Early redemption of all Colonial Group Subordinated Notes for regulatory reasons

If, at any time after the Level 3 Implementation Date, Colonial Group Subordinated Notes are not or will not be treated as capital of the CBA Group on a Level 3 basis under the Prudential Standards applying to the CBA Group (**Level 3 Capital**), the Issuer may Redeem all (but not some) Colonial Group Subordinated Notes before their Maturity Date for their Redemption Amount plus A\$1.50 per Colonial Group Subordinated Note.

However, the Issuer may only Redeem under this clause 4.5 if:

- (a) the Issuer has given notice of its election to do so at least 30 days (and no more than 60 days) prior to the proposed Redemption Date to the Trustee, the Registry and ASX;
- (b) before the Issuer gives the notice under paragraph (a), the Trustee and the Registry have each received a certificate signed by two directors or a director and a secretary of the Issuer stating that the Issuer is entitled to Redeem Colonial Group Subordinated Notes under this clause 4.5 and setting out a statement of the facts showing that the conditions giving rise to the right of the Issuer to Redeem under this clause 4.5 have occurred;
- (c) the proposed Redemption Date is an Interest Payment Date; and
- (d) the notice of Redemption is not given earlier than 90 days before the Interest Payment Date occurring immediately before:
 - (i) the Level 3 Implementation Date; or
 - (ii) if issued at a time when Colonial Group Subordinated Notes are treated as Level 3 Capital, the earliest date on which Colonial Group Subordinated Notes will cease to be treated as Level 3 Capital.

4.6 Redemption on a Change of Control Event at the option of the Issuer

If a Change of Control Event occurs, then:

- (a) the Issuer may Redeem all (but not some) Colonial Group Subordinated Notes before their Maturity Date for their Redemption Amount; and
- (b) the Issuer must notify the Trustee, the Registry and ASX:

- (i) of the occurrence of the Change of Control Event as soon as practicable after becoming aware of the event specifying the date on which the Change of Control Event occurred; and
- (ii) of its intention (if applicable) to exercise its right to Redeem Colonial Group Subordinated Notes under this clause 4.6 within 20 Business Days of the date on which the Change of Control Event occurred.

However, the Issuer may only Redeem under this clause 4.6 if the notice given under paragraph (b)(ii) indicates that the Issuer intends to Redeem on a proposed Redemption Date which is:

- (c) at least 30 days (and no more than 60 days) after the date the notice is given to the Trustee, the Registry and ASX; and
- (d) no later than 180 days after the occurrence of the Change of Control Event.

4.7 No Redemption at the option of the Holders

Without affecting clause 6.2, Holders do not have a right to request Redemption of their Colonial Group Subordinated Notes at any time.

4.8 Step-up on a Change of Control Event

From (and including) the first Interest Period which commences after the occurrence of a Change of Control Event, the Margin will increase by 2.50% per annum.

4.9 Late Payment

If any Colonial Group Subordinated Notes are Redeemed late because of a default in payment by the Issuer, Interest will continue to accrue on those Colonial Group Subordinated Notes at the rate applicable immediately prior to the Redemption Date until (but excluding) the date on which they are Redeemed.

4.10 Effect of notice of redemption

Any notice of Redemption given under this clause 4 is irrevocable and the Issuer must, subject to clause 8.3, Redeem the relevant Colonial Group Subordinated Notes on the Redemption Date specified in that notice.

4.11 Purchase

- (a) The Issuer, any of its Related Bodies Corporate (as defined in the Corporations Act but excluding any Offshore Associate) or any third party nominated by the Issuer may, at any time, to the extent permitted by any applicable laws and regulations, purchase Colonial Group Subordinated Notes in the open market or otherwise and at any price.
- (b) Colonial Group Subordinated Notes purchased under this clause 4.11 may be held or resold (or, if the purchaser is the Issuer, cancelled) at the option of the purchaser, subject to compliance with any applicable law or requirement of ASX.

4.12 APRA approval to Redeem or purchase

Notwithstanding satisfaction of the applicable conditions giving the Issuer a right to Redeem prior to the Maturity Date, and notwithstanding any right of the Issuer or any member of the CBA Group to purchase any Colonial Group Subordinated Notes, the redemption or purchase may require APRA's prior approval. If any such approval is necessary, the Issuer or other member of the CBA Group (as applicable) must also receive APRA's prior written approval for such Redemption or purchase.

5 Status and ranking

5.1 Status and ranking

- (a) Colonial Group Subordinated Notes constitute unsecured debt obligations of the Issuer which rank equally without any preference among themselves and are subordinated to certain other obligations of the Issuer in the manner specified in these Terms and the Trust Deed.
- (b) The claims of the Trustee and Holders against the Issuer in respect of Colonial Group Subordinated Notes (**Noteholder Claims**) will, in the event of a winding-up of the Issuer, be subordinated and postponed and subject in right of payment to payment in full of the claims of all Senior Creditors.
- (c) The Trustee and each Holder must not, and each 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 any Noteholder Claim other than as a claim which is subject to and contingent upon prior payment in full of the claims of Senior Creditors.
- (d) Neither the Trustee nor any Holder may exercise its voting rights (as a creditor in respect of Colonial Group Subordinated Notes) in a winding-up of the Issuer so as to defeat the subordination in this clause 5.
- (e) Neither the Trustee 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 the amount payable by the Issuer in respect of Colonial Group Subordinated Notes held by any Holder.
- (f) For the avoidance of doubt, payments of Interest under these Terms are subject to clause 2.3.

5.2 Not deposit liabilities or other obligations of CBA

The Issuer is not an ADI and Colonial Group Subordinated Notes do not constitute deposit liabilities, Protected Accounts or other liabilities of CBA or any other ADI in the CBA Group. No member of the CBA Group has any liability for (except in the case of the Issuer) or guarantees Colonial Group Subordinated Notes.

6 Events of Default

6.1 Events of Default

An Event of Default occurs in relation to Colonial Group Subordinated Notes if an order 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.

6.2 Consequences of an Event of Default

If an Event of Default occurs and is continuing then, without limiting their other rights under these Terms or the Trust Deed or under applicable laws, the Trustee may (and, if indemnified to its reasonable satisfaction for those costs and expenses it is entitled to be indemnified for, and either directed to do so by a Special Resolution or requested in writing by Holders of at least 25% of the aggregate Face Value of Colonial Group Subordinated Notes on issue, the Trustee must) declare by notice to the Issuer (with a copy to the Holders and the Registry) that all Colonial Group Subordinated Notes are to be Redeemed for their Redemption Amounts in which case, subject to clause 5, such amounts become immediately due and payable and may be proven in any winding-up.

6.3 Notification

If an Event of Default occurs, the Issuer must, promptly after becoming aware of it, notify the Trustee, the Registry and ASX of the occurrence of the Event of Default (specifying details of it) and use its reasonable endeavours to promptly procure that the Registry notifies the Holders of the occurrence of the Event of Default.

7 Title and transfer of Colonial Group Subordinated Notes

7.1 Title

Title to Colonial Group Subordinated Notes passes when details of the transfer are entered in the Register.

7.2 Effect of entries in Register

Each entry in the Register of a person as the holder of a Colonial Group Subordinated Note constitutes:

- (a) conclusive evidence of that person's:
 - (i) absolute ownership of that Colonial Group Subordinated Note; and
 - (ii) entitlement to the other benefits given to Holders under these Terms and the Trust Deed in respect of Colonial Group Subordinated Notes; and
- (b) an undertaking by the Issuer to pay Interest, the Redemption Amount and any other amount in accordance with these Terms,

subject to correction of the Register for fraud or error.

7.3 Non-recognition of interests

Except as required by law, the Issuer, the Trustee and the Registry must treat the person whose name is entered in the Register as the holder of a Colonial Group Subordinated Note as the absolute owner of that Colonial Subordinated Note. This clause 7.3 applies whether or not a Colonial Group Subordinated Note is overdue and despite any notice of ownership, trust or interest in the Colonial Subordinated Note.

7.4 Joint holders

Where two or more persons are entered in the Register as the joint holders of a Colonial Subordinated Note then they are taken to hold the Colonial Group Subordinated Note as joint tenants with rights of survivorship and subject to the terms of the Trust Deed, but the Registry is not bound to register more than three persons as joint holders of any Colonial Group Subordinated Note.

7.5 Transfers in whole

Colonial Group Subordinated Notes may be transferred in whole but not in part.

7.6 Transfer

A Holder may transfer a Colonial Group Subordinated Notes:

- (a) for so long as Colonial Group Subordinated Notes are registered with CHESSE, in accordance with the rules and regulations of CHESSE; or
- (b) at any other time:
 - (i) by a proper transfer under any other computerised or electronic system recognised by the Corporations Act; or
 - (ii) 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 Colonial Group Subordinated Notes.

7.7 Stamp Duty

The Holder is responsible for any stamp duty or other similar taxes which are payable in any jurisdiction in connection with the transfer, assignment or other dealing with Colonial Group Subordinated Notes.

7.8 Market obligations

The Issuer must comply with all Applicable Regulations and any other relevant obligations imposed on it in relation to the transfer of Colonial Group Subordinated Notes.

7.9 Delivery of instrument

If an instrument is used to transfer Colonial Group Subordinated Notes according to clause 7.6, it must be delivered to the Registry, together with such evidence (if any) as the Registry reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, Colonial Group Subordinated Notes.

7.10 Refusal to register

The Issuer may only refuse to register a transfer of any Colonial Group Subordinated Notes if permitted by, or 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 Registry.

7.11 Transferor to remain Holder until registration

A transferor of Colonial Group Subordinated Notes remains the Holder of Colonial Group Subordinated Notes until the transfer is registered and the name of the transferee is entered in the Register.

7.12 Effect of transfer

Upon registration and entry of the transferee in the Register the transferor ceases to be entitled to future benefits under these Terms and the Trust Deed in respect of the transferred Colonial Group Subordinated Notes and the transferee becomes so entitled in accordance with clause 7.2.

7.13 Transmission

A person becoming entitled to a Colonial Group Subordinated Note as a consequence of the death, bankruptcy, liquidation or a winding-up of a Holder or of a vesting order by a court or other body with power to make the order or a person administering the estate of a Holder may, upon providing such indemnity and producing such evidence as to that entitlement or status as the Issuer considers sufficient, transfer the Colonial Group Subordinated Note or, if so entitled, become registered as the holder of the Colonial Group Subordinated Note.

8 Payments

8.1 Summary of payment provisions

Payments in respect of Colonial Group Subordinated Notes will, subject to the Trust Deed, be made in accordance with this clause 8.

8.2 Payments subject to law

All payments are subject to applicable law, but without prejudice to the provisions of clause 9.

8.3 Payments on Business Days

If any payment:

- (a) is due on a day (other than 30 June each year) which is not a Business Day, then the due date for payment will be the next Business Day;
- (b) is due on any 30 June which is not a Business Day, then the due date for payment will be the immediately preceding Business Day; or
- (c) is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment will be the first following day on which banks are open for general banking business in that place.

In none of these cases will there be any adjustment to the amount payable by reason of any delay or early payment.

8.4 Payment of Interest

Payments of Interest (other than Interest included in a Redemption Amount) will be made to the person registered at the close of business on the Record Date for that payment as the Holder of that Colonial Group Subordinated Note.

8.5 Payment of Redemption Amount

Payments of the Redemption Amount (and any additional amount payable on Redemption under clause 4.5) will be made to the person registered at 10.00am on the Redemption Date as the Holder of that Colonial Group Subordinated Note.

8.6 Payments to accounts

Monies payable by the Issuer to a Holder may be paid by crediting an Australian dollar bank account maintained in Australia with a financial institution and nominated in writing by the Holder by close of business on the relevant Record Date (or in the case of Redemption, by close of business on the fifth Business Day prior to the Redemption Date) or in any other manner the Issuer decides.

8.7 Unsuccessful attempts to pay

If the Holder has not notified the Registry of an account for the purposes of payment under clause 8.6 or the transfer of any amount for crediting the nominated account does not complete for any reason (other than an error made by or on behalf of the Issuer), the Issuer will be treated as having paid the amount on the date on which it would otherwise have made the payment and a notice will be sent to the address most recently notified by the Holder advising of the uncompleted payment. In that case, unless the Issuer decides to complete the payment by another method, the amount of the uncompleted payment will be held on deposit in a non-interest bearing account maintained by the Issuer or the Registry with an ADI until the Holder nominates a suitable Australian dollar account maintained in Australia for crediting with the payment or the claim becomes void under clause 11.1. No additional interest is payable in respect of any delay in payment. The account in which a payment is held under this clause may be used to hold payments due to other holders of Colonial Group Subordinated Notes but for no other purpose.

8.8 Payment to joint Holders

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

8.9 No set-off, counterclaim or deductions

All payments in respect of Colonial Group Subordinated Notes must be made:

- (a) in full without set-off or counterclaim by the Issuer in respect of claims by the Issuer against the Holders of Colonial Group Subordinated Notes, except as permitted by clause 9.3; and
- (b) without any withholding or deduction in respect of Taxes, unless the withholding or deduction is required by law or permitted by clause 9.3.

9 Taxation

9.1 Withholding tax

Subject to clause 9.2, if a law requires the Issuer to withhold or deduct an amount in respect of Taxes from a payment in respect of a Colonial Group Subordinated Note such that the Holder would not actually receive on the due date the full amount provided for under the Colonial Group Subordinated Note, then:

- (a) the Issuer may deduct the amount for the Taxes (and any further withholding or deduction applicable to any further payment due under paragraph (b) below); and
- (b) if the amount deducted or withheld is in respect of Taxes imposed by a Relevant Tax Jurisdiction, the amount payable is increased so that, after making the deduction and further deductions applicable to additional amounts payable under this clause 9.1, the Holder is entitled to receive (at the time the payment is due) the amount it would have received if no deductions or withholdings had been required to be made.

9.2 Withholding tax exemptions

No Additional Amounts are payable under clause 9.1(b) in respect of any Colonial Group Subordinated Note:

- (a) to, or to a third party on behalf of, a Holder who is liable to such Taxes in respect of that Colonial Group Subordinated Note by reason of the person having some connection with a Relevant Tax Jurisdiction other than the mere holding of that Colonial Group Subordinated Note or receipt of payment in respect of that Colonial Group Subordinated Note;
- (b) to, or to a third party on behalf of, a Holder who could lawfully avoid (but has not so avoided) such Taxes by complying or procuring that any third party complies with any statutory requirements or by making or procuring that any third party makes a declaration of non-residence or similar case for exemption to any tax authority;
- (c) to, or to a third party on behalf of, a Holder who is an Offshore Associate and not acting in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Corporations Act;
- (d) to, or to a third party on behalf of, an Australian resident Holder or a non-resident Holder carrying on business in Australia at or through a permanent establishment of the non-resident in Australia, if the Holder has not supplied an appropriate tax file number, an Australian business number or other exemption details;
- (e) to, or to a third party on behalf of, a Holder on account of amounts which the Australian Commissioner of Taxation requires the relevant Issuer to withhold under section 255 of

the Income Tax Assessment Act 1936 (Cth) or section 260-5 of Schedule 1 of the Taxation Administration Act 1953 (Cth); or

- (f) if the Taxes have been imposed or levied as a result of the Holder being party to or participating in a scheme to avoid such Taxes, being a scheme which the Issuer was neither a party to nor participated in.

9.3 Tax File Number

The Issuer will deduct tax from payments of Interest on Colonial Group Subordinated Notes at the highest marginal tax rate plus the highest Medicare levy if a Holder has not supplied an appropriate tax file number, Australian business number or exemption details.

If a Holder supplies exemption details and the Issuer subsequently determines that the relevant exemption was not available, the Issuer may recover the amount that should have been deducted from the relevant Holder and may deduct that amount from any subsequent payment due to that Holder in respect of Colonial Group Subordinated Notes.

10 Substitution of Issuer

10.1 Conditions for Substitution

Any Related Body Corporate of the Issuer, the obligations of which in respect of Colonial Group Subordinated Notes are guaranteed to the Trustee by CHC on a subordinated basis on the terms specified in the Trust Deed (**Successor**) may, without the consent of the Holders, assume the obligations of the Issuer (or any corporation which has previously assumed the obligations of the Issuer) under and in relation to Colonial Group Subordinated Notes provided that:

- (a) the Successor will expressly assume those obligations by a deed poll substantially in the form of Schedule 2 to the Trust Deed (**Deed Poll**);
- (b) immediately after giving effect to such assumption, no Event of Default, and no event which, on the giving of notice or lapse of time or both, would become an Event of Default, will have occurred;
- (c) the Successor must deliver to the Trustee:
 - (i) a certificate signed by two directors or a director and a secretary of the Successor (**Officer's Certificate**) stating that the assumption and Deed Poll comply with this clause 10, that all required conditions precedent have been satisfied and that the assumption is not in the reasonable opinion of the Issuer materially prejudicial to the interests of the Holders as a whole; and
 - (ii) an opinion from reputable legal counsel of recognised standing in the jurisdiction of incorporation of the Successor and in such other jurisdictions as are relevant, addressed to the Trustee, confirming that the Deed Poll is a legal, valid and binding obligation of the Successor and is enforceable in accordance with its terms;
- (d) the Issuer and the Successor instruct the Registry to notify each Holder; and
- (e) the Issuer has given notice to the Trustee and Holders of the proposed assumption under this clause 10 not less than 10 Business Days before giving effect to such assumption.

10.2 Effect of Substitution

On any such assumption:

- (a) the Successor will assume all of the obligations of, succeed to, and be substituted for, and may exercise every right and power of, the Issuer under these Terms with the same effect as if the Successor had been named as the Issuer in these Terms; and
- (b) the Issuer (or any corporation which has previously assumed the obligations of the Issuer) will be released from its liability as the Issuer under the Terms and the Trust Deed,

and, from the date of such assumption:

- (c) references to the Issuer in clauses 2.5(b)(ii), 2.6, 6.1, 7.3 and in the definitions of Change of Control Event, Equal Ranking Securities, Junior Ranking Securities and Senior Creditor in clause 12.2 will be taken to be references to CHC or the Successor; and
- (d) references to the Issuer in any other provisions of these Terms will be taken to be references to the Successor only.

11 General

11.1 Time limit for claims

A claim against the Issuer for a payment under a Colonial Group Subordinated Note is void unless made within five years from the date on which payment became due.

11.2 Voting

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. Resolutions passed at any such meeting will be binding on all Holders.

11.3 Amendments 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), but without the consent of the Holders, amend these Terms or the Trust Deed if the Issuer is of the opinion that such alteration is:

- (a) of a formal or technical or minor nature;
- (b) made to cure any ambiguity or correct any manifest error;
- (c) necessary or expedient for the purpose of:
 - (i) enabling Colonial Group Subordinated Notes to be listed for quotation, or to retain quotation, on any securities exchange or to be offered for subscription or for sale under the laws for the time being in force in any place; or
 - (ii) complying with the provisions of any statute or the requirements of any statutory authority or 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 Colonial Group Subordinated Notes; or
 - (iii) correcting or supplementing any defective provision of the Terms or amending any provision of the Trust Deed,

and in the case of any alteration under paragraph (c) the Issuer has provided to the Trustee (or the Trustee has obtained) an opinion of reputable legal counsel of recognised standing in Australia, addressed to the Trustee, that such alteration is otherwise not materially prejudicial to the interests of Holders as a whole.

In this case, the Terms of all Colonial Group Subordinated Notes will be amended from the date specified by the Issuer.

11.4 Amendments 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 amend these Terms or the Trust Deed with the approval of the Trustee (such approval not to be unreasonably withheld) if such alteration is approved by a Special Resolution.

In this case, the Terms of all Colonial Group Subordinated Notes will be amended from the date specified in the Special Resolution or otherwise notified to the Holders (provided such date is permitted by the terms of the Special Resolution).

11.5 Meaning of amend

In clauses 11.3 and 11.4, **amend** includes modify, cancel, alter or add to and **amendment** has a corresponding meaning.

11.6 Consents

Prior to any amendment under this clause 11 being effected, the Issuer must obtain any consent or approval required under applicable law or regulation or ASX listing rule. In particular, if after the Level 3 Implementation Date, Colonial Group Subordinated Notes are treated as Level 3 Capital, any alteration which impacts on the eligibility of Colonial Group Subordinated Notes for treatment as such capital is subject to the prior written consent of APRA.

11.7 Notices

(a) To Holders

Unless otherwise specified, all notices and other communications to the Holders must be in writing and either (i) sent by prepaid post (airmail if appropriate) to or left at the address of the Holders (as shown in the Register at the close of business on the day which is three Business Days before the date of the notice or communication) or (ii) (if available) issued to Holders through CHES in accordance with any applicable rules and regulations of CHES.

A copy of any notice of Redemption provided by the Issuer to the Trustee under the Terms must also be provided to the Holders promptly after the notice was provided by the Issuer to the Trustee.

(b) To the Issuer, Trustee and Registry

All notices and other communications to the Issuer, the Trustee or the Registry must be in writing and may be sent by prepaid post (airmail if appropriate) to or left at the address of the Issuer, the Trustee or the Registry, as applicable.

(c) When effective

Notices and other communications take effect from the time they are taken to be received unless a later time is specified in them.

(d) Receipt

- (i) If sent by post, notices or other communications are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

- (ii) If left at the address, notices or other communications are taken to be received when given unless received after 5.00 pm in the place of receipt or on a non-Business Day, in which case they are taken to be received at 9.00 am on the next Business Day.

11.8 Further issues

The Issuer may from time to time, without the consent of the Holders, issue further notes having the same terms as the Colonial Group Subordinated Notes as set out in these Terms in all respects (or in all respects except for the date and amount of the first payment of interest for such new notes) so as to form part of the same series or issue any other notes, shares or any other form or type of securities, or incur or guarantee any indebtedness upon such terms as it may think fit in its sole discretion.

11.9 Governing law

These Terms and Colonial Group Subordinated Notes are governed by and must be governed in accordance with the law in force in New South Wales, Australia.

11.10 Jurisdiction

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

11.11 Waiver of immunity

The Issuer irrevocably and unconditionally waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 11.10.

12 Interpretation and definitions

12.1 Interpretation

In these Terms, unless the contrary intention appears:

(a) a reference to:

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

- (ix) a statute, ordinance, code, rule, directive or law (however described) includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (b) the singular includes the plural and vice versa;
- (c) the word "person" includes a firm, body corporate, an unincorporated association, or governmental or local authority or agency or other entity;
- (d) the word "law" includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) any reference to a time is to Sydney time;
- (f) headings are inserted for convenience and do not affect the interpretation of these Terms;
- (g) another grammatical form of a defined word or expression has a corresponding meaning;
- (h) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (i) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (j) 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 or a subsidiary of an entity subject to regulation and supervision by APRA at the relevant time;
- (k) 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
- (l) 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.

12.2 Definitions

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

ADI means an "authorised deposit taking institution" (as defined in the Banking Act).

Additional Amount means an additional amount payable by the Issuer under clause 9.1;

Applicable Regulation means such provisions of the ASX Listing Rules, the ASX Settlement Operating Rules, the rules and regulations of CHESS, 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 Settlement Operating Rules means the settlement operating rules of ASX from time to time with any applicable modification or waiver granted by ASX;

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;

Australian Tax Act means the Income Tax Assessment Act 1936 (Cth) and, where applicable, the Income Tax Assessment Act 1997 (Cth);

Banking Act means the Banking Act 1959 (Cth);

Bookbuild means the process conducted prior to the opening of the Offer whereby brokers and investors bid for Colonial Group Subordinated Notes at different proposed Margin levels and, on the basis of those bids, the Issuer sets the final Margin and announces its determination of the Margin prior to the opening of the Offer;

Business Day means a day which is (i) a business day within the meaning of the ASX Listing Rules, and (ii) (for the purposes of payment or calculation of Interest) a date on which banks are open for general business in Sydney;

Call Date means 31 March 2017;

CBA means Commonwealth Bank of Australia (ABN 48 123 123 124);

CBA Group means CBA (or any NOHC that is the holding company of CBA) and its subsidiaries (as defined in the Corporations Act);

a **Change of Control Event** occurs at the time that:

- (a) the Issuer ceases to be a member of the CBA Group; or
- (b) at any time the Issuer is a member of the CBA Group, any person obtains voting power (as that term is defined in section 610 of the Corporations Act) in the holding company of the CBA Group of more than 50% and any agreement, arrangement or understanding under which voting power arises is not subject to a defeating condition or a condition that a resolution under item 7 in the table in section 611 is passed,

unless paragraph (b) in this definition is satisfied solely as a consequence of a scheme of arrangement under part 5.1 of the Corporations Act between CBA and holders of its ordinary shares or an analogous transaction which, when implemented, will result in a NOHC (the majority of the ordinary shares in which are, or immediately after implementation of the transaction will be, owned by persons who held, immediately before implementation of the transaction, a majority of the ordinary shares in CBA) becoming the holding company of CBA, in which case no Change of Control Event occurs at that time;

CHC means Colonial Holding Company Limited (ABN 61 074 706 782);

CHESS means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited (ABN 49 008 504 532) or any successor or other clearing or settlement system specified by the Issuer;

Colonial Group Subordinated Note means a debt obligation denominated in Australian dollars and issued, or to be issued, by the Issuer which is constituted by, and owing under, the Trust Deed, the details of which are recorded in, and evidenced by, entry in the Register;

Corporations Act means the Corporations Act 2001 (Cth);

Costs includes costs, charges and expenses;

Deferred Interest Amount has the meaning given in clause 2.3 and, unless the context indicates otherwise, includes any part of a Deferred Interest Amount;

Equal Ranking Securities means all present and future subordinated unsecured debts and monetary obligations of the Issuer other than Junior Ranking Securities;

Event of Default means the happening of any event set out in clause 6.1;

Face Value means the principal amount of each Colonial Group Subordinated Note, as set out in clause 1.4 of these Terms;

Holder means, in respect of a Colonial Group Subordinated Note, means the person whose name is entered on the Register as the holder of that Colonial Group Subordinated Note;

Interest means interest payable on a Colonial Group Subordinated Note under these Terms, including any interest accrued under clause 2.1, any Deferred Interest Amounts and any interest accrued on Deferred Interest Amounts under clause 2.4;

Interest Payment Date means, in respect of a Colonial Group Subordinated Note, 31 March, 30 June, 30 September and 31 December each year until all Colonial Group Subordinated Notes have been Redeemed. If any of these Interest Payment Dates is not a Business Day, then the payment will be made in accordance with clause 8.3. The first payment will be made on 29 June 2012;

Interest Period means, for a Colonial Group Subordinated Note, each period commencing on (and including) an Interest Payment Date and ending on (but excluding) the next Interest Payment Date. However:

- (a) the first Interest Period commences on (and includes) the Issue Date;
- (b) any Interest Period ending on 30 June in any year ends on (and includes) 30 June;
- (c) any Interest Period commencing on 30 June in any year commences on (but excludes) 30 June; and
- (d) the final Interest Period ends on (but excludes) the Redemption Date;

Interest Rate means, in respect of an Interest Period, for a Colonial Group Subordinated Note, the interest rate (expressed as a percentage per annum) payable in respect of that Colonial Group Subordinated Note calculated or determined in accordance with clause 2.2;

Issue Date means, in respect of a Colonial Group Subordinated Note, the date on which that Colonial Group Subordinated Note is issued;

Issuer means (subject to clause 10.2) Colonial Holding Company Limited (ABN 61 074 706 782);

Junior Ranking Securities means:

- (a) all present and future subordinated unsecured debts and monetary obligations of the Issuer which rank, or are expressed to rank, after Colonial Group Subordinated Notes or the Issuer's obligations in respect of the Colonial Group Subordinated Notes; and
- (b) all ordinary and other shares in the Issuer, present and future;

Level 3 Capital has the meaning given in clause 4.5;

Level 3 Implementation Date means the date from which the CBA Group becomes subject to requirements to maintain a minimum amount of capital measured on a Level 3 or conglomerate group basis under the Prudential Standards applying to the CBA Group.

Margin has the meaning given in clause 2.2;

Market Rate has the meaning given in clause 2.2;

Maturity Date means 31 March 2037;

Meeting Provisions means the provisions for meetings of the Holders set out in schedule 3 to the Trust Deed;

NOHC means “non-operating holding company” within the meaning of the Banking Act;

Offer means the invitation under the Prospectus made by the Issuer for persons to subscribe for Colonial Group Subordinated Notes;

Offshore Associate means an associate (as defined in section 128F of the Australian Tax Act) of the Issuer that is either:

- (a) a non-resident of Australia which does not acquire Colonial Group Subordinated Notes in carrying on a business at or through a permanent establishment in Australia; or
- (b) a resident of Australia that acquires Colonial Group Subordinated Notes in carrying on a business at or through a permanent establishment outside Australia;

Ordinary Resolution

- (a) a resolution passed at a meeting of the Holders duly called and held under the Meeting Provisions:
 - (i) by at least 50% of the persons voting on that matter 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) a resolution passed by postal ballot or written resolution, by Holders of at least 50% of aggregate Face Value of Colonial Group Subordinated Notes then outstanding;

Prospectus means the prospectus dated on or about 15 February 2012;

Protected Account means a protected account as defined in the Banking Act;

Prudential Standards means the prudential standards and guidelines of APRA as applied to the CBA Group from time to time;

Record Date means, for payment of Interest:

- (a) subject to paragraph (b) below, the date that is eight calendar days prior to the relevant Interest Payment Date or the date for payment of any Deferred Interest Amount (as applicable); or
- (b) such other date as determined by the Issuer in its absolute discretion and communicated to ASX not less than eight calendar days before the Record Date which would have been determined under paragraph (a) above,

or such other date as may be required by, or agreed with, ASX;

Redemption means the redemption of a Colonial Group Subordinated Note as defined in clause 4.1 and the words **Redeem**, **Redeemable** and **Redeemed** bear their corresponding meanings;

Redemption Amount means, in respect of each Colonial Group Subordinated Note, the sum of the Face Value and any Interest (including Deferred Interest Amounts and Interest on Deferred Interest Amounts) payable on Redemption of Colonial Group Subordinated Notes;

Redemption Date means, in respect of a Colonial Group Subordinated Note, the Maturity Date or any earlier date specified by the Issuer as the Redemption Date in accordance with clause 4 or on which the Colonial Group Subordinated Note is required to be Redeemed under clause 6.2;

Register means the register of Holders (established and maintained under clause 12 of the Trust Deed) and, where appropriate, the term Register includes:

- (a) a sub-register maintained by or for the Issuer in CHESS; and
- (b) any branch register;

Registry means Link Market Services Limited (ABN 54 083 214 537) or any other person appointed by the Issuer to maintain the Register and perform any payment and other duties as specified in that agreement;

Related Body Corporate has the meaning given in the Corporations Act;

Relevant Tax Jurisdiction means Australia or any relevant political sub-division;

Senior Creditor means a creditor of the Issuer other than as the holder (or trustee for the holders) of a Colonial Group Subordinated Note, an Equal Ranking Security or a Junior Ranking Security.

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 that matter 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 75% of the votes cast; or
- (b) a resolution passed by postal ballot or written resolution, by Holders of at least 75% of aggregate Face Value of Colonial Group Subordinated Notes then outstanding;

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, in relation to Colonial Group Subordinated Notes, these terms and conditions of issue, as set out in schedule 1 to the Trust Deed;

Trustee means The Trust Company (Australia) Limited (ACN 000 000 993)); and

Trust Deed means the deed entitled "Colonial Group Subordinated Notes Trust Deed" between the Issuer and the Trustee and dated on or about 15 February 2012.

Deed poll - Substitution of the Issuer (Clause 18)

Date ►

This deed poll is given by:	
CHCL	Colonial Holding Company Limited ABN 61 074 706 782 of Ground Floor, Darling Park Tower 1 201 Sussex Street, Sydney NSW 2000
[Retiring Issuer]	[] ABN [] of [] <i>[Insert details of further retiring Issuer if relevant]</i>
Successor	[] ABN [] of []
In favour of:	
Trustee	[] ABN [] of []
Background	<ol style="list-style-type: none"> 1 The CHCL has entered into a trust deed (Trust Deed) dated [insert date] for the purpose of issuing subordinated, unsecured notes (Notes) under the Trust Deed. 2 The Trustee agreed to act as trustee on behalf of the Holders of the Notes on the terms and conditions contained in the Trust Deed. 3 [The Retiring Issuer was substituted as Issuer under the Trust Deed pursuant to a deed poll dated [].] 4 The Successor wishes to become the Issuer under the Trust Deed on the terms and conditions set out in this deed poll and the CHCL provides the guarantee in respect of the Notes set out in this deed poll.

The parties agree	as set out in the operative part of this agreement, in consideration of, among other things, the mutual promises contained in this agreement.
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1 Interpretation

Words and phrases defined in the Trust Deed (including by incorporation) have the same meaning when used in this deed poll and:

- (a) **Substitution** has the meaning in clause 2 of this deed poll;
- (b) **Guarantee** means the obligations of CHCL stipulated and contained in this deed poll; and
- (c) **Senior Creditors** has the meaning given to it in the Terms of Issue but as if references to the Issuer (in that term and in respect of each term incorporated in the definition of Senior Creditors) were references to CHCL.

2 Status of Successor

- (a) The Successor agrees that, with effect from the date that [CHCL/the Retiring Issuer] satisfies the requirements in clause 18 of the Trust Deed it irrevocably becomes a principal debtor under, and the "Issuer", as defined in, and for all purposes under, the Trust Deed and the Terms of Issue in place of [CHCL / the Retiring Issuer] as if named in and as a party to the Trust Deed and the Terms of Issue, and accordingly is bound by the Trust Deed and the Terms of Issue as Issuer (**Substitution**).
- (b) If the Successor is not incorporated in Australia, the Successor agrees to pay additional amounts in respect of any deduction or withholding on account of Tax on payments on the Notes to the same extent that those additional amounts would be payable if references to 'Australia' in the definition of Relevant Tax Jurisdiction and clause 9 of the Terms of Issue were references to the jurisdiction in which the Successor is incorporated.

3 Guarantee

- (a) CHCL hereby irrevocably and unconditionally guarantees on demand to the Trustee (for itself and as trustee for the benefit of the Holders) the payment when due in accordance with the provisions of the Trust Deed and the Terms of Issue of all amounts payable by the Successor as Issuer under the Trust Deed (**Guaranteed Amounts**). To avoid doubt, CHCL is not required to make a payment of a Deferred Interest Amount on any date earlier than the date the Deferred Interest Amount becomes due pursuant to clause 2.5(b) of the Terms of Issue.
- (b) Once Substitution is effected in accordance with this deed poll, if the Successor fails for any reason whatsoever to pay any such amount when due (including where due as a result of acceleration following an Event of Default), CHCL must on demand from the Trustee pay such principal, interest or other amounts in the same manner and currency as they are required to be paid and in accordance with the Terms of Issue. CHCL may satisfy its obligations to make any payment

due in respect of any Notes in the same manner as the Successor and as if references in clause 4 of the Trust Deed and clause 8 of the Terms of Issue to the 'Issuer' were references to 'CHCL'.

- (c) If any payment (or part of any payment) received by the Trustee or any Holder pursuant to the provisions of the Trust Deed shall (whether on the subsequent insolvency or corporate reorganisation of CHCL or, without limitation, on any other event) be avoided or set aside for any reason, such payment (or the relevant part) shall not be considered as discharging or diminishing the liability of CHCL and this guarantee shall continue to apply as if such payment (or the relevant part) had at all times remained owing by the Successor and CHCL indemnifies the Trustee (for itself and as trustee for the benefit of the Holders) in respect thereof provided that the obligations of CHCL under this subclause shall, as regards each payment made to the Trustee or any Holder which is avoided or set aside, be contingent upon such payment (or the relevant part) being reimbursed to the Successor or other persons entitled through the Successor.
- (d) CHCL hereby agrees that its obligations under this clause shall be unconditional and that it shall be fully liable irrespective of any event or circumstance that may otherwise as a matter of law release CHCL from liability. Accordingly the validity of this guarantee and indemnity shall not be affected by reason of any invalidity, irregularity, illegality or unenforceability of all or any of the obligations of the Successor under the Trust Deed and this guarantee and indemnity shall not be discharged nor shall the liability of CHCL under this Trust Deed be affected by any act, thing or omission or means whatever whereby its liability would not have been discharged if it had been the principal debtor.
- (e) Without prejudice to the provisions of clause 6.2 of the Trust Deed, the Trustee may determine from time to time whether or not it will enforce this guarantee which it may do without making any demand of or taking any proceedings against the Successor and may from time to time make any arrangement or compromise with CHCL in relation to this guarantee which the Trustee may consider expedient having regard to the interests of the Holders as a whole and to the amount due.
- (f) The Trustee is not required to make demand or proceed against the Successor as Issuer under the Trust Deed prior to making demand under this guarantee and indemnity.
- (g) This guarantee shall be a continuing guarantee, shall extend to the ultimate balance of all sums payable by the Successor as Issuer under the Trust Deed, shall not be discharged until no sum remains payable under the Trust Deed and is additional to, and not instead of, any security or other guarantee or indemnity at any time existing in favour of any person, whether from CHCL or otherwise.
- (h) If any moneys shall become payable by CHCL under this guarantee, CHCL waives, in respect of any amounts paid by it under this guarantee, any rights of subrogation or contribution or any other right or remedy which may accrue to it in respect of or as a result of any such payment. However, this paragraph will cease to apply once those moneys have been paid.
- (i) If any of the Guaranteed Amounts (or amounts which would but for being irrecoverable have formed part of the Guaranteed Amounts) are or may be irrecoverable from the Issuer and any such amounts are not recoverable from CHCL, then and in each such case (i) CHCL as a separate and additional liability indemnifies the Trustee (in its own capacity and as trustee for the benefit of Holders) in respect of those amounts; and (ii) CHCL as a principal debtor must pay for the account of the Trustee (in its own capacity and as trustee for the benefit of Holders) on demand a sum equal to those amounts.
- (j) Until all amounts which may be or become payable by the Issuer under the Trust Deed have been irrevocably paid in full, the Trustee may refrain from

applying or enforcing any other moneys, security or rights held or received by the Trustee in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise), and CHCL shall not be entitled to the benefit of the same.

4 Status and ranking of Guarantee

- (a) The Guarantee constitutes an unsecured payment obligation of CHCL which are subordinated to certain other obligations of CHCL in the manner specified in relation to the Notes in the Terms of Issue and the Trust Deed.
- (b) The claims of the Trustee against CHCL under the Guarantee in respect of amounts due under the Notes or contemplated by clause 3(c) and 3(i) (**Noteholder Claims**) will, in the event of a winding-up of CHCL, be subordinated and postponed and subject in right of payment to payment in full of the claims of all Senior Creditors.
- (c) The Trustee must not, and is taken to have waived, to the fullest extent permitted by law, any right to prove in a winding-up of CHCL as a creditor in respect of any Noteholder Claim other than as a claim which is subject to and contingent upon prior payment in full of the claims of Senior Creditors.
- (d) The Trustee may not exercise its voting rights (as a creditor in respect of the Guarantee) in a winding-up of CHCL so as to defeat the subordination in this clause 4.
- (e) The Trustee shall not be entitled to set-off any amounts, merge accounts or exercise any other rights the effect of which is or may be to reduce the amount payable by CHCL in respect of the Guarantee or the Notes held by the Holder.

5 Interest on overdue amounts

If an amount is due and payable under this Guarantee in respect of any Redemption Amount then CHCL must pay interest on that amount on the same terms as set out in clause 4.9 of the Terms of Issue. However, CHCL is only liable to pay the interest to the extent to which such interest on that amount is not payable by the Issuer under clause 4.9 of the Terms of Issue.

6 Taxation in respect of Guarantee

6.1 Withholding tax

Subject to clause 5.2, if a law requires CHCL to withhold or deduct an amount in respect of Taxes from a payment under the Guarantee such that the Trustee or the Holder would not actually receive on the due date the full amount payable under the Guarantee, then:

- (a) CHCL agrees to deduct the amount for the Taxes (and any further withholding or deduction applicable to any further payment due under paragraph (b) below); and
- (b) if the amount deducted or withheld is in respect of Taxes imposed by a Relevant Tax Jurisdiction, the amount payable is increased so that, after making the deduction and further deductions applicable to additional amounts payable under this clause 5.1, the Trustee or the Holder is entitled to receive (at

the time the payment is due) the amount it would have received if no deductions or withholdings had been required to be made.

6.2 Withholding tax exemptions

No additional amounts are payable under clause 5.1(b) in respect of the Guarantee:

- (a) to, or to a third party on behalf of, the Trustee or a Holder who is liable to such Taxes in respect of the Notes or the Guarantee by reason of the person having some connection with a Relevant Tax Jurisdiction other than the mere holding of the Notes or the Guarantee or receipt of payment in respect of the Notes or the Guarantee;
- (b) to, or to a third party on behalf of, the Trustee or a Holder who could lawfully avoid (but has not so avoided) such Taxes by complying or procuring that any third party complies with any statutory requirements or by making or procuring that any third party makes a declaration of non-residence or similar case for exemption to any tax authority;
- (c) to, or to a third party on behalf of, the Trustee or a Holder who is an Offshore Associate and not acting in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme within the meaning of the Corporations Act;
- (d) to, or to a third party on behalf of, an Australian resident Holder or a non-resident Holder or the Trustee or carrying on business in Australia at or through a permanent establishment of the non-resident in Australia, if the Holder or the Trustee has not supplied an appropriate tax file number, an Australian business number or other exemption details;
- (e) to, or to a third party on behalf of, a Holder or the Trustee on account of amounts which the Australian Commissioner of Taxation requires the Successor or CHCL to withhold under section 255 of the Income Tax Assessment Act 1936 (Cth) or section 260-5 of Schedule 1 of the Taxation Administration Act 1953 (Cth); or
- (f) if the Taxes have been imposed or levied as a result of the Trustee or the Holder being party to or participating in a scheme to avoid such Taxes, being a scheme which the Issuer was neither a party to nor participated in.

7 Time limit for claims under the Guarantee

A claim against CHCL for a payment under the Guarantee is void unless made within five years from the date on which payment on the Note to which it relates became due.

8 Amendment, termination and release

- (a) This deed poll may be amended to the same extent and in the same circumstances as provided in clause 14 of the Trust Deed and as if references in that clause to the Trust Deed included references to this deed poll.
- (b) This deed poll and the obligations of CHCL and the Successor terminate on the date the Trust Deed is terminated under clause 15 of the Trust Deed.

9 Governing law

This deed poll is governed by the laws of New South Wales.

10 Benefit of deed poll

This deed poll is given in favour of and for the benefit of each Holder and the Trustee and their respective successors and permitted assigns.

11 Address for notices

(a) The details for the Successor service of notices are:

Address: [].

Attention: [].

Facsimile: [].

(b) The details for [] service of notices are:

Address: [].

Attention: [].

Facsimile: [].

12 Attorneys

Each of the attorneys executing this deed poll states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.

Executed as a deed poll:

CHCL

Signed sealed and delivered for
Colonial Holding Company Limited
by its attorney

sign here ► _____
Attorney

print name _____

in the presence of

sign here ► _____
Witness

print name _____

[]

Signed sealed and delivered for
[]
by its attorney

sign here ► _____
Attorney

print name _____

in the presence of

sign here ► _____
Witness

print name _____

[Insert execution block for further retiring Issuer if relevant]

Successor

Signed sealed and delivered for

[]

by its attorney

sign here ▶ _____
Attorney

print name _____

in the presence of

sign here ▶ _____
Witness

print name _____

Schedule 3

Meetings of Holders

1 Notice of Meeting

- (a) At least 15 Business Days notice in writing of any Meeting must be given to the Trustee, the Issuer and the Holders by the party convening the Meeting.
- (b) If a Holder does not receive notice, the Meeting is still valid.
- (c) The party convening the Meeting must notify the Trustee, the Issuer and Holders (as the case requires) in writing of:
 - (1) the place, day and time of the Meeting; and
 - (2) the nature of the business to be transacted.
- (d) If either the Issuer or the Trustee omits to give notice under paragraph 1(c) of this schedule 3 or if either does not receive notice, the Meeting is invalid unless the person who did not receive notice waives the notice requirement.
- (e) For the purposes of any Meeting, or for determining whether any resolution is passed without holding a Meeting, any Colonial Group Subordinated Notes held by the Issuer or any Related Body Corporate of the Issuer shall be treated as not being on issue, unless those Colonial Group Subordinated Notes are held in connection with any wealth management business (including life company business), as a trustee, as the holder of an Australian Financial Services licence or in any circumstances imposing on the holder a duty to act having regard to the interests of any third party).

2 Who may attend and address Meeting

Each Holder of Notes is entitled to attend and vote at any Meeting of Holders or any rescheduled Meeting of Holders (which was adjourned pursuant to paragraph 3(c) of this schedule 3).

The Trustee, the Issuer, any person invited by any of them and the Auditor is entitled to attend and address a Meeting or rescheduled Meeting of Holders.

3 Quorum

- (a) No business may be transacted at any Meeting of Holders of Notes unless a quorum of Holders of Notes is present at the time when the Meeting proceeds to business.

- (b) A quorum for any Meeting is at least 5 persons holding or representing by attorney, representative or proxy at least 10% of the Notes.
- (c) If a quorum is not present within half an hour from the time appointed for the Meeting, the Meeting must be adjourned as the chair directs.
- (d) At a rescheduled Meeting (which was adjourned pursuant to paragraph 3(c) of this schedule 3) the Holders with at least 5% of the Notes who are present either in person or by proxy constitute a quorum and are entitled to pass the resolution.

4 Chair

- (a) Subject to the Corporations Act, a nominee of the Trustee (if any) may preside as chair at a Meeting of Holders.
- (b) If the Trustee does not appoint a person to be chairperson of a meeting, or the person does not appear within 15 minutes from the time appointed for the Meeting or is unwilling to act, the Holders present must elect one of their number to preside as chair.
- (c) The chair:
 - (1) need not be a Holder; and
 - (2) may be an officer or employee of the Issuer or the Trustee.

5 Voting

- (a) Subject to Holders being entitled to vote, any question submitted to a Meeting of Holders must be decided in the first instance by a show of hands, but a poll will be taken in any case where:
 - (1) it is required by this deed or by law that the question be decided by a majority which is to be measured by a percentage of the votes cast by those present; or
 - (2) either before or immediately after any question is put to a show of hands a poll is demanded by the chair of the Meeting, the Trustee, the Issuer, or at least 5 Holders of Notes, present personally or by proxy, representative or attorney, holding or representing by proxy, representative or attorney at least 5% of the Notes.
- (b) In the case of equality of votes, the chair of a Meeting of Holders has a casting vote in addition to his votes (if any) as a Holder both on a show of hands and on a poll.

6 Votes

At a Meeting of Holders:

- (a) on a show of hands each Holder present personally or by proxy, attorney or representative with the right to vote at that Meeting has one vote; and
- (b) on a poll each Holder present personally or by proxy, attorney or representative with a right to vote at that Meeting is entitled to one vote for each Note.

7 Voting by joint holders

- (a) If Notes are held jointly, the most senior Holder's vote either in person or by proxy is accepted to the exclusion of the other joint holders.
- (b) The most senior Holder is the person whose name appears first on the Register.

8 Voting by corporation

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

9 Voting by person of unsound mind

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

10 Objection to voter's qualification

- (a) An objection may be raised to the qualification of a voter only at the Meeting where the vote objected to is given or tendered.
- (b) An objection must be referred to the chair whose decision is final.
- (c) The chair may consult with any representative of the Issuer and the Trustee present at the Meeting.
- (d) A vote allowed at a Meeting is valid for all purposes.

11 Proxies

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

12 Proxy instrument

- (a) If the appointer of a proxy is an individual, the instrument of appointment must be in writing and signed by the appointer or the appointer's attorney authorised in writing.

- (b) If the appointer of a proxy is a corporation, the instrument of appointment must be:
 - (1) under its common seal; or
 - (2) under the hand of an officer or attorney who has been authorised by the corporation.

13 Voting authority to be deposited with Issuer

- (a) The instrument appointing a proxy or a facsimile copy of it and the original or certified copy of the power of attorney or authority under which it is signed or a facsimile copy of it must be deposited with the Issuer at least 48 hours, or any shorter period determined by the Issuer from time to time, before the time appointed for the Meeting at which the proxy proposes to vote. The original of any facsimile instrument provided under this paragraph 13(a) must be deposited with the Issuer before the time appointed for the Meeting.
- (b) If paragraph 13(a) of this schedule 3 is not complied with, the proxy is invalid.
- (c) An instrument appointing a proxy is only valid for 12 months from its execution date.

14 Effect of death or insanity on vote under proxy

- (a) A vote given under an instrument of proxy is valid even though the principal is insane at the time, has died or has revoked the proxy or the authority under which the proxy was executed.
- (b) Paragraph 14(a) of this schedule 3 does not apply if the Issuer has notice in writing of the death, insanity or revocation before the Meeting at which the proxy is to be used.

15 Adjournments

The chair may adjourn a Meeting with the consent of the majority of Holders present.

16 Declaration by chair of voting

Unless a poll has been demanded, a declaration by the chair that a resolution has been carried or lost by a particular majority is conclusive evidence of that fact.

17 Demand for a poll and manner of poll

- (a) A poll is to be conducted as directed by the chair at the Meeting or any adjournment of the Meeting.
- (b) The demand for a poll may be withdrawn by the person who demanded it.

- (c) The demand for a poll does not discontinue the Meeting except to decide the question for which the poll is demanded.
- (d) The result of the poll is regarded as the resolution of the Meeting.

18 Poll on election of chair or question of adjournment

A poll demanded on the election of a chair (where a nominee of the Trustee is not appointed to preside at the Meeting) or on a question of adjournment must be taken forthwith.

19 Effect of resolution

A resolution passed at a Meeting of Holders held in accordance with this deed is binding upon all the Holders.

20 Minutes

- (a) The chair must ensure that minutes of proceedings at a Meeting of Holders are taken and entered in a minute book provided by the Issuer.
- (b) The signature by the chair of minutes of a Meeting is conclusive evidence of the matters stated in the minutes.
- (c) Unless there is proof to the contrary a minuted Meeting is regarded as properly held and a resolution passed at the Meeting is regarded as properly passed.

21 Resolution by Postal Ballot

- (a) A resolution of Holders may be passed by the Holders completing, signing and returning copies of a written resolution, which has been sent by the Issuer with the approval of the Trustee, within a period specified by the Issuer.
- (b) In respect of such a resolution each Holder is entitled to have one vote for each Note held.

22 Powers

Without derogating from the powers conferred on the Trustee by this deed, a Meeting of Holders may exercise the following powers by Special Resolution:

- (a) power to authorise the Trustee to take or to refrain from taking any action which may be taken by the Trustee under any express or implied power or authority howsoever conferred;
- (b) power to sanction the release by the Trustee or the Issuer from any obligation under this deed either unconditionally or upon such conditions as the Trustee may arrange with the Issuer;

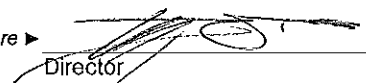
- (c) power to sanction agreement by the Trustee to any modification or compromise of any of the rights of all the Holders against the Issuer;
- (d) power to authorise the Trustee to agree to the postponement of the repayment of the principal in respect of any part of the Notes beyond their due dates and to the suspension or postponement of the payment of interest on any part of the Notes;
- (e) power to authorise the Trustee to sanction on behalf of all the Holders any scheme for reconstruction of the Issuer or for the amalgamation of the Issuer with any other corporation;
- (f) power to authorise the Trustee to accept on behalf of the Holders any other property or securities instead of any part of the Holder's rights and in particular any debt securities of the Issuer;
- (g) power to approve the appointment of a new trustee in accordance with the provisions of this deed; and
- (h) power to give any release or waiver in respect of anything done or omitted by the Trustee or any breach or default by the Issuer.

Signed sealed and delivered by
Colonial Holding Company Limited
by

sign here ▶ 

Issuer ~~Secretary~~/Director

print name LYN COBLEY

sign here ▶ 

Director

print name MICHAEL JENTER

Signed sealed and delivered by

Stenick Silavecky as attorney of **The Trust Company (Australia) Limited (ACN 000 000 993)** pursuant to the power of attorney dated 12 July 2010, who declares that he has no notice of revocation of the power of attorney, in the presence of:

Signature of witness

← _____ ←
Signature of attorney
(Please delete as applicable)

Name of witness (print)

Signed sealed and delivered by
Colonial Holding Company Limited
by

sign here ▶ _____
Issuer Secretary/Director

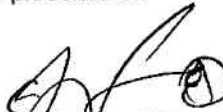
print name _____

sign here ▶ _____
Director

print name _____

Signed sealed and delivered by

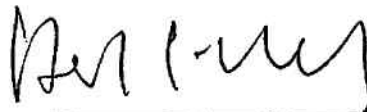
Stenick Silavecky as attorney of **The Trust Company (Australia) Limited (ACN 000 000 993)** pursuant to the power of attorney dated 12 July 2010, who declares that he has no notice of revocation of the power of attorney, in the presence of:



Signature of witness

DANIELO MADRIGANO

Name of witness (print)

←  ←

Signature of attorney
(Please delete as applicable)

Stenick Silavecky
Head of Structured Finance Services