

KIWIBANK LIMITED 2024 PERPETUAL PREFERENCE SHARE TERMS

The following are the Terms which apply to each PPS. Each Holder and any person claiming through or under a Holder is entitled to the benefit of, is bound by, and is taken to have notice of, these Terms.

1. FORM OF PPS AND RANKING

1.1 **Form and constitution:** The PPS are perpetual preference shares of Kiwibank, constituted by the Constitution and these Terms and issued in registered form by entry in the Register.

1.2 **Effect of entries in the Register:** Each entry in the Register constitutes the separate and independent entitlement of the relevant Holder to the rights conferred on the Holder by the PPS. No certificates will be issued to Holders unless Kiwibank is required to provide certificates by any applicable law or regulation.

1.3 **Issue Price:** The Issue Price of each PPS is NZ\$1.00.

1.4 **Quotation:** Kiwibank must use all reasonable endeavours to procure that the PPS will be quoted on the NZX Debt Market.

1.5 Payment and ranking in a liquidation of Kiwibank:

(a) In a liquidation of Kiwibank:

(i) each PPS confers upon the Holder, in the distribution of surplus assets of Kiwibank, the right to payment in cash of an amount equal to the Issue Price ("**Liquidation Sum**"); and

(ii) the right to payment of the Liquidation Sum conferred by each PPS ranks:

(aa) behind the claims of all holders of Senior Ranking Obligations;

(bb) equally with the right conferred by each other PPS and the rights or claims of holders of Equal Ranking Securities; and

(cc) ahead of the rights of holders of Ordinary Shares.

(b) The PPS are perpetual and these Terms do not include events of default or any other provisions entitling Holders to require that the PPS be Redeemed. No Holder has any right to apply for the liquidation or administration of Kiwibank or any other member of the Kiwibank Group, or to cause a receiver, or receiver and manager, to be appointed in respect of Kiwibank or any other member of the Kiwibank Group, on the grounds of Kiwibank's failure or potential failure to pay Distributions or for any other reason in connection with Kiwibank's compliance with these Terms.

(c) Under no circumstances may a Holder seek to have any obligations of Kiwibank under the PPS accelerated.

1.6 No set-off: Except as:

(a) provided in clause 5.9(f) or as mandatorily provided by law, Kiwibank does not have any right to set-off any amounts owing to it by a Holder against any amount owing by it to the Holder in connection with the PPS; and

- (b) mandatorily provided by law, no Holder has any right to set-off any amounts owing to it by Kiwibank in connection with the PPS against any amount owing by it to Kiwibank in connection with the PPS or otherwise.

1.7 No guarantee or security: The PPS are:

- (a) unsecured; and
- (b) not guaranteed or insured by any government, government agency or compensation scheme in New Zealand or any other jurisdiction and are not guaranteed by any member of the Kiwibank Group or any other person.

1.8 No other rights: The PPS confer no rights on a Holder:

- (a) to attend or vote at any meeting of holders of Ordinary Shares or to participate in any other decision or resolution of holders of Ordinary Shares or any other class of shares in Kiwibank (other than the PPS);
- (b) to subscribe for new securities of Kiwibank or to participate in any bonus issues of securities of Kiwibank; or
- (c) to otherwise participate in the profits or property of Kiwibank, except by receiving payments as set out in these Terms.

1.9 Interest group protections: Nothing in clause 1.8 limits or otherwise affects a Holder's rights under section 117 of the Companies Act.

1.10 Further issues: Each of the following is expressly permitted and authorised by these Terms and does not affect, or constitute a modification or variation of, the rights or privileges attaching to the PPS then on issue:

- (a) the issue or incurrence by any member of the Kiwibank Group of securities or liabilities of any kind, or the conversion of existing securities or liabilities into securities or liabilities of any kind, ranking ahead of, equally with or behind, or having the same or different rights from, the PPS; and
- (b) the redemption, buy-back or return or distribution of capital by any member of the Kiwibank Group in respect of any share capital of Kiwibank or the Kiwibank Group.

2. DISTRIBUTIONS

2.1 Distributions:

- (a) Each PPS entitles the Holder to receive a cash distribution ("**Distribution**") payable in arrear on each Distribution Payment Date, in an amount calculated in accordance with clauses 2.3 and 2.5.
- (b) Payment of the Distribution on each PPS is subject to clauses 2.6, 2.7 and 5.

2.2 Distribution Rate determination:

- (a) The rate (expressed as a percentage per annum) to be used for calculating Distributions in accordance with clause 2.3(a) or (b) for each Distribution Payment

Date on or before the First Optional Redemption Date, is the rate calculated according to the following formula:

Distribution Rate = (Swap Rate + Margin)

- (b) The rate (expressed as a percentage per annum) to be used for calculating Distributions in accordance with clause 2.3(c) for each Distribution Payment Date after the First Optional Redemption Date, is the rate calculated according to the following formula:

Distribution Rate = (Base Rate + Margin),

provided that, if the rate determined in accordance with this clause 2.2(b) is less than 0% per annum, the Distribution Rate will be deemed to be 0% per annum.

- (c) In these Terms:

"3 Month Bank Bill Rate" means, for a Distribution Payment Date:

- (i) the FRA rate administered by the New Zealand Financial Benchmark Facility ("**NZFBF**") (or any person that takes over the administration of that rate) for bank bills having a term of, or of about, 3 months as displayed at or about 10.45am or such later time as Kiwibank may determine on the preceding Scheduled Distribution Payment Date on Bloomberg BKBK page 'GDCO 2805' (or any successor page); or
- (ii) if that rate is not displayed by 10.45am or such later time as Kiwibank may determine on that date (other than on account of a BKBK Disruption Event), the equivalent rate provided by the NZFBF (or any person that takes over the administration of that rate) at or around that time on that date,

in each case expressed as a percentage per annum and rounded, if necessary, to the nearest 4 decimal places with 0.00005% being rounded up.

"Alternative Reference Rate" means, for a Distribution Payment Date, the rate determined by Kiwibank at or about 10.45am, or such other time as is customary for determining the rate, on the preceding Scheduled Distribution Payment Date, as a rate that is generally accepted in the market for bank securities denominated in dollars with an interest period of, or of about, 3 months, or if Kiwibank is not able, after making reasonable efforts, to ascertain such rate, or there is no such rate:

- (i) a reference rate that is, in Kiwibank's opinion, appropriate to bank securities denominated in dollars with an interest period of, or of about, 3 months; or
- (ii) such other reference rate as Kiwibank considers appropriate having regard to available comparable indices,

in each case expressed as a percentage per annum and rounded, if necessary, to the nearest 4 decimal places with 0.00005% being rounded up.

"Base Rate" means:

- (i) the 3 Month Bank Bill Rate; or

- (ii) if a BKBM Disruption Event occurs, the Alternative Reference Rate.

"BKBM Disruption Event" means a determination by Kiwibank that the rate referred to in paragraph (i) of the definition of 3 Month Bank Bill Rate has become unavailable.

"Margin" means the rate (expressed as a percentage per annum) determined by Kiwibank in consultation with the Joint Leader Managers through the Bookbuild and announced by Kiwibank via NZX on or about the Rate Set Date.

"Swap Rate" means:

- (i) the mid-market rate for an interest rate swap with a term of 5 and a half years commencing on the Issue Date, as determined by Kiwibank, according to market convention, with reference to Bloomberg page 'ICNZ4' (or any successor page), on the Rate Set Date; or
- (ii) if a rate is unable to be determined in accordance with paragraph (i) above, or if Kiwibank forms a view, on reasonable grounds, that the rate so determined is not an accurate reflection of market rates, the average of the mean bid and offered swap rates quoted by each of 3 leading banks (or such 1 or more of them as are quoting) selected by Kiwibank on the Rate Set Date for an interest rate swap with a term of 5 and a half years commencing on the Issue Date,

in each case expressed as a percentage per annum, adjusted for quarterly payments and rounded, if necessary, to the nearest 2 decimal places with 0.005% being rounded up.

- (d) **BKBM Disruption Event:** If a BKBM Disruption Event occurs, Kiwibank:
 - (i) will use as the Base Rate such Alternative Reference Rate as it may determine in accordance with these Terms;
 - (ii) will make such adjustments to these Terms as it determines are reasonably necessary to calculate Distributions in accordance with such Alternative Reference Rate;
 - (iii) in making the determinations under paragraphs (i) and (ii) above:
 - (aa) will act in good faith and in a commercially reasonable manner;
 - (bb) may consult with such sources of market practice as it considers appropriate;
 - (cc) will have regard to the applicable eligibility criteria for Additional Tier 1 Capital; and
 - (dd) may otherwise make such determination in its discretion; and
 - (iv) will notify Holders, the Registrar and the RBNZ of its decision to use an Alternative Reference Rate at least 5 Business Days prior to the first Scheduled Distribution Payment Date on which the Alternative Reference Rate is to be determined.

2.3 Calculation of Distributions:

- (a) The Distribution payable on each PPS on each Scheduled Distribution Payment Date on or before the First Optional Redemption Date and on the Redemption Date (if it falls on a date on or before the First Optional Redemption Date that is a Scheduled Distribution Payment Date) is calculated according to the following formula:

$$\text{Distribution payable} = \frac{\text{Distribution Rate} \times (1 - \text{Tax Rate}) \times \text{Issue Price}}{4}$$

- (b) The Distribution payable on each PPS on the Redemption Date (if it falls on a date before the First Optional Redemption Date that is not a Scheduled Distribution Payment Date) is calculated in accordance with the following formula:

$$\text{Distribution payable} = \frac{\text{Distribution Rate} \times (1 - \text{Tax Rate}) \times \text{Issue Price}}{4} \times \frac{A}{B}$$

- (c) The Distribution payable on each PPS on each Distribution Payment Date after the First Optional Redemption Date and on the Redemption Date (if it falls on a date after the First Optional Redemption Date) is calculated in accordance with the following formula:

$$\text{Distribution payable} = \frac{\text{Distribution Rate} \times (1 - \text{Tax Rate}) \times \text{Issue Price} \times A}{365}$$

where the Distribution Rate is expressed as a decimal and:

"A" means, for a Distribution Payment Date, the number of days from (and including) the preceding Scheduled Distribution Payment Date (or the Issue Date in the case of the first Distribution Payment Date) to (but excluding) the Distribution Payment Date.

"B" means, for a Distribution Payment Date, the number of days from (and including) the preceding Scheduled Distribution Payment Date (or the Issue Date in the case of the first Distribution Payment Date) to (but excluding) the date that would have been the next Scheduled Distribution Payment Date had the PPS not been Redeemed.

"Tax Rate" means the New Zealand corporate tax rate on the relevant Distribution Payment Date (expressed as a decimal).

- 2.4 **Distributions to be Fully Credited:** Subject to clause 2.5, Kiwibank shall attach Imputation Credits to each Distribution at the rate necessary for the Distribution to be Fully Credited.

- 2.5 **Adjustment to calculation of Distributions if not Fully Credited:** If any Distribution is not Fully Credited in accordance with clause 2.4 the Distribution will be increased by an amount in dollars equal to the shortfall in Imputation Credits which would otherwise have been attached to the Distribution had the Distribution been Fully Credited.

- 2.6 **Distribution payments are discretionary and conditional:** Kiwibank has full discretion at all times to cancel Distributions on the PPS. In addition, the payment of any Distribution on any Distribution Payment Date is subject to:

- (a) the payment of the Distribution not resulting in a breach of the Conditions of Registration as at the time of the payment; and

- (b) Kiwibank being Solvent on the Distribution Payment Date and remaining Solvent immediately after such payment is made.

Kiwibank must notify Holders at least 5 Business Days before the relevant Record Date (or, if later, promptly and without delay after it decides not to make the Distribution) if payment of any Distribution will not be made because of this clause 2.6.

2.7 **Distributions are non-cumulative:**

- (a) Distributions are non-cumulative. If payment of any Distribution is not made for any reason, Kiwibank has no liability to pay that unpaid Distribution to the Holder and the Holder has no:
 - (i) claim or entitlement (including, without limitation, on a Liquidation); or
 - (ii) right to apply for Liquidation,
 in respect of such non-payment.
- (b) No interest accrues on any unpaid Distributions.
- (c) Non-payment of a Distribution for any reason does not constitute an event of default.

2.8 **Notification of Distribution Rate and other items:**

- (a) Kiwibank must determine the Distribution Rate for each Distribution Payment Date on or before the First Optional Redemption Date in accordance with clause 2.2 and announce the Distribution Rate via NZX and notify the Registrar of the Distribution Rate on or about the Rate Set Date.
- (b) Kiwibank must determine the Distribution Rate for each Distribution Payment Date after the First Optional Redemption Date in accordance with clause 2.2 and notify Holders and the Registrar of the Distribution Rate on or about the preceding Scheduled Distribution Payment Date.

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

2.10 **Restrictions on Kiwibank in the case of non-payment of Distributions:** If for any reason a Distribution is not paid in full on a Distribution Payment Date, Kiwibank must not:

- (a) authorise or pay a dividend on its Ordinary Shares; or
- (b) acquire its Ordinary Shares or otherwise undertake a capital reduction in respect of its Ordinary Shares,

unless and until:

- (c) Kiwibank pays a Distribution in full on a subsequent Scheduled Distribution Payment Date; or
- (d) there are no PPS outstanding.

3. REDEMPTION

3.1 **Redemption at the option of Kiwibank:** Subject to the other provisions of this clause 3, Kiwibank may at its option Redeem all (but not some) of the PPS for an amount in cash equal to their Issue Price:

- (a) on an Optional Redemption Date; or
- (b) following the occurrence of a Tax Event or Regulatory Event.

3.2 **Optional Redemption Notice:**

- (a) Subject to clause (c), Kiwibank may only Redeem PPS under clause 3.1 if Kiwibank has given a notice to Holders ("**Redemption Notice**") of its election to do so at least 15 Business Days before the proposed Redemption Date.
- (b) The Redemption Notice must specify the date on which it is proposed the Redemption will occur, which must be:
 - (i) in the case of clause 3.1(a), an Optional Redemption Date; or
 - (ii) in the case of clause 3.1(b), a Business Day that falls not less than 15 Business Days after the date on which the Redemption Notice was given.
- (c) A Redemption Notice once given is irrevocable.

3.3 **Conditions to Redemption:** Kiwibank may only Redeem the PPS if:

- (a) either:
 - (i) prior to, or concurrent with, Redemption, Kiwibank replaces the PPS with a paid-up capital instrument:
 - (aa) of the same, or better, quality and contributing at least the same regulatory capital amount (for the purposes of the RBNZ's capital adequacy requirements applying to Kiwibank at the time); and
 - (bb) the terms and conditions of which are sustainable for the income capacity of the Kiwibank Group; or
 - (ii) if Kiwibank does not intend to replace the PPS, it has demonstrated to the RBNZ's satisfaction that, after the Redemption, the Kiwibank Group's:
 - (aa) capital ratios would be sufficiently above their respective minimums; and
 - (bb) prudential capital buffer ratio would be sufficiently above its buffer trigger ratio;
- (b) Kiwibank has provided to the RBNZ any information and supporting documentation required by the RBNZ's prudential regulatory requirements;
- (c) the RBNZ has given its prior written approval to the Redemption; and

- (d) Kiwibank is Solvent on the Redemption Date and will remain Solvent immediately after the Redemption of the PPS.

3.4 **Agreements of Holders as to Redemption:** By its purchase of PPS, each Holder irrevocably acknowledges and agrees that:

- (a) the RBNZ's approval for any Redemption of the PPS by Kiwibank is at the absolute discretion of the RBNZ and the Holder should not expect that the RBNZ's approval will be given for any Redemption of the PPS; and
- (b) the Holder has no right to require any Redemption of the PPS.

3.5 **Final Distribution:** For the avoidance of doubt, Redemption may occur even if Kiwibank, in its absolute discretion, does not make a Distribution on the Redemption Date.

3.6 **No Redemption at the option of the Holders:** Holders do not have a right to require Redemption of their PPS at any time.

3.7 **Effect of Redemption Notice:** On the Redemption Date, subject to clause 3.2(c), Holders will be entitled to be paid the Issue Price in accordance with these Terms and upon payment of that amount all other rights conferred, or restrictions imposed, by the PPS will no longer have effect.

4. TITLE AND TRANSFER OF PPS

4.1 **Title:** Title to a PPS passes when the details of the transfer of that PPS are entered in the Register.

4.2 **Register conclusive as to ownership:** An entry in the Register of a person as a Holder of a PPS constitutes conclusive evidence that the person so entered is the absolute owner of the PPS subject to correction for fraud or error.

4.3 **Non-recognition of interests:**

- (a) Except as required by law or directive and as provided in these Terms, Kiwibank and the Registrar must treat the person whose name is entered in the Register as the Holder of a PPS as the absolute owner of that PPS.
- (b) No notice of any trust, Encumbrance or other interest in, or claim to, any PPS will be entered in the Register. Neither Kiwibank nor the Registrar need take notice of any trust, Encumbrance or other interest in, or claim to, any PPS, except as ordered by a court of competent jurisdiction or required by law, and no trust, Encumbrance or other interest in, or claim to, any PPS will in any way affect any provision of these Terms.
- (c) This clause 4.3 applies whether or not a payment has been made when scheduled on a PPS and despite any notice of ownership, trust or interest in a PPS.

4.4 **Joint holders:** Where 2 or more persons are entered in the Register as the joint Holders of a PPS, they are taken to hold the PPS as joint tenants with rights of survivorship, but the Registrar is not bound to register more than 3 persons as joint Holders of a PPS.

4.5 **Selling Restrictions:**

- (a) The LDD only constitutes an offer of PPS to investors in New Zealand in accordance with the Selling Restrictions. Kiwibank has not and will not take any action which would permit a public or regulated offering of the PPS, or possession or distribution of any offering material, in any country or jurisdiction where action for that purpose is required (other than New Zealand).
- (b) By its purchase of a PPS, each Holder:
 - (i) is taken to have agreed that PPS may only be offered for sale or sold in conformity with the Selling Restrictions; and
 - (ii) agrees to indemnify Kiwibank, the Registrar, each Syndicate Member and their respective directors, officers, employees and agents (each an **"Indemnified Person"**) in respect of any loss, cost, liability or expense sustained or incurred by the Indemnified Person as a result of the Holder breaching the Selling Restrictions.

4.6 **Transfers:**

- (a) Subject to the Constitution and these Terms, a Holder may transfer PPS:
 - (i) in accordance with the rules of any securities settlement system declared to be a designated FMI ("**Settlement System**") under section 20 of the Financial Markets Infrastructures Act 2021; or
 - (ii) by any proper or sufficient instrument of transfer of marketable securities under applicable law which must be delivered to the Registrar with any evidence the Registrar reasonably requires to prove title to or the right to transfer PPS.
- (b) No transfer of any part of a Holder's holding may be effected if such transfer would result in the transferor or the transferee holding or continuing to hold a Non-marketable Parcel of PPS.
- (c) The Registrar must register a transfer of a PPS to or by a person who is entitled to make or receive the transfer as a consequence of:
 - (i) death, bankruptcy, liquidation or winding-up of a Holder; or
 - (ii) a vesting order by a court or other body with power to make the order,
 on receiving the evidence that the Registrar or Kiwibank requires.

4.7 **Reliance of documents:** Kiwibank and the Registrar shall be entitled to accept and assume the authenticity and genuineness of any instrument of transfer or other document and will not incur any liability for registering any instrument of transfer which is subsequently discovered to be a forgery or otherwise defective, unless Kiwibank or the Registrar had actual notice of such forgery or defect at the time of registration of such instrument of transfer.

4.8 **Settlement System:** While the PPS remain quoted on the NZX Debt Market:

- (a) the rights and obligations of a person holding any PPS; and
- (b) all dealings in relation to the PPS, including transfers, transmissions and payments,

will be subject to and governed by the NZX Listing Rules and the rules of the Settlement System operated by NZX.

4.9 **Notification by Holders:** Any change of name or address of a Holder or any change in any other information required to be inserted in the Register in respect of a Holder shall immediately be notified to the Registrar in writing by the Holder, or if a joint holding by all the joint Holders.

4.10 **Dealings in whole:** A PPS can only be held or transferred in whole and cannot be held or transferred in part.

5. PAYMENTS

5.1 **Payments to registered Holder:** Each payment in respect of a PPS will be made to the person that is recorded in the Register as the Holder of that PPS as at the close of business on the Record Date for the payment.

5.2 **Payments to accounts:** Payments will be made by crediting on the relevant payment date the amount due to a dollar bank account maintained in New Zealand with a financial institution, specified by the Holder to the Registrar by close of business on the Record Date for that payment.

5.3 **Joint Holders:** A payment to any 1 joint Holder of a PPS will discharge Kiwibank's liability in respect of the payment.

5.4 **Time limit on claims:** A claim against Kiwibank for a payment under a PPS is void unless made within 4 years from the date on which payment first became due.

5.5 **Rounding:** For the purposes of any calculations required under these Terms, unless otherwise specified in these Terms:

- (a) all percentages resulting from the calculations must be rounded, if necessary, to the nearest 1 ten-thousandth of a percentage point (with 0.00005% being rounded up to 0.0001%);
- (b) all figures must be rounded to 4 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 1 cent (with 1 half of a cent being rounded up to 1 cent).

5.6 **Payments subject to law:** All payments are subject to applicable law.

5.7 **Payments on Business Days:** If any payment:

- (a) is due on a day which is not a Business Day, then the due date for payment will be the next Business Day; or
- (b) is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment will be the next day on which banks are open for general banking business in that place,

and, in either case, no interest or other additional amount is payable in respect of that delay in payment.

5.8 Uncompleted payments: If:

- (a) a Holder has not notified the Registrar by close of business on the Record Date of a dollar bank account maintained in New Zealand with a financial institution (excluding credit card accounts) to which payments in respect of the PPS may be credited; or
- (b) the transfer of any amount for payment to the credit of the nominated account does not complete for any reason,

Kiwibank or the Registrar will send a notice advising of the uncompleted payment by email, other electronic means or post to the address or number shown in the Register or provided by the Holder to the Registrar. In that case, the amount of the uncompleted payment will be held as a deposit in a non-interest bearing, special purpose account maintained by Kiwibank or the Registrar until the first to occur of the following:

- (i) the Holder nominates a suitable dollar bank account maintained in New Zealand with a financial institution to which the payment may be credited;
- (ii) claims may no longer be made in respect of that amount, in which case the moneys shall be paid to and be the property of Kiwibank; or
- (iii) Kiwibank becomes entitled or obliged to deal with the amount in accordance with the law relating to unclaimed moneys.

No interest or other additional amount is payable in respect of any delay in payment under this clause 5.8.

5.9 Withholdings and deductions:

- (a) Kiwibank may deduct from any Distribution or any other amount payable in accordance with these Terms the amount of any withholding or other tax, duty or levy required by any applicable law to be deducted in respect of such amount ("**Tax**"). Deductions of Tax will be made at the maximum rates from time to time applicable unless a Holder provides evidence satisfactory to the Registrar that a lesser rate is applicable prior to the applicable Record Date.
- (b) If any such deduction has been made and the amount of the deduction accounted for by Kiwibank to the relevant revenue authority, and the balance of the Distribution payable has been paid to the relevant Holder, the full amount payable to such Holder shall be deemed to have been duly paid and satisfied by Kiwibank.
- (c) Kiwibank shall pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring any penalty under the applicable law.
- (d) Each Holder shall provide to Kiwibank such information or certifications as Kiwibank may reasonably request in order that Kiwibank is able to comply with its disclosure or other obligations under the Income Tax Act 2007, the Tax Administration Act 1994 or FATCA.

- (e) A Holder must notify the Registrar:
 - (i) prior to the first applicable Record Date for that Holder, of its country of residence for tax purposes (if the Holder is not a New Zealand tax resident); and
 - (ii) prior to any Record Date, of any change in circumstances from those previously notified that could affect the payment or withholding obligations of Kiwibank.
- (f) By accepting payment of any Distribution or any other amount payable in accordance with these Terms, the Holder indemnifies Kiwibank for all purposes in respect of any liability Kiwibank may incur for not deducting any amount from such payment on account of New Zealand non-resident withholding tax or New Zealand resident withholding tax or to make any payment of or on account of tax payable by a Holder. Any such liability may be recovered from the Holder as a debt due to Kiwibank and may be withheld from and set-off against future payments to that Holder. Nothing in this clause prejudices or affects any other right or remedy of Kiwibank.

5.10 **FATCA:** Kiwibank may withhold or make deductions from payments to a Holder where it is required to do so under or in connection with FATCA, or where it has reasonable grounds to suspect that the Holder or a beneficial owner of PPS may be subject to FATCA, and may deal with such payment in accordance with FATCA. If any withholding or deduction arises under or in connection with FATCA, Kiwibank will not be required to pay any further amounts on account of such withholding or deduction or otherwise reimburse or compensate, or make any payment to, a Holder or a beneficial owner of PPS for or in respect of any such withholding or deduction. A dealing with such payment in accordance with FATCA satisfies Kiwibank's obligations to that Holder to the extent of the amount of that payment.

6. GENERAL

6.1 **Meetings of Holders:** Proceedings at meetings of Holders are governed by schedule 1 of the Companies Act except to the extent that the Constitution makes provision for the matters that are expressed in that schedule to be subject to the Constitution.

6.2 **Agreements of Holders as to information disclosure:** By purchasing PPS, each Holder irrevocably acknowledges and agrees that Kiwibank and the Registrar may collect, use or disclose any information about the Holder in accordance with their privacy policies (as such policies may be amended or substituted from time to time).

6.3 Amendments:

- (a) **Limited right to amend:** Except as provided in clauses 6.3(b) and 6.3(c), Kiwibank may not amend these Terms while any PPS remain on issue.
- (b) **Amendments without approval:** Subject to clause 6.3(d), Kiwibank is entitled to amend these Terms without the authority, assent or approval of Holders where such amendment (in the opinion of Kiwibank):
 - (i) is of a formal, minor or technical nature;
 - (ii) is made to cure any ambiguity or correct any manifest error;

- (iii) is necessary or expedient for the purpose of enabling the PPS to be quoted or to remain quoted on a stock exchange or to be lodged or to remain lodged in a clearing system or to be offered for sale or for subscription under the laws for the time being in force in any place;
 - (iv) is necessary or expedient for the purpose of complying with the provisions of any statute, the requirements of any statutory authority, the NZX Listing Rules or the listing or quotation requirements of any securities exchange on which Kiwibank may propose to seek a listing or quotation of the PPS;
 - (v) is made in accordance with clause 2.2(d); or
 - (vi) will not materially adversely affect the rights of Holders as a whole.
- (c) **Amendments with approval:** Without limiting clause 6.3(b), Kiwibank may amend these Terms if the amendment is approved by a special resolution of Holders.
- (d) **RBNZ notification:** No amendment to these Terms is permitted unless, at least 5 Business Days prior to the amendment being made, notification of the amendment has been made to the RBNZ, accompanied by any supporting documentation required by the RBNZ's prudential regulatory requirements.
- (e) **Meaning of amend:** In this clause 6.3, "**amend**" includes modify, cancel, alter, replace or add to and "**amendment**" has a corresponding meaning.

6.4 Notices:

- (a) **Notices to Holders:** All notices, certificates, consents, approvals, waivers and other communications in connection with the PPS to the Holders must be in writing and may be:
- (i) so long as the PPS are quoted on the NZX Debt Market, by publication of an announcement on NZX;
 - (ii) given by an advertisement published in The Post or the New Zealand Herald, or any other newspaper nationally circulated within New Zealand;
 - (iii) sent by prepaid post (airmail if appropriate) or left at the address of the relevant Holder (as shown in the Register at the close of business on the day which is 3 Business Days before the date of the relevant notice or communication); or
 - (iv) sent to an email address provided by the relevant Holder to the Registrar for the purposes of receiving such notices.
- (b) **Notices to Kiwibank and the Registrar:** All notices, and other communications to Kiwibank and the Registrar must be in writing and may be sent by prepaid post or left at the address of the registered office of Kiwibank or the Registrar or such other address as is notified to Holders from time to time.
- (c) **When effective:** Notices and other communications take effect from the time they are received or the time they are taken to be received (whichever happens first) unless a later time is specified in them.

- (d) **Receipt when published on NZX:** If published by an announcement on NZX, communications are taken to be received when the announcement is released by NZX.
- (e) **Receipt when published in newspaper:** If published in a newspaper, communications are taken to be received on the first date that publication has been made in all the required newspapers.
- (f) **Receipt when posted:** Unless a later time is specified in it, a notice, if sent by post, is taken to be received on the next Business Day in the place of the addressee.
- (g) **Receipt when left at address:** If left at the address of a Holder, a notice is taken to be received when given unless received after 5pm in the place of receipt or on a day that is not a Business Day, in which case it is taken to be received at 9am on the next Business Day.
- (h) **Receipt when emailed:** If sent by email, communications are taken to be received on completion of transmission of the email in readable form to the recipient's email address, provided that if such completion of transmission occurs on a day that is not a Business Day, or after 5pm on a Business Day, the communication shall be taken to have been received on the next Business Day.
- (i) **Non-receipt of notice:** If there are 2 or more Holders, the non-receipt of any notice by, or the accidental omission to give any notice to, a Holder does not invalidate the giving of that notice.

6.5 **Contract and Commercial Law Act 2017:**

- (a) Clauses 1.5-1.8 are intended to confer a benefit on, and may be enforceable by, the holders of Senior Ranking Obligations and Equal Ranking Securities under the Contract and Commercial Law Act 2017.
- (b) Clause 4.5(b)(ii) is intended to confer a benefit on, and may be enforced by, each Indemnified Person under the Contract and Commercial Law Act 2017.

6.6 **Governing law:** These Terms are governed by and must be construed in accordance with the law applying in New Zealand.

6.7 **Submission to jurisdiction:** Kiwibank has irrevocably agreed, and each Holder is taken to have irrevocably agreed, that the courts of New Zealand are to have non-exclusive jurisdiction to settle any disputes which may arise out of or in connection with the PPS and accordingly Kiwibank has submitted, and each Holder is taken to have submitted, to the non-exclusive jurisdiction of the courts of New Zealand and Kiwibank waives, and each Holder is taken to have waived, any objection to the courts of New Zealand on the grounds that they are an inconvenient or inappropriate forum.

7. **INTERPRETATION AND DEFINITIONS**

7.1 **Interpretation:** In these Terms, except where the contrary intention appears:

- (a) a reference to:

- (i) these Terms is a reference to these Terms as amended, supplemented, modified or altered in accordance with these Terms;
 - (ii) an agreement or instrument includes any variation, supplement, replacement or novation of that agreement or instrument;
 - (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) 1 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) "dollars", "NZ\$", "NZD" or "cent" is a reference to the lawful currency of New Zealand; 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 "law" includes common law, principles of equity, and laws made by parliament (including regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
 - (d) the word "person" includes a firm, body corporate, an unincorporated association, or governmental or local authority or agency or other entity;
 - (e) the term "prudential regulatory requirements" includes Conditions of Registration;
 - (f) any reference to time is to New Zealand time;
 - (g) headings are inserted for convenience and do not affect the interpretation of these Terms;
 - (h) another grammatical form of a defined word or expression has a corresponding meaning;
 - (i) the meaning of general words is not limited by specific examples introduced by "including", "for example" or similar expressions;
 - (j) any agreement, representation, warranty or indemnity by 2 or more parties (including where 2 or more persons are included in the same defined term) binds them jointly and severally;
 - (k) any provisions which refer to the RBNZ's requirements or any other prudential regulatory requirements will apply to Kiwibank only if Kiwibank is an entity, or the holding company of an entity, or is a direct or indirect subsidiary of an entity subject to regulation and supervision by the RBNZ at the relevant time;

- (l) any provisions which require the RBNZ to be notified or require the RBNZ's consent or approval will apply only if the RBNZ requires that such notification be made, or consent or approval be given at the relevant time;
- (m) references to any legislation or to any provision of any legislation shall be deemed to be references to that legislation or provision as from time to time amended, re-enacted or substituted and, unless otherwise stated, to New Zealand legislation, and, unless the context otherwise requires, shall also include any statutory instruments issued under any such legislation or provision;
- (n) any provisions in these Terms requiring the prior consent or approval of the RBNZ for a particular course of action to be taken by Kiwibank do not imply that the RBNZ has given its consent or approval to the particular action as of the Issue Date. Any such consent or approval is at the discretion of the RBNZ and may or may not be given; and
- (o) if an event must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the following Business Day. This clause 7.1(o) does not apply to the determination of a Distribution Payment Date or the making of any payments under these Terms.

7.2 **Definitions:** In these Terms, except where the contrary intention appears:

"3 Month Bank Bill Rate" has the meaning given in clause 2.2(c).

"Additional Tier 1 Capital" means the capital of Kiwibank that meets the definition of additional tier 1 capital in the RBNZ's prudential regulatory requirements from time to time.

"Alternative Reference Rate" has the meaning given in clause 2.2(c).

"Base Rate" has the meaning given in clause 2.2(c).

"BKBM Disruption Event" has the meaning given in clause 2.2(c)

"Bookbuild" means the process conducted after the offer of the PPS opens where invited parties bid for PPS and on the basis of those bids, Kiwibank determines the Margin and allocations of the PPS.

"Business Day" means:

- (a) for the purposes of giving notices, a day which is a "Business Day" within the meaning of the NZX Listing Rules; or
- (b) for all other purposes, a day that is not a Saturday or Sunday and on which banks are open for general business in Wellington or Auckland.

"Companies Act" means the Companies Act 1993.

"Conditions of Registration" means the conditions of registration or licence imposed on Kiwibank by the RBNZ, as amended from time to time.

"Constitution" means the constitution of Kiwibank, as amended from time to time.

"Distribution" has the meaning given in clause 2.1(a).

"Distribution Payment Date" means, in respect of each PPS:

- (a) each date that is the numerically corresponding date to the Issue Date and which falls at quarterly intervals from the Issue Date until (but excluding) the Redemption Date (each a **"Scheduled Distribution Payment Date"**); and
- (b) the Redemption Date.

If a Distribution Payment Date after the First Optional Redemption Date is not a Business Day, the Distribution Payment Date will be the next Business Day unless that day falls in the next calendar month, in which case it will be the preceding Business Day, and, in either case, the amount of the Distribution paid will be adjusted to reflect the actual payment date.

"Distribution Rate" means:

- (a) in respect of a Distribution Payment Date on or before the First Optional Redemption Date, the rate determined in accordance with clause 2.2(a); and
- (b) in respect of a Distribution Payment Date after the First Optional Redemption Date, the rate determined in accordance with clause 2.2(b).

"Encumbrance" means any mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement, any other security agreement or security arrangement (including any security interest under the Personal Property Securities Act 1999) and any other arrangement of any kind having the same effect as any of the foregoing.

"Equal Ranking Securities" means all securities and other obligations of Kiwibank that qualify as Additional Tier 1 Capital (including perpetual preference shares) or which rank or are expressed to rank equally with such securities or other obligations in a liquidation of Kiwibank, present and future.

"FATCA" means:

- (a) sections 1471 to 1474 of the United States Internal Revenue Code of 1986 or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the United States and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the United States Internal Revenue Service, the United States government or any governmental or taxation authority in any other jurisdiction.

"First Optional Redemption Date" means the Scheduled Distribution Payment Date that is on or closest to the date that is 5 and a half years after the Issue Date.

"Fully Credited" means, in relation to a Distribution, that Imputation Credits are validly attached to the Distribution, so that the Imputation Ratio of the Distribution is the maximum Imputation Ratio permitted by law.

"Holder" means a person whose name is entered in the Register as a holder of PPS.

"Imputation Credit" has the meaning given to it in section YA 1 of the Income Tax Act 2007.

"Imputation Ratio" has the meaning given to it in section YA 1 of the Income Tax Act 2007.

"Indemnified Person" has the meaning given in clause 4.5(b)(ii).

"Issue Date" means the date on which the PPS are issued.

"Issue Price" means NZ\$1.00 per PPS.

"Joint Lead Managers" means the persons specified as such in the LDD.

"Kiwibank" means Kiwibank Limited.

"Kiwibank Group" has the meaning given to "banking group" in the Conditions of Registration.

"LDD" means the limited disclosure document for the offer of the PPS.

"Liquidation Sum" has the meaning given in clause 1.5(a)(i).

"Margin" has the meaning given in clause 2.2.

"Non-marketable Parcel of PPS" means a parcel of PPS registered in the same name or same joint names, the aggregate Issue Price of which is less than NZ\$5,000 or is not a multiple of NZ\$1,000.

"NZX" means NZX Limited, and includes any person or authority which may in the future assume and perform the functions of NZX Limited.

"NZX Debt Market" means the debt market operated by NZX.

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

"Optional Redemption Date" means:

- (a) the First Optional Redemption Date; and
- (b) each Scheduled Distribution Payment Date after the First Optional Redemption Date.

"Ordinary Share" means an ordinary share in the capital of Kiwibank.

"PPS" means the perpetual preference shares or a perpetual preference share (as applicable) issued in accordance with and subject to these Terms.

"Rate Set Date" means the date specified as such in the LDD.

"RBNZ" means the Reserve Bank of New Zealand or any successor body responsible for prudential regulation of Kiwibank.

"Record Date" means, in the case of:

- (a) a payment of a Distribution, the date which is 10 calendar days before the Distribution Payment Date (or as otherwise prescribed by the NZX Listing Rules or if not prescribed by the NZX Listing Rules, a date determined by Kiwibank and notified to NZX); and
- (b) payments of any other amount, a date determined by Kiwibank and notified to NZX (or such other date as may be prescribed by NZX).

If a Record Date is a day which is not a Business Day, then the Record Date will be the immediately preceding Business Day.

"Redemption" means the redemption of PPS in accordance with these Terms and **"Redeem"** and **"Redeemed"** have corresponding meanings.

"Redemption Date" means, in respect of each PPS:

- (a) the applicable Optional Redemption Date; or
- (b) the date specified by Kiwibank as the Redemption Date in accordance with clause 3.2(b)(ii),

or, except where clause 5.7(a) applies, if the PPS are not Redeemed on that day, the date on which the PPS are Redeemed.

"Redemption Notice" has the meaning given to it in clause 3.2(a).

"Register" means the register of shareholders established and maintained by Kiwibank or its agent in accordance with section 87 of the Companies Act.

"Registrar" means MUFG Pension & Market Services (NZ) Limited or any other person who from time to time maintains the Register on behalf of Kiwibank.

"Regulatory Event" means:

- (a) a determination by Kiwibank to the effect that:
 - (i) there has been a change in New Zealand law, regulation or directive (including by way of the imposition of any New Zealand law, regulation or directive) that applies, or is to apply, after the Issue Date;
 - (ii) there has been a change in the interpretation or administration of any New Zealand law, regulation or directive by any authority (including RBNZ) that applies, or is to apply, after the Issue Date; or
 - (iii) Kiwibank is or will be required to comply with any change in New Zealand law, regulation or directive or changed interpretation or administration, that adversely affects, or will adversely affect, Kiwibank in relation to its regulatory capital treatment of the PPS provided such event is not minor and could not reasonably have been anticipated as at the Issue Date; or
- (b) a determination by Kiwibank, as a result of the occurrence of an event or circumstance that is not minor and could not reasonably have been anticipated as at the Issue Date, that some or all of the PPS are not, or will not be, Additional Tier 1 Capital.

"Scheduled Distribution Payment Date" has the meaning given in the definition of Distribution Payment Date.

"Selling Restrictions" means the restrictions contained in section 10 of the LDD.

"Senior Ranking Obligations" means all deposits and other liabilities, securities and other obligations of Kiwibank other than Equal Ranking Securities and Ordinary Shares.

"Settlement System" has the meaning given in clause 4.6(a)(i).

"Solvent" means satisfying the solvency test contained in section 4 of the Companies Act, as modified by section 52.

"Swap Rate" has the meaning given in clause 2.2(c).

"Syndicate Member" means each person named as arranger or joint lead manager in the LDD.

"Tax" has the meaning given in clause 5.9(a).

"Tax Event" means a determination by Kiwibank to the effect that:

- (a) there has been a change in New Zealand law, regulation or directive (including by way of the imposition of any New Zealand law, regulation or directive) that applies, or is to apply, after the Issue Date;
- (b) there has been a change in the interpretation or administration of any New Zealand law, regulation or directive by any authority (including the New Zealand Inland Revenue Department) that applies, or is to apply, after the Issue Date; or
- (c) Kiwibank is or will be required to comply with any change in New Zealand law, regulation or directive or changed interpretation or administration,

that directly or indirectly affects the taxation treatment in relation to PPS and that would result in more than a minimal increase Kiwibank's costs in respect of the PPS, provided such event is not minor and could not reasonably have been anticipated when the PPS were issued.

"Terms" means these terms and conditions of the PPS.

7.3 **Companies Act:** In these Terms, except where a contrary intention applies, each of the following has the meaning given to it in the Companies Act:

- (a) distribution;
- (b) dividend;
- (c) holding company;
- (d) special resolution; and
- (e) subsidiary.