

# TERMS AND CONDITIONS OF FLOATING RATE CAPITAL NOTES

The Floating Rate Capital Notes offered by Adelaide Bank Limited ACN 061 461 550 pursuant to a Prospectus dated 13 July 1998 (the "Notes") will be issued upon and subject to the following terms and conditions (the "Note Conditions"):

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In these Note Conditions:

"ASX" means the Australian Stock Exchange Limited;

"Bank" means Adelaide Bank Limited ACN 061 461 550

"Business Day" has the meaning given to the term "business day" in the Listing Rules;

"CHESS Approved" has the meaning given to that expression in the SCH Business Rules;

"Corporations Law" has the meaning given to that expression in the Corporations (South Australia) Act 1990;

"Date of Application Receipt" means, in relation to each Note, the date upon which the application moneys for the Note were received by the Bank (or its agent for this purpose, Computershare Investor Services Pty Ltd);

"Date of Issue" means the date the Notes are allotted and issued by a resolution of the Board of Directors of the Bank;

"Face Value" means \$100 in respect of each Note;

"Financial Year" means a period of 12 months commencing on 1 July and ending on 30 June in the following calendar year;

"First Interest Calculation Date" means 15 November 1998;

"First Normal Interest Period" means the period from the Listing Date to the First Interest Calculation Date inclusive;

"Interest Calculation Date" means each of the Listing Date, and each subsequent 15 February, 15 May, 15 August and 15 November prior to and including the date on which the Notes are in accordance with these Note Conditions;

"Interest Payment date" means

- (a) in relation to the Special Interest Period - 11 Business Days after the Listing Date; and
- (b) in relation to the First Normal Interest Period, a Standard Interest Period or a Reviewed Interest Period - 11 business Days after the relevant Interest Calculation Date, or such other date required by the Listing Rules or applicable law.

"Interest Period" means the Special Interest Period, the First Normal Interest Period, a Standard Interest Period or a Reviewed Interest Period.

"Interest Rate" means:

- (a) during the Special Interest Period - 6.00% per annum;
- (b) during the First Normal Interest Period - the aggregate of the Variable Interest Benchmark Rate applicable to the First Interest Period and 0.75% per annum;
- (c) during a Standard Interest Period - the aggregate of the Variable Interest benchmark rate applicable to that Standard Interest Period and 0.75% per annum;
- (d) during a Reviewed Interest Period - the aggregate of the Variable Interest Benchmark Rate applicable to that Reviewed Interest Period and 1.00% per annum; and

"Interest Rate Determination Date" means:

- (a) in relation to the First Normal Interest Period - the Listing Date; and
- (b) in relation to each subsequent Interest Period - each of 15 November 1998 and each subsequent 15 February, 15 May, 15 August and 15 November, prior to and (if applicable) including the date on which the notes are redeemed in accordance with these Note Conditions;

"Listing Date" means the date upon which the Notes are first officially quoted by the ASX;

"Listing Rules" means the listing rules of the ASX (Subject to any waiver);

"Noteholder" means, in respect of a Note, a person whose name is for the time being entered as the, or a, holder of that Note in the Register and includes that person's executors and administrators;

"Ordinary Shares" means fully paid ordinary shares of \$1.00 each in the capital of the Bank;

"Prospectus" means the Prospectus offering the Notes dated 13 July 1998;

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"Quarter" means each consecutive period of 3 calendar months commencing on 16 February, 16 May, 16 August and 16 November in a year;

"Record Date" means, in relation to an Interest Payment Date, the day determined by the Bank in accordance with the Listing Rules (which until the Bank otherwise determines will be 11 Business Days before the Interest Payment Date);

"Register" means each Register of Noteholders kept and maintained under clause 3.1;

"Registered Address" means, in relation to a Noteholder, the address of that Noteholder as is for the time being shown in the Register;

"Review Date" means the first Interest Calculation Date occurring after the 10<sup>th</sup> anniversary of the Listing Date;

"Reviewed Interest Period" means each consecutive Quarter commencing on the day following the Review Date to the date of redemption of the Notes in accordance with these Note Conditions;

"SCH Business Rules" has the meaning given to the term "SCH business rules" in the Corporations Law;

"Special Interest Payment" means the payment to be made under clause 4.4;

"Special Interest Period" means the period from the Date of Application Receipt to the day prior to the Listing Date inclusive;

"Standard Interest Period" means each consecutive Quarter from 16 November 1998 to the Review Date inclusive or, if the Notes are redeemed in accordance with these Note Conditions before the Review Date, to that date of redemption;

"Tax Act" means the Income tax Assessment Act 1936 (Commonwealth) and the Income Tax Assessment Act 1997 (Commonwealth) as amended or re-enacted from time to time;

"Tax Change" means:

- (a) any amendment, modification or replacement of the Tax Act;
- (b) the announcement of any proposed amendment, modification or replacement of the Tax Act by the Commissioner of taxation or the Australian Taxation Office or by the Treasurer or any other responsible Minister of the Crown;
- (c) a decision of any Court of competent jurisdiction or any Administrative Appeals Tribunal; or
- (d) any announcement or ruling by the Commissioner of Taxation or the Australian Taxation Office, or any assessment from the Commissioner of Taxation disclosing any change in the interpretation or administration of the Tax Act or of any legislation replacing that Act by the Commissioner of Taxation;

"Variable Interest Benchmark Rate" means, in relation to an Interest Period:

- (a) the rate calculated by the Bank by taking the mid rate displayed at or about 10.00am (Adelaide time) on the Interest Rate Determination Date, as quoted on the Reuters screen BBSW page for a term equivalent (or as near as equivalent as possible) to that Interest Period, (rounded up, if necessary, to the nearest two decimal places); or
- (b) if on that day, the rate cannot be determined in accordance with paragraph (a), the Rate determined by the Bank based on the arithmetic mean (rounded up, if necessary, to the nearest two decimal places) of the mid rates on that day for bank bills of exchange of the equivalent tenor to that Interest Period by four leading dealers in the market for bank bills of exchange of the equivalent tenor (or as near as equivalent as possible), as selected by the Bank, after eliminating one of the highest and one of the lowest rates, as certified by the Bank;

## 1.2 Interpretation

In these Note Conditions, unless the context otherwise requires:

- (a) References to clauses are to clauses of these Note Conditions;
- (b) reference to "\$" is to an amount in Australian currency;
- (c) a reference to a date or time is to that date or time in Adelaide;
- (d) a reference to any legislation, rules or instruments is to such legislation, rules or instruments as modified, consolidated, amended, re-enacted or replaced from time to time; and

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- (e) the singular includes the plural and vice versa, references to any gender include all genders and where a word or expression is defined, other parts of speech in respect of that word (or expression) have corresponding meanings.

## 2. NOTES

### 2.1 Note Conditions

The Notes will be held with the benefit of and subject to these Note Conditions, and these Note Conditions will be binding on the Bank and the Noteholders and all persons claiming through or under them respectively.

### 2.2 No Certificates

All Notes will be CHESSE Approved. The Bank is not obliged to issue certificates evidencing title to the Notes. The Bank will comply with the SCH Business Rules, and with the relevant provisions of the Listing Rules and the Corporations Law concerning CHESSE Approved securities, including in relation to the issue of notices or statements relating to CHESSE Approved securities.

### 2.3 Subordination

- (a) The Notes are designed to absorb losses where the bank would not otherwise be solvent, and accordingly the Noteholders are to be (as far as practicable and subject to any applicable law) treated as if, in the event of a winding up of the Bank and with effect from the day immediately preceding:

- (i) the date an application is made to any Court for the winding up of the Bank on the grounds of insolvency;
- (ii) unless paragraph (i) applies, the date that a meeting of creditors or members of the Bank resolves that the Bank be wound up; or
- (iii) in any other case, the date of commencement of the winding up for the purposes of the Corporations law,

they were in respect of each Note the holders of one preference share ranking in priority to all other classes of shares as to repayment of capital equal to the Face Value and accrued but unpaid interest, but otherwise to have no other rights (and in particular no right to participate in surplus assets or profits).

- (b) To give full effect to clause 2.3(a):

- (i) notwithstanding any other provisions of these Note Conditions, the rights of Noteholders against the Bank are subordinated in right of payment to the claims of all of the creditors of the Bank (other than those creditors whose claims are expressed or required by law to rank equally with or after the claims of Noteholders) in the manner set out in clause 2.3(b) (ii); and

- (ii) the obligations of the Bank to Noteholders in respect of moneys owing pursuant to the Notes and these Note Conditions constitute direct, unsecured and general obligations of the Bank and, in the event of a winding up of the Bank, rank for payment:

(A) before any obligation of the Bank to:

- (I) a shareholder of the Bank; or
- (II) persons whose claims are expressed or required by law to rank after the claims of Noteholders; and

(B) equally with any obligation of the Bank expressed to rank equally with the Notes; and

(C) equally amongst themselves;

but after

(D) payment of any other obligation of the Bank (including, without limitation, obligations to repay, and to pay interest on deposit liabilities of the Bank and obligations to other subordinated creditors); and

(E) payments required by law to be made in priority.

- (c) Payment in accordance with the foregoing provisions of this clause will be to full and final satisfaction of the obligations to the Noteholders in respect of the Notes.

- (d) Once payment has been made by the Bank in accordance with this clause 2.3, the Noteholders will release the Bank from any further liability in respect of the Notes.

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## 2.4 Not Deposit Liabilities

Notes do not represent deposit liabilities of the Bank for the purpose of the Banking Act 1959 (Commonwealth).

## 2.5 Issue

Each Note shall:

- (a) be issued at Face Value; and
- (b) be paid for in full from the moneys received on application.

## 3 TITLE AND TRANSFER

### 3.1 The Register

- (a) The Bank will establish and maintain, or cause to be established and maintained, a Register or Registers of Noteholders at the offices of Computershare Investor Services Pty Ltd, Level 5, 115 Grenfell St, Adelaide or at such other place or places as the Bank may from time to time determine.
- (b) In each Register there will be entered the names and addresses of Noteholders whose Notes are registered on that Register, the number of notes held by each such Noteholder and such other particulars as the Bank thinks fit.
- (c) Where there is more than one Register, Noteholders may elect as to the Register on which their Notes will for the time being be registered. If no election is made, the Notes will be registered on such Register as the Bank may decide.
- (d) All Registers must be open during business hours to the inspection of any Noteholder, any person authorized in writing by any Noteholder and any other person permitted by law.
- (e) Where there is more than one Register, Notes will be transferred from one Register to another Register without fee on the written request of a Noteholder subject to the payment by the Noteholder of any stamp duty involved.
- (f) The Bank may delegate to attorneys or agents such powers, authorities and discretions as are conferred on it under these Note Conditions;
- (g) The property in the notes shall for all purposes be regarded as situated at the place where the Register on which the Notes are for the time being registered is situated and not elsewhere.

### 3.2 Noteholders

- (a) Unless otherwise provided in these Note Conditions, the Bank will recognise the Noteholder as the absolute owner of Notes registered in that person's name, and all persons may act accordingly.
- (b) Except as otherwise provided in these Note Conditions or as ordered by a court of competent jurisdiction or required by law, the Bank is not bound to take notice of, or to enter upon the Register, any trust, encumbrance or equity affecting the ownership of any Notes.
- (c) There must not be more than three joint Noteholders of any Notes except in the case of the legal personal representatives of a deceased Noteholder.
- (d) In the case of the death of any one of the joint Noteholders of any Notes, the survivor or survivors will be the only person or persons recognised by the Bank as having any title to or interest in such Notes.
- (e) The executors and administrators of a deceased Noteholder (not being one of several joint Noteholders) shall be the only persons recognised by the bank as having any title to or interest in his or her Notes.
- (f) Any person becoming entitled to Notes in consequence of the death, unsoundness of mind, bankruptcy or liquidation of any Noteholder (upon production of such evidence satisfactory to the Bank that that person is so entitled) may become registered as having any title to or interest in his or her Notes.
- (g) The Bank will be at liberty to retain any amounts payable in respect of any Notes to which any person under clause 3.2(f) is entitled until such person is registered as the Noteholder or, subject to the conditions as to transfer, may transfer such Notes.

### 3.3 Transfers

- (a) Notes may be transferred by a Noteholder in accordance with the SCH Business Rules, the Listing Rules and the Corporations Law, or in any other manner permitted by law.
- (b) No fee will be charged for the registration of a transfer.

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- (c) The transferor remains the owner of the Notes until the name of the transferee is entered in the Register in respect of such Notes.
- (d) On registration of the transfer of the Notes, the transferee will be recognised as entitled to the Notes free from any equity, set-off or cross-claim of the Bank against the transferor.

## 4 INTEREST

### 4.1 Interest Rate

While a Note is on issue, interest will accrue from day to day on the Face Value of the Note at the Interest Rate, based on a 365 day year.

### 4.2 Interest Calculation and Payment

Interest will be calculated for each Interest Period in arrears on each Interest Calculation Date. Interest will be paid to persons who are Noteholders as at the relevant Record Date on the relevant Interest Payment Date.

### 4.3 Variable Interest Period

The Variable Interest Benchmark Rate applicable to an Interest Period will be:

- (a) announced by the Bank to the ASX on the first day of the Interest Period; and
- (b) notified to persons who are Noteholders as at the immediately preceding Interest Calculation Date not later than 15 Business Days after such Interest Calculation Date.

### 4.4 Special Interest Payment

On the Listing Date, interest will be calculated in arrears at the Interest Rate for the Special Interest Period ("the Special Interest Payment"). The Special Interest Payment in relation to each Note will be paid to the Noteholder first registered as such in relation to the Note on the Date of Issue, on the relevant Interest Payment Date.

### 4.5 Deferral of Payment of Interest

- (a) The bank may in its absolute discretion, defer the payment of interest payable on any Interest Payment Date in a Financial Year if:
  - (i) the Bank has not paid or declared a dividend on its Ordinary Shares in the previous Financial Year; or
  - (ii) the board of directors of the Bank has resolved not to pay a dividend on its Ordinary Shares in that Financial Year.
- (b) Subject to clause 4.5(c), such interest will accumulate (but not compound) and will be paid on the next Interest Payment Date on which interest is payable in accordance with these Note Conditions.
- (c) Interest may be deferred more than once under clause 4.5 (a).

## 5 REPAYMENT OF PRINCIPAL

### 5.1 Perpetual

Subject to these Note Conditions, the term of the Notes shall be in perpetuity.

### 5.2 Not Redeemable at Noteholder's Option

In no circumstances is the Bank required to repay, redeem or repurchase any Notes at the request of a Noteholder.

### 5.3 Redemption by the Bank

The Bank may, with the prior consent of the Australian Prudential Regulation Authority, redeem all of the Notes by:

- (a) announcing the intended redemption to the ASX and the date of redemption ("the Early Redemption Date") on a date at least 60 Business Days prior to such Early Redemption Date ("the Announcement Date");
- (b) giving notice to all Noteholders on the Register as at the Announcement Date within 15 Business Days of such Announcement Date; and
- (c) repaying the Face Value of the Notes together with all unpaid interest which has accrued on the Notes in the period up to and including the Early Redemption Date 11 Business Days after such Early Redemption Date.

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## 5.4 Buy-Back

The Bank may, at any time, with the prior consent of the Australian Prudential Regulation Authority, purchase any Notes on-market on the ASX or by private treaty.

## 5.5 Tax Change

If the Bank is satisfied that:

- (a) the interest or any part thereof paid or payable in respect of the Notes is not or may not be allowed as a deduction for Australian income tax purposes: or
- (b) a Tax Change occurs or a Bill to effect such a Tax Change is presented to the Parliament of the Commonwealth of Australia and the Bank is of the opinion that it is reasonably probable that any such change has or will have the result that the interest or any part thereof paid or payable by the Bank in respect of the Notes is not or may not be allowed as a deduction for Australian income tax purposes,

the Bank may at its option (at the expiration of not more than 60 nor less than 30 days notice to the Noteholders concerned), and with the prior approval of the Australian Prudential Regulation Authority, repay all, or from time to time some, of the Notes at Face Value together with all unpaid interest which has accrued on the Notes in the period up to and including the date of repayment (if any) in respect of those Notes.

## 5.6 Prudential Regulator Approval

The Bank will not redeem, repay or purchase the notes in any circumstances under this clause 5, without obtaining the prior approval of the Australian Prudential Regulation Authority.

## 6 PAYMENTS

### 6.1 Method of Payment

Subject to clauses 6.2 and 6.3, payments by the Bank to a Noteholder in respect of a Note will be paid by cheque in favor of the Noteholder and crossed 'Not Negotiable' and sent:

- (a) to the Registered Address of the Noteholder; or
- (b) in the case of joint Noteholders, to the Registered Address of the joint Noteholder who is first named on the Register in respect of the relevant Notes; or
- (c) as otherwise agreed between the Noteholder and the Bank.

### 6.2 Alternative Methods of Payment

The Bank may in its discretion make payment by:

- (a) Electronic Funds Transfer; or
- (b) through Austraclear

### 6.3 Non-resident holders

- (a) Notwithstanding anything contained in these Note Conditions, if a Note is held by a Noteholder resident outside of Australia, the obtaining of all necessary approvals and any statutory requirements which may then be required or in existence is a condition precedent to the right of a Noteholder to receive payment of any interest in respect of or of the Face Value represented by his or her Notes.
- (b) The Bank will not be obliged to pay, nor shall it be deemed to have committed any breach by failure to pay any interest in respect of or the Face Value payable in respect of any of the Notes unless the condition precedent referred to in clause 6.3(a) has been satisfied.

## 7 REMEDIES

If the Bank defaults in the performance of any of its obligations under these Note Conditions, the rights of a Noteholder against the Bank are limited to taking action:

- (a) for specific performance of these Note Conditions;
- (b) to recover outstanding interest (but excluding any interest deferred under clause 4.5); and
- (c) to apply for the winding up of the Bank.

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Except as required by law, the Noteholder will have no other right to take any action or proceeding against the Bank in respect of the Notes or these Note Conditions.

## 8 NOTICES

### 8.1 Method of Giving Notices by Bank

All notices required or permitted to be given by the bank to a Noteholder pursuant to these Note conditions must be in writing and will be treated as duly given if:

- (a) left at the Noteholder's Registered Address, in which case the notice is treated as given on the day on which the notice is so left: or
- (b) sent by prepaid mail to that Noteholder's Registered Address (which must be by air mail if outside the country of posting), in which case the notice is treated as given on the fourth day after posting.

### 8.2 Joint Noteholders

If several persons are entered in the Register as joint Noteholders of any Note, a notice to any one of those persons is effective as notice to all those persons.

## 9 GENERAL

### 9.1 Non-Business Days

If the date specified for any payment, repayment, redemption or determination under these Note Conditions is not a Business Day then that payment, repayment, redemption or determination (as the case may be) will be due or determined on the first Business Day following the specified due date.

### 9.2 Governing Law and Jurisdiction

The Notes and these Note Conditions will be governed by and construed in accordance with the laws of South Australia. The Bank and the Noteholders submit to the non-exclusive jurisdiction of the courts of South Australia and any court hearing appeals from those courts.

### 9.3 Conflict or Inconsistency

If any of these Note Conditions are or become inconsistent with any law or any part of the SCH Business Rules or the Listing Rules, then these Note Conditions will be deemed to be modified to remove such inconsistency to the extent of such inconsistency.

### 9.4 Modification

No alteration or modification may be made to these Note Conditions without the prior consent of the Australian Prudential Regulation Authority.

### 9.5 Right to Issue Further Securities

The Bank expressly reserves the right to:

- (a) issue further Notes; and
- (b) issue further securities ranking equally with or in priority to the Notes.

### 9.6 Repurchase

The Bank expressly reserves the right to repurchase and cancel any Notes, subject to the approval of the Australian Prudential Regulation Authority (without imposing any obligation on a Noteholder to dispose of Notes).