
Dated 6 December 2022

DBS BANK (HONG KONG) LIMITED

as Borrower

and

DBS GROUP HOLDINGS LTD

as Lender

LOAN AGREEMENT

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This Agreement is dated as of 6 December 2022 and is made between:

- (1) **DBS Bank (Hong Kong) Limited** (the “**Borrower**”, which term includes its permitted successors and assigns); and
- (2) **DBS Group Holdings Ltd** (the “**Lender**”, which term includes its permitted successors and assigns).

Whereas:

- (A) The Borrower is regulated by the Monetary Authority (as defined in Clause 1) and is required to maintain capital to meet the capital adequacy requirements set out in the Capital Rules (as defined in Clause 1).
- (B) The Lender has agreed to extend the Tier 2 Loan (as defined in Clause 1) to the Borrower, on the terms and subject to the conditions contained in this Agreement.

It is agreed as follows:

1. Interpretation

- (i) **Definitions:** In this Agreement:

“**Additional Tier 1 capital**” shall have the meaning ascribed to it in the Capital Rules;

“**Benchmark Rate**” means the per annum rate from time to time in respect of the Tier 2 Loan determined by the Lender on the Interest Calculation Date for such Interest Period in accordance with Clause 4(ii) or such other rate determined in accordance with Clause 4(iv);

“**Business Day**” means a day, other than a Saturday, Sunday or public holiday, on which commercial banks and foreign exchange markets are open for general business in Hong Kong, New York City and Singapore;

“**Capital Rules**” means the Banking (Capital) Rules (Chapter 155L of the Laws of Hong Kong) or any supervisory guidance made by the Monetary Authority in relation thereto, in each case as amended, supplemented or replaced from time to time;

“**Date of Disbursement**” means 13 December 2022;

“**Event of Default**” means any event or circumstance specified in Clause 13 (*Event of Default*);

“**Group**” means the Borrower and its subsidiaries;

“**Hong Kong Business Day**” means a day, other than a Saturday, Sunday or public holiday, on which commercial banks and foreign exchange markets are open for business in Hong Kong;

“**Hong Kong Resolution Authority Power**” means any power which may exist from time to time under the Resolution Ordinance or any other laws, regulations, rules or requirements relating to financial institutions, including licensed banks, deposit-taking companies, restricted licence banks, banking group companies, insurance companies and/or investment firms incorporated in or authorised, designated, recognised or licensed to conduct regulated financial activities in Hong Kong in effect and applicable in Hong Kong to the Borrower or other members of the Group (including, for the avoidance of doubt, powers under Part 4 and Part 5 of the Resolution Ordinance) or any other laws, regulations, rules or requirements

relating thereto, as the same may be amended from time to time (whether pursuant to the Resolution Ordinance or otherwise), and pursuant to which obligations of a licensed bank, deposit-taking company, restricted licence bank, banking group company, insurance company or investment firm or any of its affiliates can be reduced, cancelled, transferred, modified and/or converted into shares or other securities or obligations of the obligor or any other person;

“Interest Payment Date” means 13 March, 13 June, 13 September and 13 December in each year;

“Interest Period” means the period starting on (and including) 13 December 2022 and ending on (but excluding) the following Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date, the Repayment Date or the date of prepayment, as the case may be;

“Margin” means 1.87 per cent. per annum;

“Monetary Authority” means the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Chapter 66 of the Laws of Hong Kong) or any successor thereto;

“Non-viability Trigger Event” means the earlier of:

- (i) the Monetary Authority notifying the Borrower in writing that the Monetary Authority is of the opinion that a write-off or conversion is necessary, without which the Borrower would become non-viable; and
- (ii) the Monetary Authority notifying the Borrower in writing that a decision has been made by the government body, a government officer or other relevant regulatory body with the authority to make such a decision, that a public sector injection of capital or equivalent support is necessary, without which the Borrower would become non-viable;

“Non-viability Trigger Event Notice” means the notice which shall be given by the Borrower to the Lender not more than two Hong Kong Business Days following the occurrence of a Non-viability Trigger Event, which shall state with reasonable detail the nature of the relevant Non-viability Trigger Event and specify the Non-viability Trigger Event Write-off Amount to be Written-off, details of each other Subordinated Capital Instrument on the Write-off Effective Date to be written-off or converted into ordinary shares in accordance with its terms, and the Write-off Effective Date;

“Non-viability Trigger Event Write-off Amount” means the aggregate amount of the Tier 2 Loan (and any accrued but unpaid interest thereon) to be Written-off as the Monetary Authority may direct, or in the absence of such a direction, as the Borrower shall (in consultation with the Monetary Authority) determine to be necessary to satisfy the Monetary Authority that the Non-viability Trigger Event will cease to continue. For the avoidance of doubt, (i) the full amount of the Tier 2 Loan will be Written-off in full in the event that the amount Written-off is not sufficient for the Non-viability Trigger Event to cease to continue; and (ii) in the case of an event falling within paragraph (ii) of the definition of Non-viability Trigger Event, the Write-off will be effected in full before any public sector injection of capital or equivalent support;

“Relevant Hong Kong Resolution Authority” means any authority with the ability to exercise a Hong Kong Resolution Authority Power in relation to the Borrower from time to time;

“Repayment Date” means 13 December 2032;

“Resolution Ordinance” means the Financial Institutions (Resolution) Ordinance (Chapter 628 of the Laws of Hong Kong) as amended, supplemented or replaced from time to time;

“Subordinated Capital Instrument” means any Junior Obligation or Parity Obligation which contain provisions relating to a write-down or conversion into ordinary shares in respect of its outstanding principal amount on the occurrence, or as a result, of a Non-viability Trigger Event and in respect of which the conditions (if any) to the operation of such provisions are (or with the giving of any certificate or notice which is capable of being given by the Borrower, would be) satisfied;

“Subordinated Creditors” means all creditors the indebtedness of which is subordinated, in the event of the Winding-up of the Borrower, in right of payment to, and of all claims of, the depositors and other unsubordinated creditors of the Borrower other than those whose claims rank or are expressed to rank by operation of law or contract *pari passu* with, or junior to, the claims of the Lender in respect of the Tier 2 Loan. For this purpose indebtedness shall include all liabilities, whether actual or contingent;

“Tier 1 capital” shall have the meaning ascribed to it in the Capital Rules;

“Tier 2 capital” shall have the meaning ascribed to it in the Capital Rules;

“Tier 2 Loan” means the US\$300 million subordinated term loan granted by the Lender to the Borrower as specified in Clause 2, or the principal amount outstanding for the time being under this loan;

“Winding-up” means a final and effective order or resolution for the winding-up, bankruptcy, insolvency, liquidation or similar proceedings in respect of the Borrower; and

“Write-off Effective Date” means the date that will be specified as such in the applicable Non-viability Trigger Event Notice as directed or approved by the Monetary Authority.

- (ii) **Headings:** Clause headings in this Agreement are inserted for ease of reference only and shall not affect the construction of this Agreement.

2. Tier 2 Loan and Purpose

- (i) On the terms and subject to the conditions of this Agreement, the Lender hereby agrees to lend to the Borrower, and the Borrower agrees to borrow from the Lender US\$300 million, such loan to be made on the Date of Disbursement.
- (ii) The Tier 2 Loan is intended to qualify as Tier 2 capital of the Borrower under the Capital Rules.

3. Subordination of the Tier 2 Loan

- (i) The Tier 2 Loan, together with interest accrued thereon, constitutes direct, unsecured and subordinated obligations of the Borrower.

- (ii) Subject to the insolvency laws of Hong Kong and other applicable laws, the claims of the Lender against the Borrower in respect of the Tier 2 Loan and any interest accrued but unpaid thereon will be:
- (a) subordinated in right of payment to the claims of all unsubordinated creditors of the Borrower (including depositors) and all other Subordinated Creditors of the Borrower whose claims are expressed to rank, by its terms or by operation of law, senior to the Tier 2 Loan (or any interest accrued but unpaid thereon);
 - (b) senior to the claims of holders of instruments eligible for inclusion in Tier 1 capital of the Borrower (on an unconsolidated basis) or that ranks or is expressed to rank, by its terms or by operation of law, junior to the Tier 2 Loan (or any interest accrued but unpaid thereon) (the “**Junior Obligations**”); and
 - (c) *pari passu* with the claims of holders of instruments eligible for inclusion in Tier 2 capital of the Borrower (on an unconsolidated basis) or that ranks or is expressed to rank, by its terms or operation of law, *pari passu* with the Tier 2 Loan (or any interest accrued but unpaid thereon) (the “**Parity Obligations**”).
- (iii) In the event that a Non-viability Trigger Event occurs, the claims of the Lender against the Borrower in respect of the Tier 2 Loan and any interest accrued but unpaid thereon shall be subject to Clause 11.

4. Interest on the Tier 2 Loan

- (i) Subject to Clause 3, interest on the Tier 2 Loan will be payable in arrear by no later than 5.00 p.m. (Hong Kong time) on each Interest Payment Date in such manner as the Lender may from time to time direct. If any Interest Payment Date would otherwise fall on a day which is not a Business Day, it shall be postponed until the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Business Day.
- (ii) The rate of interest in respect of the outstanding principal amount of the Tier 2 Loan from time to time (the “**Rate of Interest**”) will be calculated by the Lender. On the date that is five U.S. Government Securities Business Days preceding the last day of each Interest Period (the “**Interest Calculation Date**”), the Lender will determine the Rate of Interest and calculate the amount of interest payable for the relevant Interest Period. The Rate of Interest for such Interest Period shall be the Benchmark Rate plus the Margin.

The Benchmark Rate for each Interest Period shall be equal to the value of the compounded average daily Secured Overnight Financing Rates (“**SOFR**”) rates for each day during the relevant Interest Period as calculated by the Lender on the relevant Interest Calculation Date as follows:

$$\left(\frac{SOFR\ Index_{End}}{SOFR\ Index_{Start}} - 1 \right) \times \left(\frac{360}{d_c} \right)$$

and the resulting percentage being rounded if necessary to the fifth decimal place, with 0.000005% being rounded upwards, where:

“**d_c**” means the number of calendar days from (and including) the SOFR Index_{Start} to (but excluding) the SOFR Index_{End};

“**SOFR Administrator**” means the Federal Reserve Bank of New York (or a successor administrator of SOFR);

“**SOFR Administrator’s Website**” means the website of the Federal Reserve Bank of New York, or any successor source;

“**SOFR Index**” means, in relation to any U.S. Government Securities Business Day, the SOFR Index as published by the SOFR Administrator on the SOFR Administrator’s Website at the SOFR Index Determination Time on such U.S. Government Securities Business Day, *provided that* if the SOFR Index does not so appear at the SOFR Index Determination Time, then the provisions set forth in Clause 4(iv) shall apply;

“**SOFR Index_{End}**” means the SOFR Index value on the date that is five U.S. Government Securities Business Days preceding the last day of each Interest Period relating to such Interest Period;

“**SOFR Index_{Start}**” means the SOFR Index value on the date that is five U.S. Government Securities Business Days preceding the first date of the relevant Interest Period;

“**SOFR Index Determination Time**” means, in relation to any U.S. Government Securities Business Day, approximately 3:00 p.m. (New York City time) on such U.S. Government Securities Business Day; and

“**U.S. Government Securities Business Day**” means any day except for a Saturday, Sunday or a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities.

(iii) Interest shall accrue on the Tier 2 Loan in respect of all Interest Periods on the basis of a day-count fraction equal to the actual number of days elapsed in the relevant Interest Period divided by 360.

(iv)

(a) **Benchmark Replacement:** If the Lender or its designee determines on or prior to the relevant Reference Time that a Benchmark Event and its related Benchmark Replacement Date have occurred with respect to the then-current Benchmark, the Benchmark Replacement will replace the then-current Benchmark for all purposes relating to the Tier 2 Loan in respect of all determinations on such date and for all determinations on all subsequent dates.

(b) **Decisions and Determinations:** Any determination, decision or election that may be made by the Lender or its designee pursuant to this Clause 4(iv), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection will be conclusive and binding absent manifest error, will be made in the sole discretion of the Lender or its designee, as

applicable and notwithstanding anything to the contrary in this Agreement, shall become effective without consent from the Borrower or any other party.

(c) **Definitions:** As used in this Clause 4(iv):

“Benchmark” means, initially, the Benchmark Rate determined in accordance with Clause 4(ii); *provided that* if the Lender or its designee determines on or prior to the Reference Time that a Benchmark Event and its related Benchmark Replacement Date have occurred with respect to the Benchmark Rate determined in accordance with Clause 4(ii) or the then-current Benchmark, then **“Benchmark”** means the applicable Benchmark Replacement;

“Benchmark Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark (including any daily published component used in the calculation thereof):

- (i) a public statement or publication of information by or on behalf of the administrator of the Benchmark (or such component) announcing that such administrator has ceased or will cease to provide the Benchmark (or such component), permanently or indefinitely, *provided that*, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark (or such component); or
- (ii) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark (or such component), the central bank for the currency of the Benchmark (or such component), an insolvency official with jurisdiction over the administrator for the Benchmark (or such component), a resolution authority with jurisdiction over the administrator for the Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for the Benchmark, which states that the administrator of the Benchmark (or such component) has ceased or will cease to provide the Benchmark (or such component) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Benchmark (or such component); or
- (iii) a public statement or publication of information by the regulatory supervisor for the administrator of the Benchmark announcing that the Benchmark is no longer representative;

“Benchmark Replacement” means the sum of:

- (i) the ISDA Fallback Rate; and
- (ii) the ISDA Fallback Adjustment;

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark (including any daily published component used in the calculation thereof):

- (i) in the case of sub-clauses (i) or (ii) of the definition of “Benchmark Event”, the later of:

- (x) the date of the public statement or publication of information referenced therein; and
 - (y) the date on which the administrator of the Benchmark permanently or indefinitely ceases to provide the Benchmark (or such component);
or
- (ii) in the case of sub-clause (iii) of the definition of “Benchmark Event”, the date of the public statement or publication of information referenced therein.

For the avoidance of doubt, if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination;

“**designee**” means a designee as selected and separately appointed by the Lender in writing;

“**ISDA Definitions**” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time;

“**ISDA Fallback Adjustment**” means the spread adjustment (which may be a positive or negative value or zero) that would apply for derivatives transactions referencing the ISDA Definitions to be determined upon the occurrence of an index cessation event with respect to the Benchmark for the applicable tenor;

“**ISDA Fallback Rate**” means the rate that would apply for derivatives transactions referencing the ISDA Definitions to be effective upon the occurrence of an index cessation date with respect to the Benchmark (including any daily published component used in the calculation thereof) for the applicable tenor excluding the applicable ISDA Fallback Adjustment; and

“**Reference Time**” with respect to any determination of the Benchmark means:

- (i) if the Benchmark is the Benchmark Rate determined in accordance with Clause 4(ii), the SOFR Index Determination Time; or
- (ii) if the Benchmark is not the Benchmark Rate determined in accordance with Clause 4(ii), the time determined by the Lender or its designee.

5. Payments

All payments to be made pursuant to this Agreement shall be made to such bank account as may be agreed between the Borrower and the Lender from time to time. If any date for payment made pursuant to this Agreement is not a Business Day, the Lender shall not be entitled to payment until the next following Business Day nor to any interest or other sum in respect of such postponed payment.

6. Taxes

All sums payable by the Borrower under this Agreement shall be paid:

- (a) free of any restriction or condition;
- (b) free and clear of and without any deduction or withholding on account of any tax; and
- (c) without deduction or withholding on account of any other amount, whether by way of set-off or otherwise except as required by law and the Borrower agrees with the Lender as a separate and independent obligation to pay to such account of the Lender any such sum.

In the event that any such withholding or deduction is so required, the Borrower will pay such additional amounts as will result in receipt by the Lender of such amounts as would have been received by the Lender had no such withholding or deduction been required.

7. Repayment of the Tier 2 Loan

- (i) Subject to Clause 3, the Borrower shall repay the Tier 2 Loan by no later than 5.00 p.m. (Hong Kong time) on the Repayment Date. The Tier 2 Loan may not be repaid at the option of the Borrower other than in accordance with this Agreement.
- (ii) The Lender may not demand the Borrower to repay the Tier 2 Loan before the Repayment Date.

8. Prepayment at Borrower's Option

- (i) Subject to the provisions of Clause 8(ii), the Borrower may, by giving not less than five Business Days' notice to the Lender at any time in accordance with Clause 21, elect to prepay the Tier 2 Loan in whole but not in part.
- (ii) Any prepayment of the Tier 2 Loan in accordance with this Clause 8 is subject to:
 - (a) no prepayment occurring prior to the date falling five years from the Date of Disbursement; and
 - (b) the Borrower obtaining the prior approval of the Monetary Authority (the "Prepayment Condition").

9. Prepayment for Tax Reasons

Subject to the satisfaction of the Prepayment Condition, the Borrower may, by giving not less than five Business Days' notice to the Lender, in accordance with Clause 21, elect to prepay the Tier 2 Loan in whole but not in part if:

- (i) on the occasion of the next payment of interest on the Tier 2 Loan, the Borrower:
 - (a) has or will become obliged to pay additional amounts as provided to or referred to in Clause 6; or
 - (b) is no longer, or will no longer be, entitled to claim a deduction in respect of computing its taxation liabilities, as a result of any change in, or amendment to, the laws or regulations of Hong Kong or any political subdivision or any authority thereof or therein having power to tax or any change in the application or official interpretation of such laws or regulations; and

- (ii) such obligations cannot be avoided by the Borrower taking reasonable measures available to it.

10. Prepayment for Regulatory Reasons

Subject to the satisfaction of the Prepayment Condition, the Borrower may, by giving not less than five Business Days' notice to the Lender, in accordance with Clause 21, elect to prepay the Tier 2 Loan in whole but not in part if the Borrower satisfies the Lender that for the purposes of the Capital Rules, the Tier 2 Loan will no longer:

- (i) qualify, in whole, as Tier 2 capital (or equivalent) of the Borrower; or
- (ii) be included, in whole, in the calculation of the Borrower's capital adequacy ratio, for the purposes of the Capital Rules,

in each case, excluding any non-qualification solely as a result of any discounting for capital adequacy purposes pursuant to the Capital Rules as a result of the Tier 2 Loan having, at the relevant time, less than five years to the Repayment Date.

11. Loss Absorption for the Tier 2 Loan upon Occurrence of Non-viability Trigger Event

Notwithstanding any other Clause of this Agreement:

- (i) If a Non-viability Trigger Event occurs and is continuing, the Borrower shall, upon or prior to the delivery of a Non-viability Trigger Event Notice to the Lender, irrevocably and without the need for the Lender's consent, reduce the principal amount and cancel any accrued but unpaid interest of the Tier 2 Loan by an amount equal to the Non-viability Trigger Event Write-off Amount (such reduction and cancellation, being referred herein as a "**Write-off**", and "**Written-off**" shall be construed accordingly). Once the Tier 2 Loan and any accrued but unpaid interest thereon has been Written-off, the Non-viability Trigger Event Write-off Amount will not be restored in any circumstances, including where the relevant Non-viability Trigger Event ceases to exist. The Lender may not exercise, claim or plead any right to any Non-viability Trigger Event Write-off Amount.
- (ii) The Borrower shall procure that any Write-off of the Tier 2 Loan and any accrued but unpaid interest thereon shall be conducted:
 - (a) only to the extent that the conversion or write-off of all instruments or loans that are Additional Tier 1 capital of the Borrower, where such instruments or loans are capable of being converted or written-off under any applicable laws and/or their terms of issue analogous to the terms set out in this Agreement, would not be sufficient for the Non-viability Trigger Event to cease to continue; and
 - (b) on a *pro rata* basis with all other instruments or loans that constitute Tier 2 capital of the Borrower, to the extent that such instruments or loans are capable of being converted or written-off under any applicable laws and/or their terms of issue analogous to the terms set out in this Agreement.
- (iii) Upon any partial Write-off of the Tier 2 Loan pursuant to this Clause 11, any reference in this Agreement to the Tier 2 Loan shall thereafter be construed as a

reference to the principal amount of the Tier 2 Loan as reduced by any applicable Non-viability Trigger Event Write-off Amount.

- (iv) Any Write-off of the Tier 2 Loan and any accrued but unpaid interest thereon that is duly effected pursuant to a Non-viability Trigger Event does not constitute an Event of Default under Clause 13 and does not entitle the Lender to petition for the Winding-up of the Borrower.

12. Hong Kong Resolution Authority Power

- (i) Notwithstanding any other provision of this Agreement, including without limitation Clause 11, or any other agreement or arrangement, the Lender shall be subject to and be bound by, and acknowledges and agrees that the Tier 2 Loan is subject to being written off, cancelled, converted or modified, or to having the form changed, in the exercise of any Hong Kong Resolution Authority Power by the Relevant Hong Kong Resolution Authority without prior notice and which may include (without limitation) and result in any of the following or some combination thereof:
 - (a) the reduction or cancellation of all or a part of the principal amount of the Tier 2 Loan or any accrued but unpaid interest thereon;
 - (b) the conversion of all or a part of the principal amount of the Tier 2 Loan or any accrued but unpaid interest thereon into shares or other securities or other obligations of the Borrower or another person (and the issue to or conferral on the Lender of such shares, securities or obligations), including by means of an amendment, modification or variation of the terms of this Agreement; and
 - (c) the amendment or alteration of the maturity of the Tier 2 Loan or amendment or alteration of the amount of interest payable on the Tier 2 Loan, or the date on which the interest become payable, including by suspending payment for a temporary period, or any other amendment or alteration of this Agreement.

With respect to (a), (b) and (c) above, references to principal and interest shall include payments of principal and interest that have become due and payable, but which have not been paid, prior to the exercise of any Hong Kong Resolution Authority Power. The rights of the Lender under this Agreement are subject to, and will be amended and varied, if necessary, solely to give effect to, the exercise of any Hong Kong Resolution Authority Power by the Relevant Hong Kong Resolution Authority.

No repayment of the principal amount of the Tier 2 Loan or any accrued but unpaid interest thereon shall become due and payable or be paid after the exercise of any Hong Kong Resolution Authority Power by the Relevant Hong Kong Resolution Authority unless, at the time that such repayment or payment, respectively, is scheduled to become due, such repayment or payment would be permitted to be made by the Borrower under the laws and regulations applicable to the Borrower.

Upon the exercise of any Hong Kong Resolution Authority Power by the Relevant Hong Kong Resolution Authority with respect to the Tier 2 Loan, the Borrower shall provide a written notice not more than two Hong Kong Business Days after the occurrence of such exercise of the Hong Kong Resolution Authority Power to the Lender in accordance with Clause 21.

Neither the reduction or cancellation, in part or in full, of the principal amount of the Tier 2 Loan or any accrued but unpaid interest thereon, the conversion thereof into another security or obligation of the Borrower or another person, or any other amendment or alteration of this Agreement or any other modification or change in form of the Tier 2 Loan as a result of the exercise of any Hong Kong Resolution Authority Power by the Relevant Hong Kong Resolution Authority with respect to the Borrower nor the exercise of the Hong Kong Resolution Authority Power by the Relevant Hong Kong Resolution Authority with respect to the Tier 2 Loan shall constitute an Event of Default under Clause 13.

13. Event of Default

- (i) Subject to Clauses 11 and 12, if default is made:
 - (a) for a period of seven days or more in the repayment of any of the principal amount of the Tier 2 Loan; or
 - (b) for a period of 14 days or more in the payment of any of the interest due in respect of the Tier 2 Loan,

the Lender may institute proceedings for the Winding-up of the Borrower.

- (ii) In the event of an order being made or an effective resolution being passed for the Winding-up of the Borrower, the Tier 2 Loan and any accrued but unpaid interest thereon shall, subject to the provisions of Clause 3, forthwith become repayable.
- (iii) Except as provided for in this Clause 13, the Lender shall have no right to enforce payment under or accelerate payment of the Tier 2 Loan in the case of a default in payment on the Tier 2 Loan or a default in the performance of any other covenant of the Borrower in this Agreement.

14. Set-off Right of the Lender

Subject to applicable law, the Lender may not exercise, claim or plead any right of set-off, counterclaim or retention in respect of any amount owed to it by the Borrower arising under or in connection with the Tier 2 Loan. The Lender waives all such rights of set-off, counterclaim or retention to the fullest extent permitted by law. If, at any time, the Lender receives payment or benefit of any sum in respect of the Tier 2 Loan (including any benefit received pursuant to any such set-off, counter-claim or retention) other than in accordance with Clause 13, the payment of such sum or receipt of such benefit shall, to the fullest extent permitted by law, be deemed void for all purposes and the Lender agrees as a separate and independent obligation that any such sum or benefit so received shall forthwith be paid or returned in full to the Borrower upon demand by the Borrower or, in the event of the Winding-up of the Borrower, the liquidator of the Borrower. Any sum so paid or returned shall then be treated for purposes of the Borrower's obligations as if it had not been paid by the Borrower, and its original payment shall be deemed not to have discharged any of the obligations of the Borrower under the Tier 2 Loan.

15. Third Parties

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong) to enforce any term of this Agreement.

16. Compliance with Laws

The Borrower shall from time to time comply with all of the requirements provided under the prevailing laws and regulations in Hong Kong in relation to the entry and implementation of this Agreement.

17. Partial Invalidity

The illegality, invalidity or unenforceability of any provision of this Agreement under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

18. Counterparts

This Agreement may be executed by the parties in any number of counterparts, each of which is an original but all of which together constitute one and the same instrument. Any party may enter into this Agreement by executing any such counterpart.

19. Entire Agreement

The Borrower and the Lender acknowledge that this Agreement forms the entire agreement relating to the Tier 2 Loan.

20. Assignment and Transfer

Neither the Borrower nor the Lender may assign or transfer any of its rights or obligations under this Agreement.

21. Notices

All notices, demands or communications shall be in writing delivered by hand or by electronic communication as follows:

To the Lender:

DBS Group Holdings Ltd
12 Marina Boulevard
Level 11, Marina Bay Financial Centre Tower 3
Singapore 018982

Attention: Edwin Tan / Joan Tan
Email: edwin_tan@dbs.com / joantan@dbs.com
Telephone: +65 6878 1782 / +65 6878 8153

To the Borrower:

DBS Bank (Hong Kong) Limited
11th, The Center
99 Queen's Road Central, Central, Hong Kong

Attention: Gautam Sharma
Email: gautamsharma@dbs.com
Telephone: +852 6127 6237

A notice, demand or communication shall be deemed received (if in writing) when delivered and (if by electronic communication) when the relevant receipt of such communication being read is given, or where no read receipt is requested by the sender, at the time of sending, provided that no delivery failure notification is received by the sender within 24 hours of sending such communication, in each case in the manner required by this Clause 21; provided that any communication that is received (or deemed to take effect in accordance with the foregoing) outside business hours or on a non-business day in the place of receipt shall be deemed to take effect at the opening of business on the following business day in such place.

22. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Hong Kong and the parties hereto irrevocably and unconditionally agree to submit to the non-exclusive jurisdiction of the courts of Hong Kong.