

Bank of Queensland Limited and Mackay Permanent Building Society Limited

Merger Implementation Deed Key Terms and Conditions

Bank of Queensland Limited ABN 32 009 656 740 ("**BOQ**") and Mackay Permanent Building Society Limited ABN 34 087 652 033 ("**MPBS**") have entered into a merger implementation deed dated 13 August 2007 (the "**Deed**") setting out the terms and conditions and each party's obligations in connection with the implementation of the scheme of arrangement between MPBS and its shareholders.

An outline of the key terms and conditions of the Deed is set out below. Relevant defined terms are set out at the end of this summary.

1. Conditions Precedent

The Scheme will not become Effective unless each of the following conditions precedent has been satisfied or waived before the Second Court Date (or if an earlier date is specified in relation to any condition precedent, that earlier date):

- (a) The Treasurer of the Commonwealth or his delegate has:
 - (i) granted approval under section 13 of the *Financial Sector (Shareholdings) Act 1998* to the acquisition by BOQ and its related entities of 100% of the shares in MPBS; and
 - (ii) given consent under section 63 of the *Banking Act 1959* (if required) to the Scheme.
- (b) The Independent Expert concludes that the Scheme is in the best interests of MPBS Shareholders.
- (c) In accordance with the requirements of the Corporations Act:
 - (i) the Scheme is approved by the MPBS Shareholders; and
 - (ii) the Scheme is approved by the Court.
- (d) No MPBS Material Adverse Change, BOQ Material Adverse Change, MPBS Prescribed Occurrence or BOQ Prescribed Occurrence occurs between the date of the Deed and 8.00 am on the Second Court Date.
- (e) All other Regulatory Approvals required to implement the Merger are granted or obtained, on terms reasonably acceptable to the parties and those Regulatory Approvals are not withdrawn, cancelled or revoked.
- (f) No regulatory authority takes or proposes to take any action, or refuses or fails to take any action, which has or may have the effect that the Scheme or any transaction contemplated by the Deed is illegal or otherwise prohibited or all or a material part of the business or assets of BOQ and its subsidiaries or of MPBS and its subsidiaries is required to be divested or all or a material part of the business or assets of BOQ and its subsidiaries or of MPBS and its subsidiaries is materially and adversely affected.
- (g) No temporary restraining order, preliminary or permanent injunction or other legal restraint or prohibition is in effect at 8.00 am on the Second Court Date which prevents the completion of any aspect of the Scheme.

- (h) BOQ and MPBS are each satisfied with the outcome of its Due Diligence Enquiries on or before the Due Diligence Date.

MPBS and BOQ must each use their best endeavours to satisfy the conditions precedent.

2. Exclusivity

During the Exclusivity Period, MPBS has agreed that neither it nor any of its employees, officers, advisers or agents will directly or indirectly solicit, initiate, invite, encourage or participate in any discussions, enquiries, negotiations, proposals or offers from any person concerning or in connection with or which may reasonably be expected to lead to a Third Party Proposal.

MPBS represents and warrants to BOQ that, as at the date of the Deed, MPBS has resolved to cease any negotiations or discussions which it has, before the date of the Deed, been holding in respect of any Third Party Proposal and will take all action necessary to terminate any such negotiations or discussions.

During the Exclusivity Period, MPBS must notify BOQ promptly if MPBS becomes aware of any Third Party Proposal or any approach, enquiry or proposal made to and any attempt or any intention on the part of any person to continue any negotiations or discussions with MPBS or any of its employees, officers, advisers or agents with respect to, or that could reasonably be expected to lead to, any Third Party Proposal, whether unsolicited or otherwise, any request for, or provision by MPBS of, information relating to MPBS or any breach of MPBS' exclusivity obligations.

Nothing in the Deed requires MPBS to perform any obligation which would, in the opinion of the MPBS Board, involve a breach of the fiduciary duties owed by any MPBS director provided that the opinion of the MPBS Board is formed in good faith after receiving written advice from external legal advisers, or to perform any obligation which would otherwise be unlawful.

3. Break Fee

MPBS has acknowledged that, if the Scheme is not implemented, BOQ will incur significant costs. In these circumstances, MPBS has agreed that it will pay the Break Fee to BOQ if any of the following circumstances occur during the Exclusivity Period:

- (a) Except where the Independent Expert concludes that the Merger is not in the best interests of shareholders or there is a BOQ Material Adverse Event or BOQ Prescribed Occurrence:
- (i) if any director of MPBS makes a public statement to the effect that he or she does not support or no longer supports the Merger or the Scheme;
 - (ii) if any director of MPBS fails to recommend the Merger or the Scheme or, having done so, publicly withdraws, revises, revokes or qualifies that recommendation;
 - (iii) if any director of MPBS recommends a Third Party Proposal;
- (b) if any director of MPBS does not exercise any votes attached to any MPBS Shares which he or she holds or controls in favour of the Scheme at the Scheme Meeting;

- (c) a Third Party Proposal is announced and as a result of that Third Party Proposal:
 - (i) a person other than BOQ acquires a relevant interest in more than 50% of the voting shares in MPBS; or
 - (ii) the Third Party Proposal is otherwise consummated;
- (d) if any person other than BOQ acquires a relevant interest in more than 15% of the issued shares of MPBS;
- (e) BOQ terminates the Deed as a result of MPBS being in material breach of the Deed or a MPBS Material Adverse Change or a MPBS Prescribed Occurrence occurring.

4. Consideration and Dividends – Adjustments

A number of adjustments may be made to amounts that MPBS Shareholders may receive under the Scheme:

- (a) if the ordinary dividend for the 2007 financial year is paid before the Implementation Date for the Scheme, the Special Dividend of \$1.00 will be reduced by the amount of the ordinary dividend so that total dividends paid do not exceed \$1.00;
- (b) if MPBS cannot lawfully pay all of the Special Dividend, then:
 - (i) the cash consideration per MPBS Share will be increased so that the sum of the cash consideration plus the Special Dividend (as adjusted) plus the ordinary dividend equal \$9.25; and
 - (ii) the scrip consideration per MPBS Share will be adjusted by reference to the then prevailing BOQ share price to give equivalent value for the reduction in Special Dividend.

5. Preference Shares

The Convertible Preference Shares convert to ordinary shares on 1 November 2007. It is likely that they will convert before the Scheme is implemented in which case these shareholders will participate in the Scheme in the same way as other ordinary shareholders. If the Record Date occurs before 1 November 2007, the Preference Shares will be dealt with in one of two ways and in the following order of preference:

- (a) the MPBS Board will consider whether it can exercise its discretion to amend the Preference Share terms such that the Preference Shares convert on a date that will cause the MPBS Shares issued on conversion of the Preference Shares to be recorded in the register of members of MPBS on or before the Record Date; or
- (b) if the Preference Shares have not converted to MPBS Shares in accordance with their terms before the Record Date, BOQ will, no later than 2 Business Days after the date on which the Preference Shares convert to MPBS Shares in accordance with their terms, offer to acquire each such MPBS Share for cash consideration of an amount equal to \$8.25 plus the Special Dividend (as adjusted) per share.

6. Termination

The Deed may be terminated:

- (a) at any time by either party if the Second Court Date does not occur on or before 28 February 2008 other than as a result of a breach by that party of its obligations under the Deed;
- (b) by either party if any Condition that exists for its benefit is not satisfied or there is an occurrence that will prevent any such Condition being satisfied by the date specified in the Deed for its satisfaction other than as a result of a breach by that party of its obligations under the Deed and such Condition is not waived in accordance with the Deed;
- (c) by either party if:
 - (i) at any time the other party is in material breach of the Deed and that breach is not remedied within seven Business Days (or such shorter period ending at 5:00 pm on the day before the Effective Date) of its receiving notice from the other party of the details of the breach and the other party's intention to terminate;
 - (ii) before 8.00 am on the Second Court Date there is a Material Adverse Change in relation to the other party; or
 - (iii) before 8.00 am on the Second Court Date there is a Prescribed Occurrence in relation to the other party without the prior consent of the party seeking to terminate,by immediate notice to the other party;
- (d) at any time before the Second Court Date, by BOQ if MPBS decides to pursue a Third Party Proposal; or
- (e) at any time before the Second Court Date, by BOQ if any member of the MPBS Board does any of the things set out in paragraphs 3(a) to (c) above (triggering a break fee) before or during the Scheme Meeting.

7. Relevant Definitions

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691.

BOQ Capitalised Software Event means an arrangement, transaction, restructure or other solution relating to the treatment of capitalised software costs in the consolidated balance sheet of BOQ.

BOQ Material Adverse Change means a change occurring, becoming known, being announced or otherwise becoming public, in the business, financial or trading position or profitability or prospects of BOQ and its subsidiaries, which change has a negative impact of 10% or more on BOQ's net assets as at the end of the current financial year or a future financial year, but does not in any case include:

- (a) a change to BOQ's net assets or forecast financial results for a particular financial year arising from ordinary course of business events or a BOQ Capitalised Software Event;

- (b) any change in rates of corporate taxation, interest rates, general economic conditions or other matters beyond the reasonable control of BOQ which impact on both parties in a similar manner;
- (c) any event, occurrence or matter which is required to be done or procured by BOQ pursuant to the Deed or which is contemplated by the Scheme; or
- (d) an actual event, occurrence or matter which is known to the other party before the date of the Deed (which does not include knowledge of the risk of an event, occurrence or matter happening).

BOQ Options means options to acquire BOQ Shares by way of issue.

BOQ Prescribed Occurrence means the occurrence of any of the following:

- (e) BOQ converting all or any of its shares into a larger or smaller number of shares;
- (f) BOQ resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (g) BOQ:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (h) BOQ returning or agreeing to return any capital to its shareholders;
- (i) BOQ or a subsidiary of BOQ issuing or agreeing to issue shares other than pursuant to the exercise of a BOQ Option or, in the case of a subsidiary, an issue to BOQ;
- (j) BOQ or a subsidiary of BOQ issuing or agreeing to issue securities or other instruments convertible into shares other than in the case of a subsidiary making an issue to BOQ;
- (k) BOQ or a subsidiary of BOQ ceasing to hold any licence which is required for or material to the operation of its business ("**BOQ Material Licence**") or a Governmental Agency notifying BOQ or a subsidiary of BOQ that a BOQ Material Licence will be revoked and such notification is not withdrawn before 5.00pm on the day before the Second Court Date or there is any legislative change or change to the conditions attaching to a BOQ Material Licence which could reasonably be expected to have a materially adverse effect on the business of BOQ and its subsidiaries taken as a whole;
- (l) BOQ making any change to its constitution which may have an adverse effect on BOQ performing its obligations under the Deed;
- (m) BOQ disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;
- (n) an Insolvency Event occurring in relation to BOQ or a significant subsidiary of BOQ,

provided that a BOQ Prescribed Occurrence does not include:

- (o) an issue of BOQ Shares in accordance with the terms of the Scheme;
- (p) an issue of securities by BOQ in relation to a BOQ Securities Issue;
- (q) an issue of BOQ Shares to employees of BOQ in accordance with BOQ's Employee Share Plan;
- (r) an issue of BOQ Shares to shareholders of BOQ under BOQ's Dividend Reinvestment Plan;
- (s) an issue of BOQ Options to employees of BOQ in accordance with BOQ's Senior Management Option Plan;
- (t) the payment of dividends (including any special dividend) to BOQ's shareholders;
- (u) BOQ entering into a transaction in the ordinary course of its business or involving the acquisition, or disposal of, or combination of BOQ with, a company, business or portfolio of assets;
- (v) a BOQ Capitalised Software Event;
- (w) any matter required to be done or procured by BOQ pursuant to the Deed or which is contemplated by the Scheme; or
- (x) any other matter the undertaking of which MPBS has approved in writing.

BOQ Securities Issue means an issue of securities by BOQ which is not a BOQ Material Adverse Change and which:

- (y) may be made without shareholder approval under the Listing Rules; or
- (z) is made with approval of shareholders in accordance with the Listing Rules.

BOQ Share means a fully paid ordinary share in the capital of BOQ.

Break Fee means an amount equal to 1% of the equity value of MPBS at the amount of \$9.25 per share.

Business Contract means all agreements, leases, contracts and arrangements to which MPBS or any subsidiary of MPBS is a party.

Business Day means a weekday on which trading banks are open for business in Brisbane.

Court means a court of competent jurisdiction under the Corporations Act.

Due Diligence Date means the date which is 21 days after the date of the Deed.

Due Diligence Enquiries means the mutual due diligence enquiries to be undertaken by the parties under the Deed.

Effective means, when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to that Scheme, but in any event not before an office copy of the order of the Court is lodged with ASIC.

Effective Date means the date on which the Scheme becomes Effective.

Exclusivity Period means the period from the date of the Deed until the earlier of the date that the Deed is terminated in accordance with its terms or 28 February 2008.

Governmental Agency means any Australian government or governmental, semi-governmental, administrative, fiscal, judicial or quasi judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state.

Implementation Date means the third Business Day after the Record Date.

Independent Expert means such person as MPBS determines will be responsible for preparing the Independent Expert's Report.

Independent Expert's Report means the report to be prepared by the Independent Expert expressing an opinion, for inclusion in the Scheme Booklet, on whether the Scheme is in the best interests of MPBS Shareholders.

Insolvency Event means in relation to a person:

- (a) **insolvency official:** the appointment of a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official to the person or to the whole or a substantial part of the property or assets of the person;
- (b) **arrangements:** the entry by the person into a compromise or arrangement with its creditors generally;
- (c) **winding up:** the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or dissolution of the person other than where the application or order (as the case may be) is set aside within 14 days;
- (d) **suspends payment:** the person suspends or threatens to suspend payment of its debts generally;
- (e) **ceasing business:** the person ceases or threatens to cease to carry on business; or
- (f) **insolvency:** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act.

Key Personnel Contract means a contract of employment between MPBS or any subsidiary of MPBS and the Chief Executive Officer, the General Manager Operations, the Chief Financial Officer or a MPBS Direct Report.

Lease means a lease or licence held by MPBS or any subsidiary of MPBS of real property.

Listing Rules means the listing rules of ASX subject to any applicable waiver in respect of a party in force from time to time.

Material Adverse Change means a MPBS Material Adverse Change or a BOQ Material Adverse Change.

Merger means the merger of MPBS with BOQ through the implementation of the Scheme in accordance with the terms of the Deed, such that MPBS becomes a wholly owned subsidiary of BOQ.

MPBS Board means the board of directors of MPBS as constituted from time to time.

MPBS Direct Reports means those employees of MPBS or its subsidiaries who, as at the date of the Deed, report directly to the Chief Executive Officer, the General Manager Operations or the Chief Financial Officer of MPBS.

MPBS Material Adverse Change means a change occurring, becoming known, being announced or otherwise becoming public, in the business, financial or trading position or profitability or prospects of MPBS and its subsidiaries, which change:

- (g) has a negative impact of 10% or more on MPBS's net assets as at the end of the current financial year or a future financial year; or
- (h) causes the VWAP of MPBS's shares on the ASX over a three consecutive Business Day period to fall to less than 85% of the price at which those shares were trading on ASX at the close of trading on 23 July 2007,

but does not in any case include:

- (i) a change to MPBS's forecast financial results for a particular financial year arising from the ordinary course of business events;
- (j) any change in rates of corporate taxation, interest rates, general economic conditions or other matters beyond the reasonable control of MPBS which impact on both parties in a similar manner;
- (k) any event, occurrence or matter which is required to be done or procured by MPBS pursuant to the Deed or which is contemplated by the Scheme; or
- (l) an actual event, occurrence or matter which is known to the other party before the date of the Deed (which does not include knowledge of the risk of an event, occurrence or matter happening).

MPBS Prescribed Occurrence means the occurrence of any of the following:

- (a) MPBS converting all or any of its shares into a larger or smaller number of shares;
- (b) MPBS or a subsidiary of MPBS resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) MPBS or a subsidiary of MPBS:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) MPBS declaring, paying or distributing any dividend (other than as permitted under the Deed), bonus or other share of its profits or assets or returning or agreeing to return any capital to its shareholders;
- (e) MPBS or a subsidiary of MPBS issuing or agreeing to issue shares;

- (f) MPBS or a subsidiary of MPBS issuing or agreeing to issue securities or other instruments convertible into shares or debt securities;
- (g) MPBS or a subsidiary of MPBS ceasing to hold any licence which is required for or material to the operation of its business ("**MPBS Material Licence**") or a Governmental Agency notifying MPBS or a subsidiary of MPBS that a MPBS Material Licence will be revoked and such notification is not withdrawn before 5.00pm on the day before the Second Court Date or there is any legislative change or change to the conditions attaching to a MPBS Material Licence which could reasonably be expected to have a materially adverse effect on the business of MPBS and its subsidiaries taken as a whole;
- (h) MPBS or a subsidiary of MPBS making any change to its constitution;
- (i) MPBS or a subsidiary of MPBS disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;
- (j) MPBS or a subsidiary of MPBS:
 - (i) acquiring or disposing of;
 - (ii) agreeing to acquire or dispose of; or
 - (iii) offering, proposing, announcing a bid or tendering for,

any securities, business, assets, interests in a joint venture, entity or undertaking, the consideration for which exceeds \$500,000 or involves ongoing annual expenditure of greater than \$100,000, other than where such actions are in the ordinary course of MPBS's treasury operations and consistent with past practices;
- (k) MPBS or a subsidiary of MPBS undertaking capital expenditure which in aggregate exceeds \$100,000 other than capital expenditure in the ordinary course of:
 - (i) maintaining the existing assets of the business; or
 - (ii) relating to a business activity which has been publicly announced by MPBS,
 - (iii) as at the date of the Deed;
- (l) MPBS or a subsidiary of MPBS creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over the whole or any part of its business or property where such business or property is valued in excess of \$100,000;
- (m) MPBS or a subsidiary of MPBS entering into new borrowing arrangements or increasing existing borrowing arrangements which have the effect of increasing MPBS Group's total borrowing by more than \$500,000, other than borrowing by MPBS in conducting its banking business in the ordinary course and consistent with past practice;
- (n) MPBS or a subsidiary of MPBS defaulting under any of its borrowing arrangements which has, or is reasonably likely to have either itself or with the taking of further action by any person, the effect of causing an Insolvency Event in relation to MPBS or a subsidiary of MPBS;

- (o) MPBS or a subsidiary of MPBS entering into, renewing or altering any Business Contract, Lease, Key Personnel Contract or other commitment without complying with clauses 6.2 or 6.4 or which requires payments by or to MPBS or a subsidiary in excess of \$100,000;
- (p) an Insolvency Event occurring in relation to MPBS or a significant subsidiary of MPBS;
- (q) MPBS or a subsidiary of MPBS entering into or materially amending any employment, consulting, severance or similar agreement or arrangement with a director of MPBS or the Chief Executive Officer, General Manager Operations or Chief Financial Officer of MPBS or the MPBS Direct Reports or otherwise materially increasing compensation or benefits for any of the above other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of the Deed which have been disclosed to BOQ before the date of the Deed;
- (r) MPBS or a subsidiary of MPBS entering into any material changes in arrangements with employees (including Key Personnel Contracts and employment policies) other than pursuant to contractual arrangements in effect on the date of the Deed and disclosed to BOQ;
- (s) MPBS or a subsidiary of MPBS changing any accounting policy applied by them to report their financial position where the application of such policy change would result in a material restatement of the financial position or performance of MPBS; and
- (t) MPBS or a subsidiary of MPBS failing to comply with any of MPBS's obligations under provisions requiring MPBS to continue its business in the ordinary course and to consult with BOQ about certain business decisions,

provided that a MPBS Prescribed Occurrence does not include:

- (u) the following arrangements with employees:
 - (i) engaging branch staff for the planned branches in Cairns (which have been disclosed to BOQ before the date of the Deed) on terms and conditions usual for MPBS in the ordinary course of business and consistent with past practice;
 - (ii) engaging replacements for employees who cease employment with MPBS, on terms and conditions usual for MPBS in the ordinary course of business and consistent with past practice;
 - (iii) making variations to terms and conditions for employees as a result of the variation of an applicable award, consistent with past practice or as otherwise required by law;
- (v) any matter required to be done or procured by MPBS pursuant to the Deed or which is contemplated by the Scheme;
- (w) the payment of a Final Dividend;
- (x) the issue of MPBS Shares on conversion of a Preference Share or the payment of the dividend in respect of Preference Shares for the period up to their conversion; or
- (y) any matter the undertaking of which BOQ has approved in writing.

MPBS Share means a fully paid ordinary share in the capital of MPBS.

MPBS Shareholder means a person who is registered in the register of members of MPBS as the holder of a MPBS Share as at the Record Date.

Prescribed Occurrence means a MPBS Prescribed Occurrence or a BOQ Prescribed Occurrence.

Record Date means 5.00 pm on the fifth Business Day after the Effective Date.

Regulatory Approval means:

- (z) any consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, approval, direction, declaration, authority, ruling or exemption from, by or with a Regulatory Authority;
- (aa) in relation to anything which would be fully or partly prohibited or restricted by law if a Regulatory Authority intervened or acted in a way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action,

as may be necessary to implement the Merger.

Regulatory Authority means a Government Agency including a self-regulatory organisation established under statute or a stock exchange, ASIC, APRA, ASX, the Australian Competition and Consumer Commission, the Foreign Investment Review Board and the Australian Taxation Office.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between MPBS and the MPBS Shareholders as described in the Deed, subject to:

- (a) any alterations or conditions approved in writing by each party before the Scheme Meeting; and
- (b) any amendment or modification made pursuant to section 411(6) of the Corporations Act and which do not effect a change to the financial consequences of the Scheme.

Scheme Meeting means the meeting of MPBS Shareholders convened by the Court under section 411(1) of the Corporations Act in relation to the implementation of the Scheme.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard.

Special Dividend means the amount of \$1.00 per MPBS Share, subject to variation under the terms of the Deed.

Third Party Proposal means any expression of interest, offer or proposal by any person other than BOQ, to:

- (a) acquire (whether directly or indirectly) or become the holder (whether by share purchase, issue of shares, options or convertible notes, scheme, capital reconstruction, purchase of assets, takeover offer or otherwise) of, or otherwise acquire or have an economic interest in all or a substantial part

of the business of MPBS or any of its subsidiaries;

- (b) acquire voting power of more than 15% in MPBS;
- (c) acquire control (as determined in accordance with section 50AA of the Corporations Act) of MPBS or any of its subsidiaries;
- (d) otherwise acquire or merge with MPBS (whether by way of joint venture, dual listed company structure or otherwise); or
- (e) enter into any agreement, arrangement or understanding requiring it to abandon, or otherwise fail to proceed with, the Merger.

VWAP means the average of the daily volume weighted average sale prices rounded to the nearest full cent for shares sold on ASX for a specified period.