

## Principal Terms and Conditions of the NCPCS

The principal terms and conditions of each tranche of the NCPCS are set out below.

### 1. BACKGROUND INFORMATION

#### (a) Issuer

- (i) Name : AmBank.
- (ii) Address : 22<sup>nd</sup> Floor, Bangunan AmBank Group  
55, Jalan Raja Chulan  
50200 Kuala Lumpur.
- (iii) Business Registration No : 8515-D.
- (iv) Date/Place of Incorporation : 25 March 1969, Malaysia.
- (v) Date of Listing : Not listed on any exchange.
- (vi) Status
  - Resident/Non-Resident controlled company : Resident controlled company. Although foreign shareholders may hold more than 50% equity in AHB, AmBank is deemed resident controlled company by virtue of AmBank's Board of Directors and management composition. This shareholding structure is a reflection of AHB's shareholding being a listed company.
  - Bumiputera/Non-Bumiputera controlled company : Non-Bumiputera controlled company.
- (vii) Principal activities : AmBank and its subsidiary companies ("**AmBank Group**") provide banking and financial services which include loans, advances and financing, deposit services, credit cards, remittance services, foreign exchange and (through its wholly-owned subsidiary, AmIslamic Bank Berhad) Islamic banking services.

- (viii) Board of Directors : (1) Tan Sri Dato' Azman Hashim ("**TSDAH**")  
*(Chairman, Non-Independent Non-Executive Director)*
- (2) Tun Mohammed Hanif Omar *(Independent Non-Executive Director)*
- (3) Tan Sri Datuk Clifford Francis Herbert *(Independent Non-Executive Director)*
- (4) Dato' Gan Nyap Liou @ Gan Nyap Liow *(Independent Non-Executive Director)*
- (5) Tan Kheng Soon *(Independent Non-Executive Director)*
- (6) Cheah Tek Kuang *(Chief Executive Officer)*
- (7) Anthony John Healy<sup>1</sup> *(Non-Independent Non-Executive Director)*

*Note:-*

<sup>1</sup> *Anthony John Healy has since resigned. His last day of service was on 30 October 2008*

- (ix) Structure of shareholdings and names of shareholders or, in the case of a public company, names of all substantial shareholders : AmBank is a wholly-owned subsidiary of AMFB Holdings Berhad (“**AMFB**”) which in turn is a wholly-owned subsidiary of AMMB Holdings Berhad (“**AHB**”).
- The substantial shareholders of AmBank as at 30 September 2008 are as follows:-

Name	No. of AmBank shares / %	
	Direct	Indirect
AMFB	670,363,762 ^ / 100%	-
AHB	-	670,363,762 #^ / 100%
TSDAH	-	670,363,762 *^ / 100%
AmcorpGroup Berhad	-	670,363,762 *^ / 100%
Clear Goal Sdn Bhd	-	670,363,762 *^ / 100%
ANZ Funds Pte Ltd	-	670,363,762 *^ / 100%
Australia and New Zealand Banking Group Limited	-	670,363,762 *^ / 100%

Notes:

# Deemed interested by virtue of its interests in AMFB

\* Deemed interested by virtue of his/its interests in AMFB via his/its substantial interests in AHB.

^ Excluding 150,000,000 6% irredeemable non-cumulative convertible preference shares of RM1.00 each.

(x) Authorised and Paid-Up  
Capital

Authorised share capital : RM3,886,250,002 comprising:-  
as at 30 September  
2008

- (a) 1,386,250,002 ordinary shares of RM1.00 each ("**Ordinary Shares**"); and
- (b) 2,500,000,000 6% irredeemable non-cumulative convertible preference shares of RM1.00 each ("**IPS**").

Paid-up capital as at : 670,363,762 Ordinary Shares and 150,000,000  
30 September 2008 IPS.

(b) **Originator**

Not applicable.

## 2. PRINCIPAL TERMS AND CONDITIONS

### (a) Name of parties involved in the proposed transaction (where applicable)

- |        |   |   |   |
|--------|---|---|---|
| (i)    | Principal Adviser                           | : | AmInvestment Bank Berhad ( <i>a member of AmInvestment Group</i> ) (“ <b>AmInvestment Bank</b> ”)   |
| (ii)   | Arranger(s)                                 | : | Not applicable (“ <b>N/A</b> ”)   |
| (iii)  | Valuers                                     | : | N/A   |
| (iv)   | Solicitors                                  | : | Adnan, Sundra & Low   |
| (v)    | Financial Adviser                           | : | N/A   |
| (vi)   | Technical Adviser                           | : | N/A   |
| (vii)  | Guarantor                                   | : | N/A   |
| (viii) | Trustee                                     | : | Pacific Trustee Berhad  |
| (ix)   | Facility Agent                              | : | AmInvestment Bank   |
| (x)    | Primary subscriber(s) and amount subscribed | : | To be determined prior to each issuance in respect of issuance via bought deal basis only.  |
| (xi)   | Underwriter(s) and amount underwritten      | : | N/A. AmBank is proposing to issue the NCPCS via a direct placement without prospectus on a best effort basis or a bought deal basis or book running on a best effort basis. |
| (xii)  | Central Depository                          | : | Bank Negara Malaysia (“ <b>BNM</b> ”)   |
| (xiii) | Paying Agent                                | : | BNM   |
| (xiv)  | Reporting Accountant                        | : | Ernst & Young (Firm No.: AF 0039)   |
| (xv)   | Others (please specify)                     | : |   |
|        | Lead Manager                                |   | AmInvestment Bank and any other parties as may be appointed by AmBank at its discretion.  |
|        | Tax Adviser                                 |   | Deloitte KassimChan Tax Services Sdn Bhd  |

- (b) **Facility description** : Non-cumulative perpetual capital securities programme.  
The NCPCS will be recognized as Non-Innovative Tier-1 capital in accordance with the Risk Weighted Capital Adequacy Framework issued by BNM.
- (c) **Issue size** : Up to RM500,000,000 in nominal value.  
  
The total outstanding NCPCS shall not at any time exceed RM500,000,000 in nominal value
- (d) **Issue price** : 100% of the principal amount of the NCPCS.
- (e) **Tenor of the facility/issue** : **Facility**  
  
Up to 60 years from the date of the first issuance of NCPCS.  
  
The Issuer may issue the NCPCS at any time within the 30-year period from the date of the first issuance provided that the first issue is within two (2) years from the date of the SC's approval.  
  
**Issue**  
  
The tenor of the NCPCS will be perpetual.
- (f) **Interest/coupon (%)** : The interest/coupon will be determined by the Lead Manager(s), in consultation with AmBank prior to the respective issuance.
- (g) **Interest/coupon payment frequency** : Subject to applicable law; the clause relating to "*NCPCS Distribution*" and the clause relating to "*Limitation on Payments*", NCPCS Distributions will accrue on the relevant tranche of NCPCS from (and including) the Assignment Date of such NCPCS (as defined in Appendix 1A) and will be payable in arrears on the following dates (each a "**NCPCS Distribution Date**") for each tranche:

(a) annually, semi-annually, or quarterly (to be determined by the Lead Manager(s), in consultation with AmBank prior to the respective issuance.) during the period from (and including) the Assignment Date to (but excluding) the first Optional Redemption Date (“**Initial NCPCS Distribution Period**”); and

(b) thereafter, semi-annually in each year.

(h) **Interest/coupon payment basis** : “**NCPCS Distribution Rate**” in respect of a tranche of NCPCS means a fixed rate per annum (to be determined prior to issuance).

The “**NCPCS Distribution**” payable in respect of a tranche of the NCPCS shall be calculated by applying the relevant NCPCS Distribution Rate to the original principal amount of the NCPCS of such tranche, multiplied by the relevant Day Count Fraction.

Where appropriate, NCPCS Distributions shall also include any Additional Amounts due and payable with respect thereto.

“**Day Count Fraction**” means in respect of any period, the actual number of days in the relevant period divided by 365.

(i) **Yield to maturity (“YTM”) (%)** : The YTM will be determined by the Lead Manager(s) in consultation with AmBank prior to the respective issuance.

(j) **Security/collateral (if any)** : None.

(k) **Details on utilisation of proceeds** : The Proposed Issuance of NCPCS Programme forms part of the Proposed Issuance of RMNIT1 Programme.

The proceeds of the NCPCS shall be applied towards the Forward Purchase Contracts (as defined in Appendix 1A).

Following the subscription by investors of the SubNotes, the proceeds of issue of the SubNotes will be on-lent by AmPremier to AmBank through a subordinated term loan (the “**Intercompany Loan**”), to become immediately available to AmBank, without limitation, for its working capital and general banking purposes.

In this respect, the gross proceeds of up to RM500 million raised from the Proposed Issuance of RMNIT1 Programme shall be applied towards funding the growth of AmBank’s business operations and to defray expenses in relation to the Proposed Issuance of RMNIT1 Programme.

- (l) **Sinking fund (if any)** : None.
- (m) **Rating** : Final long-term rating of A3 from RAM Rating Services Berhad.
- (n) **Form and denomination** : The Proposed Issuance of NCPSC Programme forms part of the Proposed Issuance of RMNIT1 Programme.

The Proposed Issuance of NIT1 Programme is issued in accordance with:

- (a) the Code of Conduct and Market Practices for the Malaysian Corporate Bond Market issued by Institut Peniaga Bon Malaysia and approved by BNM (“**IPBM Code**”);
- (b) the Rules on Scripless Securities under the Real Time Electronic Transfer of Funds and Securities (“**RENTAS**”) System issued by BNM (“**RENTAS Rules**”); and
- (c) the Rules on Fully Automated System for Issuing/Tendering (“**FAST**”) issued by BNM (“**FAST Rules**”)

or their replacement thereof (collectively the “Codes of Conduct”) applicable from time to time.



The RENTAS Rules shall prevail to the extent of any inconsistency between the RENTAS Rules and the IPBM Code.

The NCPCS shall be in denominations greater or equal to RM1,000 each. Any amounts issued in denominations greater than RM1,000 will be in increments of RM1,000 or such other denomination as determined or allowed by BNM and in multiples of RM1,000 and will be represented at all times by a Global Certificate to be deposited with BNM, and is exchangeable for definitive bearer form only in certain limited circumstances.

The NCPCS will be stapled to the SubNotes and together will constitute a Stapled Security. The NCPCS and SubNotes cannot be traded separately until an Assignment Event occurs.

(o) **Mode of Issue** : The NCPCS may be issued via direct placement without prospectus on a best effort basis or a bought deal basis or book running on a best effort basis.

(p) **Selling restriction** : At Issuance

The NCPCS may not be offered, sold or delivered, directly or indirectly, nor may any document or other material in connection therewith be distributed in Malaysia other than to persons falling within Schedule 6 or section 229(1)(b) or Schedule 7 or section 230(1)(b), and Schedule 9 or section 257(3) of the Capital Markets and Services Act, 2007 (“**CMSA**”).

After Issuance

The NCPCS may not be offered, sold or delivered, directly or indirectly, nor may any document or other material in connection therewith be distributed in Malaysia other than to persons falling within Schedule 6 or section 229(1)(b) and Schedule 9 or section 257(3) of the CMSA.

- (q) **Listing status** : The NCPCS will not be listed on Bursa Malaysia Securities Berhad or on any other stock exchange.
- (r) **Minimum level of subscription (RM or %)** : 5% of the respective tranche of the NCPCS to be issued if the issuance is via book-building.  
100% of the respective tranche of the NCPCS to be issued if the issuance is via private placement or bought deal.
- (s) **Other regulatory approvals required in relation to the issue, offer or invitation and whether or not obtained** : The Proposed Issuance of NCPCS Programme forms part of the Proposed Issuance of RMNIT1 Programme. In this respect, the Proposed Issuance of RMNIT1 Programme is subject to the following approvals being obtained:
- BNM's approval for the Proposed Issuance of NIT1 Programme and classification of the NCPCS as Tier 1 capital of AmBank for inclusion in the computation of the Issuer's Risk Weighted Capital Ratio ("**RWCR**"). In addition, BNM's approval is required for the establishment of AmPremier. The BNM approval has not been obtained as at the date of this submission. A waiver has been requested from the SC to allow AmInvestment Bank, on behalf of AmBank to make this submission pending BNM's approval; and
  - SC's approval on the waiver from compliance with certain provisions under the SC's Guidelines on the Minimum Contents Requirements for Trust Deeds in respect of the Proposed Issuance of NCPCS Programme.
- (t) **Conditions precedent** : To include but not limited to the following (in form acceptable to the Lead Manager):
- execution of all transaction documents;
  - delivery of the Issuer's Memorandum and Articles of Association, board resolution and other constitutional documents of the Issuer required by the Lead Manager;

- evidence that the Stapled Securities have been accorded the requisite rating as stated in this Principal Terms and Conditions;
- receipt by the Lead Manager of tax and legal opinions;
- all representations and warranties made by AmBank to the Lead Manager in the programme agreement remaining true and correct and there having been no material adverse change in AmBank's financial condition; and
- receipt by AmBank of all requisite regulatory approvals for the issuance of the NCPCS.

- (u) **Representations and warranties** : Representations and warranties typical and customary for financing of this nature, which shall include but not be limited to the following:-
- (a) that the Issuer is a company duly incorporated under the laws of Malaysia as a legal entity and has full power and authority to own its assets and carry on its business as it is now being carried on;
  - (b) that the Issuer has the power and capacity to execute, deliver and perform the terms of the Transaction Documents and the Issuer has taken all necessary corporate and other actions to authorise the execution, delivery and performance of the Transaction Documents;
  - (c) that no Enforcement Event has occurred;
  - (d) that to the best of the knowledge of the directors of the Issuer, the Issuer is not in liquidation and no steps have been taken by any person for or with a view to the appointment of a liquidator, receiver and/or manager or judicial manager of the Issuer or any of its assets or undertakings that would have a material adverse effect on the ability of the Issuer to comply with its obligations under the Transaction Documents;

- (e) no litigation or arbitration is current or, to the Issuer's knowledge, is threatened, which if adversely determined would have a material adverse effect on the ability of the Issuer to comply with its obligations under the Transaction Documents;
- (f) the written information provided to the Lead Manager and contained in the Information Memorandum are true, complete, accurate and not misleading and no circumstance or situation has arisen which would materially and adversely affect the condition of the Issuer (financial or otherwise) or the earnings, affairs or business prospects of the Issuer or the success of the issue of the NCPCS;
- (g) there has been no change in the business or condition (financial or otherwise) of the Issuer or its subsidiaries since the date of its last audited financial statements which might have a material adverse effect on the ability of the Issuer to comply with its obligations under the Transaction Documents;
- (h) that the audited financial statements and unaudited financial statements of the Issuer to be delivered to the Trustee from time to time in accordance with the trust deed have been prepared in accordance with all relevant laws and the approved accounting standards issued by the Malaysian Accounting Standards Board (save for matters specifically disclosed therein) consistently applied and give a true and fair view of the financial condition and results of operations of the Issuer and its subsidiaries, taken as a whole, as of the date or dates to which they were made up and that there has been no adverse change in the financial position of the Issuer and its subsidiaries taken as a whole, which is material in the context of the issue of the NCPCS since the date of such financial statements; and

- (i) non-conflict with laws, contracts or constitutional documents in the execution of the Transaction Documents.
- (v) **Events of default** : Please refer to the clause relating to “*Limited Right of Acceleration*”.
- (w) **Principal terms and conditions for the warrants** : N/A as no warrants are issued.
- (x) **Other principal terms and conditions for the issue**
- (i) **Optional Redemption** : On any Optional Redemption Date of a tranche of NCPCS, AmBank may, at its option, redeem such tranche of the NCPCS (in whole, but not in part) at the Redemption Amount, subject to the Redemption Conditions being satisfied.
- “**Optional Redemption Date**” in relation to a particular tranche of NCPCS means the NCPCS Distribution Date which corresponds to the 10<sup>th</sup>/ 20<sup>th</sup> / 40<sup>th</sup> (depending on whether it is a annual, semi-annual, or quarterly distributions respectively are to be made during the Initial NCPCS Distribution Period) Interest Payment Date or any NCPCS Distribution Date thereafter of such tranche.
- “**Redemption Conditions**” in relation to each tranche means:
- (a) an Assignment Event (as defined in Appendix 1A) has occurred and the SubNotes have been assigned to AmBank in connection therewith;
- (b) AmBank is solvent at the time of any redemption of the NCPCS;
- (c) AmBank meets BNM’s minimum capital adequacy ratio requirements applicable to AmBank; and
- (d) AmBank has obtained the written approval of BNM prior to redemption.

“Redemption Amount” in relation to each tranche means an amount equal to:

- (a) 100% of the principal amount for the respective tranche of the NCPCS;
- (b) accrued but unpaid NCPCS Distributions (if any) up to (and excluding) the date on which the NCPCS are redeemed;
- (c) any other amounts outstanding on the NCPCS (if any) up to (and excluding) the date on which the NCPCS are redeemed;
- (d) an amount equal to accrued Interest Payments of the SubNotes stapled to such tranche of NCPCS (if any) (as defined in the Appendix 1C) from the last Interest Payment Date before the Assignment Date up to (and excluding) the Assignment Date if not already paid to the holders of the NCPCS through an optional distribution as detailed in the clause relating to “*Capital and Dividend Stopper*”; and
- (e) an amount equal to any other amounts outstanding on the SubNotes excluding unpaid interest from the last Interest Payment Date before the Assignment Date up to (and excluding) the Assignment Date if not already paid to the holders of the NCPCS through an optional distribution as detailed in the clause relating to “*Capital and Dividend Stopper*”.

**(ii) Redemption due to Aborting of Merger or Acquisition**

If the NCPCS were issued for the purpose of funding a merger or acquisition, which is subsequently aborted, AmBank may, at its option, and subject to BNM’s prior approval, redeem the NCPCS (in whole, but not in part) at 101% or at prevailing market rates, whichever is higher, of the aggregate principal amount of the NCPCS together with accrued and unpaid NCPCS Distributions and any Additional Amounts thereon.

**(iii) Tax Redemption** : AmBank may, at its option, redeem the NCPCS (in whole, but not in part) at the Redemption Amount, subject to the Redemption Conditions being satisfied, if a Tax Event occurs.

“**Tax Event**” means any time if there is more than an insubstantial risk, as determined by AmBank and as certified by an external tax advisor, that AmBank and/or AmPremier will be required to pay any Additional Amounts in respect of the NCPCS, the SubNotes, or the Intercompany Loan, or will no longer be able to fully deduct interest in respect of the SubNotes or the Intercompany Loan for taxation purposes as a result of a change in any applicable law or regulation which comes into effect on or after the issue date.

**(iv) Taxation and Additional Amounts** : All NCPCS Distributions payable by AmBank in respect of the NCPCS shall be made free and clear of, and without withholding or deduction for taxes imposed, levied, collected, withheld or assessed by or within Malaysia or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law. In that event, AmBank shall pay such additional amounts (“**Additional Amounts**”) as will result in receipt by the holders of such amounts as would have been received by them had no such withholding or deduction been required.

**(v)Regulatory Redemption** : AmBank may, at its option, redeem the NCPCS (in whole, but not in part) at the Redemption Amount, subject to the Redemption Conditions being satisfied, if a Regulatory Event occurs.

“**Regulatory Event**” means any time there is more than an insubstantial risk, as determined by AmBank and as certified by an external legal advisor, that the NCPCS will no longer qualify as NIT1 capital of AmBank for the purposes of BNM’s capital adequacy requirements under any applicable regulations or guidelines.

**(vi) NCPCS Distribution** : NCPCS Distributions on the relevant tranche of the NCPCS will not begin to accrue until the Assignment Date in respect of that tranche.

From the Assignment Date in respect of the relevant tranche of the NCPCS, NCPCS Distributions will accrue and holders of that tranche of the NCPCS will be entitled to receive NCPCS Distributions, calculated at the respective NCPCS Distribution Rate, subject to:

- (a) AmBank meeting and continuing to meet BNM minimum capital adequacy ratio requirements applicable to AmBank on the relevant NCPCS Distribution Date following a distribution of a NCPCS Distribution; and
- (b) the Payment Limitation Condition not being met.

For the avoidance of doubt, if the Payment Limitation Condition is not met and AmBank does not meet BNM's minimum capital adequacy ratio requirements applicable to AmBank on the relevant NCPCS Distribution Date, or if the Payment Limitation Condition is not met and AmBank would not continue to meet BNM's minimum capital adequacy ratio requirements applicable to AmBank following an NCPCS Distribution, holders of the NCPCS will not be entitled to receive NCPCS Distributions on the relevant NCPCS Distribution Date.

**(vii) Limitations on Payments** : If the Payment Limitation Condition is met on the 15<sup>th</sup> business day prior to any NCPCS Distribution Date, AmBank may, at its option, elect not to distribute NCPCS Distributions on such NCPCS Distribution Date provided that the Payment Limitation Condition continues to be met in the period from the 15<sup>th</sup> business day prior to such NCPCS Distribution Date to (and including) such NCPCS Distribution Date.



If AmBank elects not to distribute the NCPCS Distribution on such NCPCS Distribution Date, such NCPCS Distribution will be cancelled and any such cancellation and non-payment will not constitute or be deemed a default by AmBank for any purpose whatsoever.

If AmBank has not fully distributed a NCPCS Distribution on a NCPCS Distribution Date, or has not fully paid to holders of the NCPCS an amount equal to accrued Interest Payments (if any) and any other amounts outstanding on the SubNotes (if any) from the last Interest Payment Date before the Assignment Date up to (and excluding) the Assignment Date, the relevant restrictions described in the clause relating to "*Capital and Dividend Stopper*", will apply.

Any payment of (a) dividends to shareholders of AmBank and/or (b) dividends or interest to holders of securities or instruments ranking junior to or pari passu with the NCPCS and which contain deferral rights or rights of non-payment with respect to interest payment(s), in connection with the Payment Limitation Condition ceasing to exist, may only be made simultaneously with, or immediately following the full distribution of a NCPCS Distribution on a NCPCS Distribution Date.

The "**Payment Limitation Condition**" is deemed to be met if during the 6 month period immediately preceding any NCPCS Distribution Dates:

- (a) AmBank did not declare dividends, or make any interest payment(s), on other securities or obligations ranking junior to or pari passu with the NCPCS; and

(b) AmBank did not redeem, purchase, repay or otherwise acquire any of its ordinary shares, preference shares or securities ranking junior to or pari passu with the NCPCS, or any securities or obligations of any of its subsidiary undertakings benefiting from a guarantee from AmBank, ranking, as to the right of repayment of principal, or in the case of any such guarantee, as to the payment of sums under such guarantee, pari passu with or junior to the NCPCS.

Notwithstanding the above, on any NCPCS Distribution Date with respect to which (i) a Regulatory Event has occurred and is continuing and (ii) AmBank is not in breach of BNM minimum capital adequacy ratio requirements, AmBank shall be obliged to pay the NCPCS Distribution.

For the avoidance of doubt, no NCPCS Distributions will be made if a distribution of a NCPCS Distribution will result in AmBank breaching BNM's minimum capital adequacy ratio requirements i.e. such NCPCS Distribution will be cancelled and any such cancellation and non-payment will not constitute or be deemed a default by AmBank for any purpose whatsoever.

**(viii) Capital and Dividend Stopper**

: Following an Assignment Event, in the event that AmBank

(a) does not fully distribute a NCPCS Distribution on a NCPCS Distribution Date; or

(b) has not fully paid to holders of the NCPCS an amount equal to accrued Interest Payments (if any) and any other amounts outstanding on the SubNotes (if any) from the last Interest Payment Date before the Assignment Date up to (and excluding) the Assignment Date;

the relevant restrictions of Capital and Dividend Stopper shall apply.

**Dividend Stopper**

AmBank shall not pay any dividend to shareholders or make any interest payment or distribution on any other securities or obligation ranking junior to or pari passu with the NCPCS which contain deferral rights or rights of non-payment with respect to interest payments or dividend distributions including other Non-innovative and Innovative Tier 1 Capital qualifying securities ("**Dividend Stopper**").

**Capital Stopper**

Furthermore, AmBank shall not redeem, purchase, repay or otherwise acquire any of its ordinary shares, preference shares or securities ranking junior to or pari passu with the NCPCS, or any securities or obligation of any of its subsidiary undertakings benefiting from a guarantee from AmBank, ranking, as to the right of repayment of principal, or in the case of any such guarantee, as to the payment of sums under such guarantee, pari passu with or junior to the NCPCS, including other Non-innovative and Innovative Tier 1 Capital qualifying securities ("**Capital Stopper**").

The Dividend Stopper and Capital Stopper will apply until:

- (i) AmBank has fully distributed NCPCS Distributions on the next annual / next two semi-annual / next four quarterly distributions (depending on the applicable distribution periods) during the Initial NCPCS Distribution Period or the next two semi-annual distributions after the Initial NCPCS Distribution Period, in the case of (a) and/or (b) above; or

- (ii) AmBank has set aside an amount sufficient to provide for the full distribution of NCPCS Distribution on the next annual / next two semi-annual / next four quarterly distributions (depending on the applicable distribution periods) during the Initial NCPCS Distribution Period or the next two semi-annual distributions after the Initial NCPCS Distribution Period in the case of (a) and/or (b) above and if upon determination of the amount of each of such NCPCS Distribution there is a shortfall in the amounts set aside with reference to the amounts so determined, an amount at least equal to such shortfall shall be paid or irrevocably set aside in the same manner; or
- (iii) an optional distribution has been paid to the holders of the NCPCS equal to accrued Interest Payments (if any) and any other amounts outstanding on the SubNotes (if any) from the last Interest Payment Date before the Assignment Date up to (and excluding) the Assignment Date in the case of (b) above.

For the avoidance of doubt, in the case where only (a) above occurs, the Dividend Stopper and Capital Stopper will apply until either (i) or (ii) above are met; in the case where only (b) above occurs, the Dividend Stopper and Capital Stopper will apply until any of (i), (ii) or (iii) is met; and in the case where both (a) and (b) occurs, the Dividend Stopper and Capital Stopper will apply until (iii) and one of (i) or (ii) are met.

**(ix) Subordination** : The principal amount of, and any NCPCS Distributions payable and any Additional Amounts payable on the NCPCS will be subordinated in right of payment upon occurrence of any Winding Up Proceeding, to the prior payment in full of all deposit liabilities and all other liabilities of AmBank (including liabilities of all offices, branches and subsidiaries of AmBank wherever located) and any securities (whether subordinated or unsubordinated) of AmBank that rank senior to the NCPCS) except, in each case, to those liabilities and securities which by their terms rank equal with or junior to the NCPCS.

Claims in respect of the NCPCS will rank pari passu and without preference among themselves and with the most junior class of preference shares (if any) of AmBank, but in priority to the rights and claims of holders of the ordinary equity shares of AmBank.

**“Winding Up Proceeding”** means the occurrence of any of the following:

- (a) An agency or supervisory authority in Malaysia having jurisdiction in respect thereof shall have instituted a proceeding or a proceeding instituted in court or a court, agency or supervisory authority in Malaysia having jurisdiction in respect thereof entered a decree or order for the appointment of a receiver or liquidator in any insolvency, rehabilitation, readjustment of debt, marshalling of assets and liabilities, or similar arrangements involving AmBank or all or substantially all of its properties, or for the winding up of or liquidation of its affairs and such proceeding, decree or order shall not have been vacated or shall have remained in force undischarged or unstayed for a period of 30 days; or
- (b) AmBank files a petition in accordance with any insolvency statute.

- (x) **Amendments** : No provision of the NCPCS may be amended without the prior written consent of BNM if such amendment would or may result in the NCPCS not being treated as NIT1 of AmBank on a consolidated or unconsolidated basis.
- (xi) **Guarantee** : The NCPCS will not be secured or covered by a guarantee of AmBank or any related entity of AmBank, or any other arrangement that legally or economically enhances the seniority of the claims of the holders of the NCPCS.
- (xii) **Limited Right of Acceleration** : If an Enforcement Event occurs in respect of a tranche of NCPCS, then holders of that tranche of NCPCS may institute such proceedings as it chooses to enforce the obligations of AmBank under the relevant NCPCS and/or institute Winding Up Proceedings against AmBank but provided that no person shall have any right to accelerate payment of such NCPCS or of other tranche of NCPCS in the case of such default in the payment of any NCPCS Distributions on or other amounts owing under any of the tranche of NCPCS or a default in the performance of any other covenants of AmBank. If a Winding Up Proceeding occurs or an effective resolution of the shareholders of AmBank is passed for a winding up of AmBank, all the holders of the NCPCS of all tranches may declare that all the outstanding NCPCS to be due and payable immediately, by a notice in writing to AmBank. Upon such a declaration, the outstanding amount of the NCPCS and any NCPCS Distributions payable shall become immediately due and payable.

**“Enforcement Event”** means a default is made in the payment of relevant tranche NCPCS Distributions on the NCPCS on the due date for payment thereof and such default continues for 14 days (other than non-payment of NCPCS Distributions in accordance with Limitations on Payments).

- (xiii) Repurchase and Cancellation** AmBank or any of its subsidiaries may at any time purchase, subject to the prior approval of BNM, the NCPCS at any price in the open market or by private treaty. If purchases are made by tender, such tender must (subject to any applicable rules and regulations) be made available to all holders of the NCPCS equally. NCPCS purchased by AmBank or any of its related companies may not be used for voting purposes or for directing or requesting the Trustee to take any action. All NCPCS which are (a) redeemed or (b) purchased by AmBank or any of its subsidiaries (other than in the ordinary course of business) will forthwith, subject to the prior approval of BNM, be cancelled and accordingly may not be reissued or resold.
- (xiv) Voting Rights** : Holders of the NCPCS will not be entitled to receive notice of or attend or vote at any meeting of the ordinary shareholders of AmBank or to participate in the management of AmBank.
- (xv) Governing Laws** : The NCPCS will be governed by, and construed in accordance with Malaysian Law.
- (xvi) Covenants** : Covenants typical and customary for financing of this nature.
- (xvii) Transaction Documents** : Transaction Documents shall refer to:-
- (a) Programme Agreement;
  - (b) Trust Deed;
  - (c) Depository and Paying Agency Agreement; and
  - (d) Any other legal documentation as may be advised by the legal counsel for the Lead Manager