

DATED 25 February 2022

**AMENDED AND RESTATED DEED OF
COVENANT**

**New Development Bank
Euro Medium Term Note Programme**



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THIS DEED OF COVENANT is made on 25 February 2022

BETWEEN:

- (1) **NEW DEVELOPMENT BANK** (the *Issuer*);
- (2) **THE ACCOUNTHOLDERS** (as defined below); and
- (3) **THE PERSONS** for the time being and from time to time registered as holders of the Notes referred to below (the *Noteholders*, together with the Accountholders, the *Beneficiaries*).

WHEREAS:

(A) The Issuer has established a U.S.\$50,000,000,000 Euro Medium Term Note Programme (the *Programme*) for the issuance of notes (the *Notes*), in connection with which it has entered into an amended and restated programme agreement dated 25 February 2022 (the *Programme Agreement*, which expression shall be construed as reference to that agreement as the same may be amended, supplemented, replaced or novated from time to time) with the Dealers named therein.

(B) This Deed amends and restates the deed of covenant originally dated 12 December 2019 and most recently amended and restated on 22 December 2020, between the parties thereto in connection with the Programme.

(C) Notes may be issued on a listed or unlisted basis. The Issuer may make an application for Notes issued under the Programme to be admitted to listing on the regulated market of the London Stock Exchange.

(D) In connection with such application, the Issuer has prepared a base offering memorandum dated 25 February 2022 (the *Base Offering Memorandum*, which expression includes any further base offering memorandum prepared in connection with the admission to listing, trading and/or quotation by any competent authority, stock exchange and/or quotation system by which any Notes may from time to time be admitted to listing, trading and/or quotation together with any information incorporated therein by reference).

(E) The Issuer will, in relation to the Notes, enter into an amended and restated issue and paying agency agreement (as amended or supplemented from time to time, the *Agency Agreement*) with *inter alia* HSBC Bank plc as fiscal agent (the *Fiscal Agent*, which expression includes any successor fiscal agent appointed from time to time in connection with the Notes), HSBC Bank plc as registrar (the *Registrar*, which expression includes any successor registrar appointed from time to time in connection with the Notes) and the other agents named therein.

(F) Notes issued under the Programme may be issued in bearer form (*Bearer Notes*), in registered form (*Registered Notes*). Bearer Notes may be in the form of either a temporary global note in bearer form (the *Temporary Global Note*) or a permanent global note in bearer form (the *Permanent Global Note* and together with the Temporary Global Note, the *Global Notes*). Registered Notes may be represented by a global certificate (the *Global Note Certificate*).

(G) The Issuer wishes to constitute the Notes by deed poll and to make arrangements for the protection of the interests of Accountholders in the event that any Global Note or Global Note Certificate becomes void in accordance with its terms.

NOW THIS DEED OF COVENANT WITNESSES as follows:

1. INTERPRETATION

Definitions

1.1 All terms and expressions which have defined meanings in the Base Offering Memorandum, the Dealer Agreement or the Agency Agreement shall have the same meanings in this Deed of Covenant except where the context requires otherwise or unless otherwise stated. In addition, in this Deed of Covenant the following expressions have the following meanings:

Accountholder means any accountholder or participant with a Clearing System which at the Determination Date has credited to its securities account with such Clearing System one or more Entries in respect of a Global Note or Global Note Certificate, except for any Clearing System in its capacity as an accountholder of another Clearing System;

Clearing System means each of Euroclear and Clearstream, Luxembourg, and any other clearing system specified in the relevant Pricing Supplement;

Clearstream, Luxembourg means Clearstream Banking, S.A., Luxembourg;

Conditions has the meaning given in the Base Offering Memorandum except that, in relation to any particular Tranche of Notes, it means the Conditions (as defined in the Base Offering Memorandum) as supplemented, amended and/or replaced by the relevant Pricing Supplement, and any reference to a numbered Condition shall be construed accordingly;

Determination Date means, in relation to any Global Note or Global Note Certificate, the date on which such Global Note or Global Note Certificate becomes void in accordance with its terms;

Direct Rights means the rights referred to in Clause 3.1 (*Direct Rights – Creation*);

Entry means, in relation to a Global Note or Global Note Certificate, any entry which is made in the securities account of any Accountholder with a Clearing System in respect of Notes represented by such Global Note or Global Note Certificate;

Euroclear means Euroclear Bank SA/NV; and

Principal Amount means, in respect of any Entry, the aggregate principal amount of the Notes to which such Entry relates.

Clauses

1.2 Any reference in this Deed of Covenant to a Clause is, unless otherwise stated, to a clause hereof.

Other agreements

1.3 All references in this Deed of Covenant to an agreement, instrument or other document (including the Base Offering Memorandum, the Dealer Agreement and the Agency Agreement) shall be construed as a reference to that agreement, instrument or other document as the same may be amended, supplemented, replaced or novated from time to time. In addition, in the context of any particular Tranche of Notes, each reference in this Deed of

Covenant to the Base Offering Memorandum shall be construed as a reference to the Base Offering Memorandum as supplemented and/or amended by the relevant Pricing Supplement.

Legislation

1.4 Any reference in this Deed of Covenant to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been, or may from time to time be, amended or re-enacted.

Headings

1.5 Headings and sub-headings are for ease of reference only and shall not affect the construction of this Deed of Covenant.

Benefit of Deed of Covenant

1.6 Any Notes issued under the Programme on or after the date of this Deed of Covenant shall have the benefit of this Deed of Covenant but shall not have the benefit of any subsequent deed of covenant relating to the Programme (unless expressly so provided in any such subsequent deed).

2. THE NOTES

The Issuer hereby constitutes the Notes and covenants in favour of each Noteholder that it will duly perform and comply with the obligations expressed to be undertaken by it in each Note and in the Conditions (and for this purpose any reference in the Conditions to any obligation or payment under or in respect of the Notes shall be construed to include a reference to any obligation or payment under or pursuant to this provision).

3. DIRECT RIGHTS

Creation

3.1 If any Global Note or Global Note Certificate representing all or part of a Tranche of Notes becomes void in accordance with its terms, each Accountholder shall have against the Issuer all rights (*Direct Rights*) which such Accountholder would have had in respect of the Notes if, immediately before the Determination Date in relation to that Global Note or Global Note Certificate, it had been the Holder of Notes in an aggregate principal amount equal to the Principal Amount of such Accountholder's Entries relating to such Global Note or Global Note Certificate and a duly completed, executed and authenticated Definitive Note or Individual Note Certificate had been issued to such Accountholder in respect of such holding, including (without limitation) the right to receive all payments due at any time in respect of such Definitive Notes or Individual Note Certificates (as the case may be) as if such Definitive Notes or Individual Note Certificates had (where required by the Conditions) been duly presented and (where required by the Conditions) surrendered on the due date in accordance with the Conditions. Anything which might prevent the issuance of Definitive Notes or Individual Note Certificates in an aggregate principal amount equal to the Principal Amount of any Entry of any Accountholder shall be disregarded for the purposes of this Clause 3.1, but without prejudice to its effectiveness for any other purpose.

No Further Action

3.2 No further action shall be required on the part of the Issuer or any other person:

- (a) *Direct Rights*: for the Accountholders to enjoy the Direct Rights; or
- (b) *Benefit of the Conditions*: for each Accountholder to have the benefit of the Conditions as if they had been incorporated *mutatis mutandis* into this Deed of Covenant,

provided, however, that nothing herein shall entitle any Accountholder to receive any payment in respect of any Global Note or Global Note Certificate which has already been made.

4. EVIDENCE

Records

4.1 The records of the Clearing Systems shall, in the absence of manifest error, be conclusive as to the identity of the Accountholders and the respective amounts of Notes credited to their securities accounts and a statement issued by a Clearing System stating:

- (a) *Name*: the name of the Accountholder in respect of which it is issued; and
- (b) *Principal Amount*: the Principal Amount of any Entry credited to the securities account of such Accountholder with such Clearing System on any date,

shall be conclusive evidence for all purposes of this Deed of Covenant.

Determination Date

4.2 In the event of a dispute, in the absence of manifest error, if a Clearing System determines the Determination Date, such determination shall be binding on all Accountholders with such Clearing System.

5. DEPOSIT OF DEED OF COVENANT

This Deed of Covenant shall be deposited with and held by the Fiscal Agent for so long as the Programme remains in effect and thereafter until the date on which all the obligations of the Issuer under or in respect of the Notes (including, without limitation, its obligations under this Deed of Covenant) have been discharged in full. The Issuer hereby acknowledges the right of every Beneficiary to the production of this Deed of Covenant.

6. STAMP DUTIES

The Issuer covenants to and agrees with the Accountholders that it shall pay promptly, and in any event before any penalty becomes payable, any stamp duty or other issue, transaction, value added or similar tax, fund or duty (including court fees) imposed by the United Kingdom, Belgium or Luxembourg, in connection with the entry into, performance, enforcement or admissibility in evidence of any Direct Rights.

7. BENEFIT OF DEED OF COVENANT

Deed Poll

7.1 This Deed of Covenant shall take effect as a deed poll for the benefit of the Beneficiaries from time to time.

Benefit

7.2 This Deed of Covenant shall enure to the benefit of each Beneficiary and its (and any subsequent) successors and assigns, each of which shall be entitled severally to enforce this Deed of Covenant against the Issuer.

Assignment

7.3 The Issuer shall not be entitled to assign or transfer all or any of its rights, benefits and obligations hereunder. Each Beneficiary shall be entitled to assign all or any of its rights and benefits hereunder.

8. PARTIAL INVALIDITY

If at any time any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby.

9. NOTICES

Address for notices

9.1 All notices and other communications to the Issuer hereunder shall be made in writing (by letter or email) and shall be sent to the Issuer at:

New Development Bank
1600, Guozhan Road
Pudong Area
Shanghai – 200126
China

Email: funding@ndb.int

Attention: Yousuf Ali Syed, Director General, Treasury and Portfolio Management Department

or to such other address, email address or for the attention of such other person or department as the Issuer has notified to the Noteholders in the manner prescribed for the giving of notices in connection with the Notes.

Effectiveness

9.2 Every notice or other communication sent in accordance with Clause 9.1 (*Address for notices*) shall be effective as follows upon receipt by the Issuer *provided, however, that* any such notice or other communication which would otherwise take effect after 4.00 p.m. on any particular day shall not take effect until 10.00 a.m. on the immediately succeeding business day in the place of the Issuer.

10. GOVERNING LAW AND JURISDICTION

Governing law

10.1 This Deed of Covenant and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

10.2 Subject to Clause 10.8, any dispute, controversy, difference or claim arising out of, relating to or in connection with this Deed of Covenant, including the existence, validity, interpretation, performance, breach or termination thereof or any non-contractual obligations arising out of, relating to, or in connection with this Deed of Covenant or the consequence of its nullity, shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre (the **HKIAC**) under the HKIAC Administered Arbitration Rules in force when the Notice of Arbitration is submitted (the **HKIAC Rules**).

10.3 The seat of the arbitration shall be Hong Kong. Hong Kong law will be the procedural law of any arbitration hereunder.

10.4 The arbitral tribunal shall consist of three arbitrators. The members of the arbitral tribunal shall be appointed in the manner set out in the HKIAC Rules. The appointing authority shall be HKIAC. The language of the arbitration shall be English.

10.5 Unless otherwise expressly provided in this Deed of Covenant, the arbitral tribunal will have no authority to award (i) punitive damages or (ii) damages for consequential or indirect losses.

10.6 The arbitral tribunal shall not be authorised to grant, and party to this Deed of Covenant shall seek from any judicial authority, any interim measures or pre-award or emergency relief against the Issuer, notwithstanding any provisions of the HKIAC Rules to the contrary.

10.7 At the election of the Issuer, any further dispute, controversy or claim which arises out of this Deed of Covenant shall be consolidated with any ongoing proceedings before the arbitral tribunal, but no other party shall be joined to, and no other disputes, controversies or claims shall be consolidated with, such ongoing proceedings before the arbitral tribunal.

10.8 Notwithstanding the provisions of this Clause 10, nothing contained in this Deed of Covenant shall operate or be regarded as a waiver, renunciation or other modification by the Issuer of any status, immunities, privileges or exemptions of the Issuer under its Articles of Agreement, all of its basic documents, any applicable law or international practice.

11. MODIFICATION

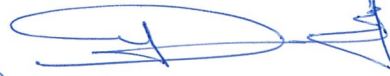
The Agency Agreement contains provisions for convening meetings of Noteholders to consider matters relating to the Notes, including the modification of any provision of this Deed of Covenant. Any such modification may be made by supplemental deed poll if sanctioned by an Extraordinary Resolution and shall be binding on all Beneficiaries.

SIGNATURES

IN WITNESS whereof this Deed of Covenant has been executed by the Issuer and is intended to be and is hereby delivered on the date first before written.

EXECUTED as a **DEED**
by **NEW DEVELOPMENT BANK**

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By:
Title:

Syed Jousaf Ali
Director General - Treasury