

INVESTEC PLC  
AS LENDER

INVESTEC BANK PLC  
AS BORROWER

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**SUBORDINATED LOAN AGREEMENT**

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**THIS AGREEMENT** is made on 6 December 2022

**BETWEEN**

- (1) **INVESTEC PLC** (the "**Lender**"); and
- (2) **INVESTEC BANK PLC** (the "**Borrower**").

**WHEREAS**

The Lender has agreed to make a Loan (as defined below) available to the Borrower upon the terms and conditions set out in this agreement (the "**Agreement**") to provide funding to the Borrower and to contribute to meeting the Borrower's tier 2 regulatory capital requirements in the United Kingdom.

## 1. **Definitions and Interpretation**

### 1.1 **Definitions**

In this Agreement:

"**Applicable Rules**" means, at any time, the applicable laws, regulations, requirements, guidelines and policies relating to capital adequacy (including, without limitation, as to leverage) then in effect in the United Kingdom including, without limitation to the generality of the foregoing, the UK CRR, the Banking Act and any regulations, requirements, guidelines and policies relating to capital adequacy adopted by the PRA applicable to the Borrower from time to time (whether or not such requirements, guidelines or policies are applied generally or specifically to the Borrower or the Borrower and any holding or subsidiary company of it or any subsidiary of any such holding company);

"**AT1 Instruments**" means the Borrower's GBP 200,000,000 Fixed Rate Reset Perpetual Additional Tier 1 Write Down Capital Securities issued on 16 October 2017 and GBP 50,000,000 Fixed Rate Reset Perpetual Additional Tier 1 Write Down Capital Securities issued on 22 January 2019;

"**Banking Act**" means the Banking Act 2009;

"**Benchmark Gilt**" means for the determination of the Gilt Rate in respect of the Reset Rate of Interest, such United Kingdom government security customarily used in the pricing of new issues having an actual or interpolated maturity date on or about the last day of the Reset Period as is agreed between the Lender and an investment bank or financial institution determined to be appropriate by the Lender to be appropriate following any guidance published by the International Capital Market Association at the relevant time;

"**Borrower**" means Investec Bank plc and includes its and any subsequent successors and permitted transferees in accordance with their respective interests;

"**Calculation Agent**" means Investec Bank plc;

**"Capital Disqualification Event"** means an event that shall be deemed to have occurred if the Borrower determines at any time after the Drawdown Date that the Loan would no longer be eligible under the Applicable Rules to qualify fully (save where such non-qualification is only as a result of any applicable limitation on the amount of such capital) for inclusion in the Tier 2 Capital of the Borrower on a solo and/or consolidated basis;

**"Day Count Fraction"** means, in respect of the calculation of an amount of interest on the Loan for any period of time (from and including the first day of such period to but excluding the last) (whether or not constituting an Interest Period, the "**Calculation Period**"), and;

- (i) if the Calculation Period is equal to or shorter than the Determination Period during which it falls, the number of days in the Calculation Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Periods normally ending in any year; and
- (ii) if the Calculation Period is longer than one Determination Period, the sum of:
  - (A) the number of days in such Calculation Period falling in the Determination Period in which it begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year; and
  - (B) the number of days in such Calculation Period falling in the next Determination Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Periods normally ending in any year;

**"Determination Date"** means the Interest Payment Date(s);

**"Determination Period"** means the period from and including a Determination Date in any year to but excluding the next Determination Date;

**"Drawdown Date(s)"** means 6 December 2022;

**"Event of Default"** means an event of default under this Agreement as described in Clause 6 (*Event of Default*);

**"Existing Subordinated Instruments"** means the GBP 350,000,000 2.625 per cent. Reset Callable Subordinated Loan due 2032 and the 4.250 per cent. Reset Callable Subordinated Notes due 2028 (ISIN: XS1859228634) issued by the Borrower;

**"First Margin"** means 5.905 per cent. per annum;

**"GBP"** and **"sterling"** denote the lawful currency of the United Kingdom;

**"Gilt Rate"** means, in respect of the Reset Period, the percentage rate determined by the Calculation Agent on the basis of the Gilt Yield Quotations provided by the Gilt

Reference Banks at approximately 11.00 a.m. (London time) on the Reset Determination Date in respect of the Reset Period. Such Gilt Yield Quotations shall be obtained by or on behalf of the Lender and provided to the Calculation Agent. If at least four Gilt Yield Quotations are provided, the Gilt Rate will be the arithmetic mean of the Gilt Yield Quotations provided, eliminating the highest Gilt Yield Quotation (or, in the event of equality, one of the highest) and the lowest Gilt Yield Quotation (or, in the event of equality, one of the lowest). If only two or three Gilt Yield Quotations are provided, the Gilt Rate will be the arithmetic mean of the Gilt Yield Quotations provided. If only one Gilt Yield Quotation is provided, the Gilt Rate will be the Gilt Yield Quotation provided. If no Gilt Yield Quotations are received, the Reset Rate of Interest shall be the Initial Rate of Interest;

**"Gilt Reference Banks"** means five authorised leading market-makers in the sterling gilt-edged market selected by the Lender;

**"Gilt Yield Quotation"** means, with respect to a Gilt Reference Bank and the Reset Period, the arithmetic mean of the bid and offered yields (on a semi-annual compounding basis) for the Benchmark Gilt in respect of that Reset Period, expressed as a percentage, as quoted by such Gilt Reference Bank;

**"Initial Rate of Interest"** means 9.125 per cent. per annum;

**"Interest Amount"** means, in relation to an Interest Period, the amount of interest payable in respect of the Loan for that Interest Period;

**"Interest Payment Dates"** means 6 March in each year commencing on 6 March 2023; **provided, however,** that the last interest payment date in respect of the Loan shall be the date on which the Loan is repaid in full;

**"Interest Period"** means the period beginning on (and including) the Drawdown Date and ending on (but excluding) the first 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;

**"Junior Obligations"** means (a) the obligations of the Borrower in respect of the AT1 Instruments; (b) any other obligations of the Borrower which rank or are expressed to rank *pari passu* with the AT1 Instruments; and (c) any other obligations of the Borrower which rank or are expressed to rank junior to the Loan or the Subordinated Notes;

**"Lender"** means Investec plc and includes its and any subsequent successors and permitted transferees in accordance with their respective interests;

**"Loan"** means the loan made under this Agreement;

**"Optional Prepayment Date(s)"** means any date from (and including) 6 December 2027 to (and including) the Reset Date;

**"PRA"** means the Prudential Regulation Authority of the United Kingdom;

**"Principal Amount"** means GBP 350,000,000;

"**Qualifying Administration**" means that an administrator has been appointed in respect of the Borrower and has given notice that they intend to declare and distribute a dividend;

"**Relevant Supervisor**" means the entity primarily responsible for the prudential supervision of the Borrower, being the PRA or any other entity so responsible, or any successor thereto;

"**Relevant Supervisory Consent**" means, in relation to any prepayment of the Loan, any required permission of the Relevant Supervisor for such prepayment;

"**Repayment Date**" means 6 March 2033;

"**Resettable Business Day**" means a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in London;

"**Reset Date**" means 6 March 2028;

"**Reset Determination Date**" means the second Resettable Business Day prior to the Reset Date;

"**Reset Period**" means the period from and including the Reset Date to the Repayment Date;

"**Reset Rate of Interest**" means the sum of the Gilt Rate for the purposes of the Reset Period plus the First Margin;

"**Senior Creditors**" means (a) depositors of the Borrower, (b) creditors of the Borrower who are unsubordinated creditors of the Borrower, and (c) creditors of the Borrower whose claims are or are expressed to be subordinated to the claims of other creditors of the Borrower (other than those whose claims are in respect of obligations which constitute, or would but for any applicable limitation on the amount of such capital, constitute, Tier 1 Capital or Tier 2 Capital or whose claims rank or are expressed to rank *pari passu* with, or junior to, the claims of holders in respect of the Loan) (whether only in a Winding Up of the Borrower or otherwise);

"**Subordinated Notes**" means notes issued under the Trust Deed which are specified in the applicable final terms as "Subordinated Notes";

a "**Taxation Event**" is deemed to have occurred if:

- (a) the Borrower has or will or would, but for prepayment of the Loan, become obliged to pay additional amounts as provided or referred to in Clause 9 (*Tax Gross-Up*) of this Agreement;
- (b) the Borrower would not be entitled to claim a deduction in respect of any payments of interest in respect of the Loan in computing its taxation liabilities (or the value of such deduction would be materially reduced); or
- (c) in respect of the payment of interest in respect of the Loan, the Borrower would not to any material extent be entitled to have any attributable loss or non-trading

deficit set against the profits of companies with which it is grouped for applicable United Kingdom tax purposes (whether under the group relief system current as at the Drawdown Date or any similar system or systems having like effect as may from time to time exist),

in each such case, as a result of any change in, or amendment to, the laws or regulations of the United Kingdom 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, which change or amendment becomes effective on or after the Drawdown Date.

"**Tier 1 Capital**" has the meaning given to it by the PRA from time to time;

"**Tier 2 Capital**" has the meaning given to it by the PRA from time to time;

"**Trust Deed**" means the trust deed dated 20 November 2009, as most recently amended and restated on 30 September 2022, as may be amended from time to time and made between Investec Bank plc as issuer and Deutsche Trustee Company Limited in relation to the Borrower's Euro Medium Term Note Programme;

"**Winding-Up**" means any winding-up of the Borrower (excluding a solvent winding-up solely for the purposes of a reconstruction, amalgamation, reorganisation, merger, consolidation or the substitution in place of the Borrower of a successor in business, the terms of which reconstruction, amalgamation, reorganisation, merger, consolidation or substitution have previously been approved in writing by the Lender).

## 1.2 **Construction of Certain References**

References to any statute or any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under any such modification or re-enactment.

## 1.3 **Third party rights**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

## 2. **The Loan and Fees**

2.1 Subject to the terms of this Agreement, the Lender shall make available to the Borrower a Loan in the Principal Amount on the Drawdown Date.

2.2 On the Drawdown Date the Borrower shall pay to the Lender an arrangement fee of GBP 1,750,000 (the "**Arrangement Fee**") and an upfront financing fee of GBP 2,660,000 (the "**Upfront Financing Fee**"), which amounts shall be deducted from the proceeds of the Loan paid to the Borrower on the Drawdown Date.

2.3 The net proceeds of the Loan (being the Principal Amount less the Arrangement Fee and the Upfront Financing Fee) shall be credited to such account as the Borrower may specify in writing.

### 3. **Interest**

- 3.1 Interest shall accrue on the outstanding principal amount of the Loan from the Drawdown Date until its repayment:
- (a) from the Drawdown Date to the Reset Date at the Initial Rate of Interest;
  - (b) for the Reset Period at the Reset Rate of Interest.
- 3.2 Interest on the Loan shall be payable in arrear on each Interest Payment Date.
- 3.3 The Interest Amount will be calculated by applying in relation to any Interest Period either the Initial Rate of Interest or the Reset Rate of Interest (as applicable) to the outstanding principal amount of the Loan, and multiplying the product by the Day Count Fraction, rounding the resulting figure to the nearest pence.
- 3.4 The Calculation Agent will, as soon as practicable on the Reset Determination Date, determine the Reset Rate of Interest. The Calculation Agent will cause the Reset Rate of Interest so determined by it, to be notified to the Lender and the Borrower (in each case, to the extent such party is not the Calculation Agent) as soon as practicable after such determination.

### 4. **Repayment**

- 4.1 Subject to Clauses 4.2 to 4.4, (a) the Loan (together with all interest accrued thereon and other amounts due or owing to the Lender in connection with the Loan) shall be repayable in full by the Borrower on the Repayment Date and (b) the Lender and the Borrower acknowledge and agree that the Borrower does not have any other rights or obligations to prepay the Loan (or any portion of the Loan) prior to its Repayment Date.
- 4.2 Subject to Clause 4.5, the Loan may be prepaid at the option of the Borrower, in whole, but not in part, on any date, on giving not less than 15 nor more than 60 days' written notice (or such other period as may be agreed between the Borrower and the Lender) to the Lender, in accordance with Clause 14 (*Notices*) (which notice shall, subject to Clause 4.5, be irrevocable) at its outstanding principal amount, together with interest accrued and unpaid, if any, to the date fixed for prepayment, if a Taxation Event occurs.
- 4.3 The Loan may be prepaid at the option of the Borrower, in whole but not in part, on any Optional Prepayment Date on the Borrower's giving not less than 15 nor more than 30 days' written notice (or such other period as may be agreed between the Borrower and the Lender) to the Lender, in accordance with Clause 14 (*Notices*) (which notice shall be irrevocable and shall, subject to Clause 4.5, oblige the Borrower to prepay the Loan on such date). On such Optional Prepayment Date, the Borrower shall, subject to Clause 4.5, prepay all of the Loan at its outstanding principal amount together with interest accrued thereon to such Optional Prepayment Date.
- 4.4 Subject to Clause 4.5, the Borrower may, within 90 days of the occurrence of the relevant Capital Disqualification Event and on giving not less than 15 nor more than 60 days' written notice (or such other period as may be agreed between the Borrower and the Lender) to the Lender, in accordance with Clause 14 (*Notices*) (which notice shall, subject to Clause 4.5, be irrevocable), at its option, prepay all, but not some only, of the

Loan at its outstanding principal amount, together with interest accrued and unpaid, if any, to the date fixed for prepayment.

- 4.5 Unless the Loan has (or will have on the date fixed for prepayment) ceased fully to qualify as part of the Borrower's regulatory capital, the Borrower may only exercise any right to prepay the Loan pursuant to this Clause 4 if the Borrower has first:
- (a) in the case of a prepayment pursuant to Clause 4.2 before the fifth anniversary of the Drawdown Date, demonstrated to the satisfaction of the Relevant Supervisor that the relevant Taxation Event is material and was not reasonably foreseeable on the Drawdown Date;
  - (b) in the case of a prepayment pursuant to Clause 4.4 before the fifth anniversary of the Drawdown Date, demonstrated to the satisfaction of the Relevant Supervisor that the relevant change in the regulatory classification of the Loan was not reasonably foreseeable on the Drawdown Date; and
  - (c) in the case of all prepayments, obtained a Relevant Supervisory Consent.

For these purposes, as between the Borrower and the Lender, the Borrower shall be deemed to have satisfied the conditions set out in (a) or (b) above (as applicable) for a prepayment pursuant to Clause 4.2, 4.2 or 4.4 (as the case may be) if it has obtained a Relevant Supervisory Consent pursuant to (c) above and a certificate signed by two authorised signatories of the Borrower stating that it has obtained a Relevant Supervisory Consent shall be conclusive and binding on the Lender.

## 5. Subordination

In the event of a Winding-Up or Qualifying Administration of the Borrower in England, claims against the Borrower in respect of the Loan shall rank:

- (a) in priority to the claims of holders of all classes of share capital and any claims in respect of Junior Obligations;
- (b) *pari passu* without any preference among themselves;
- (c) at least *pari passu* with all obligations (including guarantee obligations) of the Borrower which constitute or would but for any applicable limitation on the amount of such capital constitute, Tier 2 Capital;
- (d) *pari passu* with obligations of the Borrower in respect of claims (if any) which rank or are expressed to rank *pari passu* with the Subordinated Notes (including, without limitation and for so long as any of the same shall remain outstanding, claims in respect of principal and interest under the Existing Subordinated Instruments); and
- (e) junior in point of subordination to the obligations of the Borrower in respect of its Senior Creditors.



6. **Event of Default**

Non-payment of principal or interest due from the Borrower on the Loan shall constitute an event of default under this Agreement.

7. **Remedies**

7.1 In the event of the occurrence of an Event of Default, the Lender's sole remedy shall be to petition for the Winding-Up of the Borrower in England and the Lender waives all other remedies, including, without limitation, any right to institute any other proceedings, in respect of any interest, principal or any other amounts due under this Agreement or in respect of any breach by the Borrower of any obligation, condition or provision of this Agreement.

7.2 In the event of an order being made or an effective resolution being passed for the Winding-Up of the Borrower in England, the Lender may declare the principal of the Loan due and repayable immediately (and such principal shall thereby become so due and repayable) together with accrued interest.

8. **Payments**

Subject to Clause 9, unless required by law and unless the Borrower and the Lender agree otherwise, all payments made by the Borrower hereunder shall be made free and clear of and without any withholding or deduction for or on account of any tax or counterclaim.

9. **Tax Gross-Up**

In the case of any withholding or deduction for or on account of any tax required by law, the Borrower shall pay such additional amounts in respect of interest but not principal as will result in receipt by the Lender after such withholding or deduction of such amounts of interest as would have been received by it had no such withholding or deduction been required. Any reference in this Agreement to interest shall be deemed to include any additional amounts in respect of interest which may be payable under this Clause 9.

10. **Set Off**

The Lender hereby waives any right to set-off any amount of interest, principal or any other amounts due under this Agreement against any amounts owed to the Borrower by the Lender and waives any right to counterclaim for any amount of interest, principal or any other amounts due under this Agreement in any action by the Borrower against the Lender in respect of any amount owed to the Borrower by the Lender. In the event that the Lender recovers any amount in respect of principal, interest or any other amounts due on the Loan (the "**Original Debt**") by virtue of the application of any relevant rules of mandatory set-off applicable under English law in circumstances where the claims of any Senior Creditors remain outstanding, the Lender shall pay an amount equal to whichever is the lesser of the amount so recovered and the aggregate amount of the claims of Senior Creditors then remaining outstanding to the liquidator of the Borrower upon trust for such Senior Creditors. The Lender may rely upon a certificate of the liquidator for the purpose of determining whether or not any claims of

Senior Creditors remain outstanding and if so their amount or aggregate amount. The Borrower shall not be obliged to concern itself with the distribution by the liquidator of any payment so made to the liquidator. To the extent of any payment so made, the Original Debt shall be treated as if it had not been discharged.

**11. Partial Invalidity**

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

**12. Amendment**

The terms of this Agreement may be amended at any time by mutual agreement between the Borrower and the Lender but subject to the prior notification and non-objection of the Relevant Supervisor.

**13. Changes in Parties**

Neither the Lender nor the Borrower may assign its rights, in whole or in part, under this Agreement.

**14. Notices**

Each communication to be made under this Agreement shall, unless otherwise agreed between the parties, be made by e-mail to the recipient at the applicable email addresses set out below or such other email address as the relevant party has notified to the other:

if to the Lender:

Email: [IBPTreasury@investec.co.uk](mailto:IBPTreasury@investec.co.uk)  
Attention: Derek Lloyd

if the Borrower:

Email: [IBPTreasury@investec.co.uk](mailto:IBPTreasury@investec.co.uk)  
Attention: Derek Lloyd

Any such communication shall be deemed to have been received when transmitted, provided that any communication received after 5:00 p.m. in the place of receipt shall be deemed only to be received the following day.

**15. Counterparts**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

16. **Governing Law**

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by English law.

17. **Jurisdiction**

17.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Agreement) (a "**Dispute**").


17.2 The parties to this Agreement agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party to this Agreement will argue to the contrary.


**AS WITNESS** the hands of the duly authorised representatives of the parties to this Agreement the day and year first before written.

**SIGNATURES**

***The Lender***

**INVESTEC PLC**


Signed by:   
Name: Victoria Stott  
Title: Authorised Signatory

Signed by:   
Name: Derek Lloyd  
Title: Authorised Signatory

***The Borrower***

**INVESTEC BANK PLC**

Signed by:   
Name: Victoria Stott  
Title: Authorised Signatory

Signed by:   
Name: Derek Lloyd  
Title: Authorised Signatory