

DATED

RESERVE BANK OF AUSTRALIA

(“Reserve Bank”)

and

RESERVE BANK OF AUSTRALIA

(“Participating Bank – Interbank Cash Elements”)

and

[NAME OF ESA HOLDER]

(“Participating Bank – Cash Elements”)

and

[NAME OF ESA HOLDER]

(“Member”)

**RESERVE BANK INFORMATION AND TRANSFER SYSTEM
MEMBERSHIP AGREEMENT
(TWO PARTICIPATING BANKS)**

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SAMPLE

**[RESERVE BANK INFORMATION AND TRANSFER SYSTEM
MEMBERSHIP AGREEMENT - MULTIPLE PARTICIPATING BANKS]**

THIS RESERVE BANK INFORMATION AND TRANSFER SYSTEM MEMBERSHIP AGREEMENT is made on

BETWEEN: **RESERVE BANK OF AUSTRALIA** a body corporate established by the Reserve Bank Act 1959 (Cwlth) of 65 Martin Place, Sydney, New South Wales, 2000 (“**Reserve Bank**”)

AND: **RESERVE BANK OF AUSTRALIA** a body corporate established by the Reserve Bank Act 1959 (Cwlth) of 65 Martin Place, Sydney, New South Wales, 2000 (“**Participating Bank – Interbank Cash Elements**”)

AND: *[NAME OF ESA HOLDER]* (ABN *[ABN]*)
of *[Address]* (“**Participating Bank – Cash Elements**”)

AND: *[NAME OF ESA HOLDER]* (ABN *[ABN]*)
of *[Address]* (“**Member**”)

1. INTERPRETATION

1.1 The following words have these meanings in this agreement unless the contrary intention appears.

“**Membership Agreement**” means each agreement between the Reserve Bank and a bank and an applicant for membership of the System by which the applicant becomes a Member of the System.

“**Participating Banks**” means either or both of the Participating Bank – Interbank Cash Elements and Participating Bank – Cash Elements as the context may permit and/or require.

“**Regulations**” means the regulations from time to time existing and published by the Reserve Bank entitled “Reserve Bank Information and Transfer System Regulations” including the Conditions of Operation.

1.2 A reference in this agreement to a bank “acting as a Member’s participating bank” means:

- (i) the provision by that bank of the types of facilities which are required by the Regulations and which are otherwise necessary to enable the Member to perform its obligations under the Regulations and generally to participate in the System; and
- (ii) the agreement by that bank otherwise to participate in the System in accordance with the Regulations and to be bound by the Regulations.

2.

1.3 Words and expressions which have a defined meaning in or for the purposes of the Regulations shall have the same meaning when used in this agreement.

1.4 In this agreement unless the contrary intention appears:

- (a) a reference to this agreement or another instrument includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word “person” includes a firm, a body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the person’s executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (f) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;
- (g) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally; and
- (h) a reference to any thing is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually.

1.5 Headings are inserted for convenience and do not affect the interpretation of this agreement.

2. RESERVE BANK AS AGENT

The Reserve Bank executes this agreement for itself and as agent for each other party to each Membership Agreement.

3. RIGHTS AND OBLIGATIONS OF PARTIES

3.1 The Member confirms the acknowledgment contained in Regulation 2.1 and agrees with the Reserve Bank and each of the Participating Banks to observe and comply with the Regulations from time to time in force. The Regulations are hereby incorporated into this agreement with the intent that the Regulations are binding upon each party to this agreement as if the Regulations formed a contract which has been duly executed by each such party.

3.2 Each of the Participating Banks confirms the acknowledgment contained in Regulation 2.2 and agrees with the Reserve Bank and the Member:

3.

(a) in the case of the Participating Bank – Interbank Cash Elements:

- (i) to observe and comply with the Regulations from time to time in force;
- (ii) to act as Participating Bank for the Member with respect to settlement of Interbank Cash Elements of Transactions arising in the System, in terms of the Regulations; and
- (iii) to make available to the Member the types of facilities which are required by the Regulations to enable the Member to perform its obligations under the Regulations and generally to participate in the System; and

(b) in the case of the Participating Bank – Cash Elements:

- (i) to observe and comply with the Regulations from time to time in force;
- (ii) to act as Participating Bank for the Member with respect to settlement of Cash Elements of Transactions arising in the System, in terms of the Regulations; and
- (iii) to make available to the Member the types of facilities which are required by the Regulations to enable the Member to perform its obligations under the Regulations and generally to participate in the System.

3.3 Each of the Participating Banks and the Member agree with each other and with the Reserve Bank that they will observe the terms of the agreements contained in or referred to in clauses 3.1 and 3.2.

3.4 The Reserve Bank for itself and as agent under clause 2 grants to the Member and to each of the Participating Banks the rights which a Member and Participating Bank respectively have under the Regulations.

3.5 Each of the Participating Banks and the Member assume obligations towards each other, the Reserve Bank and each of the parties for which the Reserve Bank is acting as agent pursuant to clause 2 which arise as a result of being a Participating Bank and a Member respectively for the purposes of the Regulations.

3.6 Each of the Participating Banks and the Member authorise the Reserve Bank to enter into other Membership Agreements in accordance with the Regulations as its agent and with full power to confer rights and incur obligations which arise as a result of being a Participating Bank and a Member respectively for the purposes of the Regulations.

3.7 Each of the Participating Banks undertakes to notify the Reserve Bank promptly if at any time that Participating Bank intends to cease to act as the Member's participating bank, giving details of the date upon which the Participating Bank intends to cease so to act. The Participating Bank concerned must comply with Regulations 4.6 and 4.7 in relation to its ceasing to act as the Member's participating bank. The Member

4.

authorises the Participating Bank concerned to provide to the Reserve Bank the information referred to in this clause 3.7.

- 3.8 If a bank other than the Participating Bank – Cash Elements is to act as the Member’s participating bank with respect to settlement of Cash Elements of Transactions arising in the System, the Member and that other bank must sign a new Membership Agreement before that new bank’s facilities to the Member will be recognised for the purposes of the System. If a Member’s Participating Bank – Cash Elements ceases to act in that capacity for that Member, the Member shall not be entitled to use the System to settle Cash Elements of Transactions arising in the System until it has signed a Membership Agreement with a new bank).
- 3.9 (a) Each Participating Bank indemnifies the Reserve Bank, its servants, agents and assigns against all liabilities, actions, proceedings, claims, demands, losses howsoever arising whether direct or consequential (including but not limited to loss of profits), costs, expenses or any other damage suffered by the Reserve Bank, its servants, agents or assigns as a result of, in connection with or arising out of the acts or omissions of the Participating Bank in relation to or in connection with this agreement or the System.
- (b) The Member indemnifies the Reserve Bank, its servants, agents and assigns against all liabilities, actions, proceedings, claims, demands, losses howsoever arising whether direct or consequential (including but not limited to loss of profits), costs, expenses or any other damage suffered by the Reserve Bank, its servants, agents or assigns as a result of, in connection with or arising out of the acts or omissions of the Member in relation to or in connection with this agreement or the System.
- 3.10 The Member and each Participating Bank each hereby acknowledges that no Reserve Bank officer, employee or agent has any authority to make any representations or give any warranties in relation to the operation of the System or in relation to the liability of the Reserve Bank with respect to the operation of the System which are inconsistent with the Regulations.
- 3.11 The Member and each Participating Bank each acknowledge that whilst the System is an “approved RTGS System” within the meaning of the Payment Systems & Netting Act 1998 (Commonwealth) the Member and each Participating Bank have a separate obligation to advise the Reserve Bank as soon as practicable upon becoming aware of the external administration of the Member. Each party acknowledges that failure to do so may constitute a criminal offence.

4. GOVERNING LAW

This agreement is governed by and shall be construed in accordance with the law in force in New South Wales.

EXECUTED as an agreement

RESERVE BANK

EXECUTED by **RESERVE BANK OF AUSTRALIA** by being signed by its Attorney under Power)
)
 the Secretary of the Bank in the presence of:)
)
)
 Signature of witness)
)
) pursuant to Power of Attorney dated
 Name of witness (block letters)) 13 April, 1960 Registered No.63591
) Miscellaneous Register of Deeds and I
) declare that I am the Secretary for the
 Address of witness) time being of the Reserve Bank of
) Australia and that I have no notice of
) revocation of the said Power of
 Occupation of witness) Attorney.

PARTICIPATING BANK – INTERBANK CASH ELEMENTS

EXECUTED by **RESERVE BANK OF AUSTRALIA** by being signed by its Attorney under Power)
)
 the Secretary of the Bank in the presence of:)
)
)
 Signature of witness)
)
) pursuant to Power of Attorney dated
 Name of witness (block letters)) 13 April, 1960 Registered No.63591
) Miscellaneous Register of Deeds and I
) declare that I am the Secretary for the
 Address of witness) time being of the Reserve Bank of
) Australia and that I have no notice of
) revocation of the said Power of
 Occupation of witness) Attorney.

PARTICIPATING BANK – CASH ELEMENTS

SIGNED by)
 as attorney for)
[NAME OF ESA HOLDER] under Power of)
 Attorney dated in)
 the presence of:)
)
)
 Signature of witness)
)
)
 Name of witness (block letters))
)
) Signature of Attorney
)
)
 Address of witness) By executing this agreement the
) Attorney states that the Attorney has
) received no notice of revocation of the
 Occupation of witness) Power of Attorney

OR

SIGNED by *[NAME OF ESA HOLDER]* in accordance with s127(1) of the Corporations Act 2001 (Cth)

..... Signature of Director Signature of Director/Secretary
..... Print Name Print Name

MEMBER

SIGNED by)
as attorney for)
[NAME OF ESA HOLDER] under Power of)
Attorney dated in)
the presence of:)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....)
Address of witness)

.....)
Occupation of witness)

.....)
Signature of Attorney

) By executing this agreement the
) Attorney states that the Attorney has
) received no notice of revocation of the
) Power of Attorney

OR

SIGNED by **[NAME OF ESA HOLDER]** in accordance with s127(1) of the Corporations Act 2001 (Cth)

.....
Signature of Director

.....
Signature of Director/Secretary

.....
Print Name

.....
Print Name