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AUSTRALIAN PAYMENTS NETWORK LIMITED

ABN 12 055 136 519

A Company limited by Guarantee

REGULATIONS

for

AUSTRALIAN CASH DISTRIBUTION AND EXCHANGE SYSTEM FRAMEWORK

(CS5)

Commenced 3 December 2001

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FOR
AUSTRALIAN CASH DISTRIBUTION AND EXCHANGE SYSTEM
(CS5)
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AUSTRALIAN PAYMENTS NETWORK LIMITED

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REGULATIONS

For

AUSTRALIAN CASH DISTRIBUTION AND EXCHANGE SYSTEM

(CS5)

FRAMEWORK

PART 1 PRELIMINARY

1.1 Definitions

The terms set out in the table below have the meaning indicated next to them in these Regulations and the Procedures, unless the contrary intention appears.

“**Acceptance Notice**” means the notice sent to an Applicant pursuant to Regulation 4.3(f).

“**ACDES**” means the Australian Cash Distribution and Exchange System (CS5).

“**ACDES Market Share**” and “**AMS**” means a Framework Participant’s share of Transactions in ACDES, calculated as the simple arithmetic average of a Framework Participant’s percentage share of the National Total Cash Value and National Total Cash Volume, in accordance with Regulation 6.7.

“**Applicant**” means a person who has submitted an application for membership as a Framework Participant.

“**APRA**” means the Australian Prudential Regulation Authority.

“**Article**” means an article of the Constitution.

“**Audit**” means an audit arranged by the Company pursuant to the Procedures.

“**Auditor**” means a person engaged to conduct an Audit.

“**Australian Cash Distribution and Exchange System (CS5)**” means the systems and procedures contained in, or made under, these Regulations and the Procedures for the purpose of co-ordinating, facilitating and protecting the conduct and Settlement of exchanges of Cash between Framework Participants to ensure to the extent possible that there is an adequate and efficient supply of Cash available at Cash Points to meet demand.

“Authorised Officer” means the person appointed by a Framework Participant from time to time to act as an Authorised Officer for that Framework Participant for the purposes of ACDES.

“Banking Business Day” means a day that is a “Settlement Date” as defined in the RITS Regulations.

“Bilateral Agreement” means an agreement made by two Framework Participants to govern the Transactions made between them, substantially in the form set out in Appendix A to the Procedures.

“Board” means the board of directors of the Company.

“Bulk Check” means a check by a Buyer to confirm that a cash consignment comprises the correct number of TEDs and/or TEBs.

“Buyer” means the Framework Participant who obtains title to the Cash or Cash Pool Title pursuant to a Transaction.

“Cash” means Australian legal tender (ie. notes and coins) bought and sold under a Transaction.

“Cash Exchange” means the sale or purchase of Australian currency or a proprietary interest in an identifiable pool of such currency which is not a sale or purchase forming part of a foreign exchange transaction

“Cash Point” means a site where Cash is collected from and/or delivered to (including without limitation, financial institution branches, ATMs and the premises of commercial customers).

“Cash Pool” means a collection of Cash held by a Cash Pool Manager on behalf of one or more Framework Participants. Cash in the Cash Pool may be commingled, each Framework Participant that is entitled to that Cash has a legal and equitable co-ownership interest in the Cash Pool, rather than an interest in any specific Cash in the Cash Pool.

“Cash Pool Manager” means a party holding possession of a Cash Pool on behalf of one or more Framework Participants under a contract or contracts of bailment (eg. an armoured car carrier).

“Cash Pool Title” means the interest held by a Framework Participant as a co-owner of a Cash Pool.

“Cash Variation” means the difference between the actual Cash delivered and the amount of Cash agreed to be delivered under a Settlement Sheet or Standing Order. If more Cash is delivered than was agreed to be delivered under that Settlement Sheet or Standing Order, there will be a “positive Cash Variation”. If less Cash is delivered than was agreed to be delivered under that Settlement Sheet or Standing Order, there will be a “negative Cash Variation”.

Amended
effective
1/1/17

“Chairman” means the chairman of the Management Committee from time to time.

“Chief Executive Officer” means the person appointed as the chief executive officer of the Company under Article 7.13 of the Constitution (Chief Executive Officer), and a reference in these Regulations to the Chief Executive Officer includes a reference to a person nominated by the Chief Executive Officer to be responsible for the matter referred to in that reference.

“Commencement Date” means the date specified by the Chief Executive Officer pursuant to Regulation 1.2(t).

“Company” means Australian Payments Network Limited (ABN 12 055 136 519).

“Confidential Information” means any information in any form or medium in connection with the operations of ACDES which is made available by the Company or any Framework Participant to any other Framework Participant, the Company or any member of the Company from time to time. It includes without limitation those provisions of the Regulations and Procedures which the Management Committee determines to be commercially sensitive or otherwise desirable to be kept confidential in order to preserve the integrity or security of ACDES.

“Constitution” means the constitution of the Company as amended from time to time.

“Constitutional Corporation” has the same meaning as in the *Payment Systems and Netting Act 1998 (Cth)*.

“Contract Note” [Deleted]

Deleted effective 1/1/17

“Controller” has the meaning given in the *Corporations Act 2001 (Cth)*.

“Costs” means costs, charges and expenses, including those incurred in connection with advisors.

“Defendant Framework Participant” has the meaning given in Regulation 13.5(b).

“Delivery” means, subject to Regulation 9.2, for a Transaction, the completion of the Delivery Event for that Transaction. If no Delivery Event is specified in the relevant Settlement Sheet, Standing Order or Bilateral Agreement, Delivery will occur according to the rules specified in Regulation 9.2.

Amended effective 1/1/17

“Delivery Event” means the conditions for delivery (including without limitation the time, place and method of delivery) specified in a Settlement Sheet, Standing Order or Bilateral Agreement.

Amended effective 1/1/17

“Director” means a director (whether voting or non-voting) for the time being of the Company and where appropriate includes an alternate director appointed under Article 7.5 of the Constitution (Alternate Directors).

“Dispute” has the meaning given in Regulation 13.1.

“Dispute Resolution Certificate” has the meaning given in Regulation 13.1.

“Dispute Resolution Procedure” means the dispute resolution procedure prescribed in PART 13.

“Emergency Buy” means a Transaction entered into on a Banking Business Day prior to 15:00 hours for Delivery and Settlement on the same Banking Business Day.

“Entrance Fee” means the fee set by the Company and specified in Regulation 5.1 to be paid by an Applicant to become a Framework Participant, and which fee must be paid before its Membership Application will be accepted by the Company.

“Exclusive Title” means ownership of all the legal and beneficial interest.

“Financial Institution” has the same meaning as in the *Cheques Act 1986 (Cth)*.

“Financial Institution Cheque” means a cheque drawn by a Financial Institution on itself.

“Framework” has the meaning given in the Constitution.

“Framework Participant” means an Initial Framework Participant or a body corporate whose application for membership as a Framework Participant has been accepted by the Company and who has received an Acceptance Notice and in each case whose membership as a Framework Participant of ACDES has not ceased pursuant to Regulation 4.10.

“GST” has the same meaning as in the GST Law. It also includes any amount imposed as additional tax, interest, penalty, fine or other charge payable in respect of GST.

“GST Exclusive Consideration” means any amount payable (or deemed to be payable) under the Constitution, these Regulations or the Procedures in connection with any Taxable Supply (other than amounts payable under Regulations 5.6(c) or 5.7(c)) and the GST exclusive value of any non-monetary consideration provided in connection with the Supply.

“GST Law” has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

“GST Rate” means the rate of GST under the GST Law.

“Initial Framework Participant” means a body corporate which was a member of ACDES prior to 1 January 2014.

“Insolvency Event” means an event which results in a person becoming Insolvent.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvency (each as defined in the *Corporations Act 2001 (Cth)*);

- (b) it has a Controller appointed, is in liquidation, in provisional liquidation, under administration or wound up or has had a Receiver appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved;
- (d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above;
- (e) it is taken (under section 459(F)(1) of the *Corporations Act 2001 (Cth)*) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459(C)(2)(b) or section 585 of the *Corporations Act 2001 (Cth)*;
- (g) it is otherwise unable to pay its debts when they fall due;
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction; or
- (i) APRA or another body responsible for the prudential supervision of a Framework Participant assumes management and control of that Framework Participant.

“Intra-Pool Transfer” means a Transaction where a Seller sells Cash Pool Title to a Buyer within the same Cash Pool, without the Buyer receiving Exclusive Title to specific physical Cash.

“Management Committee” has the meaning given in PART 6.

“Membership” means membership as a Framework Participant of ACDES.

“Membership Application” means the application form set out in ANNEXURE 1 to these Regulations and the form of Membership Application approved by the Company to be used for each Initial Framework Participant.

“National Total Cash Value” means the daily aggregate of the value of all Transactions entered into by all Framework Participants as Buyers and Sellers on a national basis, averaged on an annual basis, as estimated from time to time in accordance with Regulation 6.7.

“National Total Cash Volume” means the aggregate of the number of all Transactions entered into by all Framework Participants as Buyers and Sellers on a national basis, averaged on an annual basis, as estimated from time to time in accordance with Regulation 6.7.

“Procedures” means the document called “Procedures” for the Australian Cash Distribution and Exchange System (CS5) containing operational procedures, specifications, checklists or guidelines adopted by the Management Committee under Regulation 12.1, as in force from time to time. A reference to a particular Procedure has a corresponding meaning.

“RBA” means the Reserve Bank of Australia.

“Receiver” includes a receiver or receiver and manager.

“Registered Office” means the registered office for the time being of the Company.

“Regulations” means these Regulations (including, without limitation, the annexures to these Regulations). A reference to a particular Regulation has a corresponding meaning.

“Representations and warranties” mean the representations and warranties given in Regulation 3.2.

“RITS/RTGS System” means the RBA’s gross settlement system in which processing and settlement of payment obligations takes place in real time.

“RITS Regulations” means the regulations published by the RBA for participation in the RITS/RTGS System.

“Secretary” means a person appointed by the Chief Executive Officer to perform the duties of secretary of the Management Committee under Regulation 6.14.

“Seller” means a Framework Participant who sells and passes to a Buyer title to Cash or Cash Pool Title under a Transaction.

“Settlement” means the discharge of payment obligations arising between Framework Participants as a result of exchanges of Cash under these Regulations and the Procedures.

“Settlement Sheet” means the sheet, substantially in the form of that in Appendix D to the Procedures, to be prepared by each ACDES Framework Participant pursuant to Part 6 of the Procedures.

Inserted
effective
1/1/17

“Standard Transaction” means a Transaction other than an Emergency Buy.

“Standing Order” means the document sent from one Framework Participant to another Framework Participant setting out specific details of Transactions between those Framework Participants substantially in the form set out in Schedule 3 to a Bilateral Agreement.

“Subsidiary” means another entity which is a subsidiary of the first within the meaning of the *Corporations Act 2001 (Cth)* or is a subsidiary of or otherwise controlled by the first within the meaning of any approved accounting standard.

“Supply” has the same meaning as in the GST Law.

“**Suspension Event**” has the meaning given in Regulation 4.8.

“**Tax Invoice**” means a tax invoice complying with the requirements of the GST Law.

“**Taxable Supply**” means:

- (a) For Regulations 5.6(a) and (b) see Regulation 5.6(c);
- (b) For Regulations 5.7(a) and (b), see Regulation 5.7(c).

“**TED and TEB**” means Tamper evident device (or bag) used to pack notes or coin.

“**Transaction**” means an offer by one Framework Participant to buy or sell Cash or Cash Pool Title which has been accepted by another Framework Participant in accordance with the ACDES Regulations and Procedures.

“**Transaction File**” means the document (whether in an electronic file format or otherwise) exchanged between Framework Participants setting out the agreed terms of a Transaction pursuant to Part 2 of the Procedures.

Inserted
effective
1/1/17

“**Voting Entitlement**” means the voting rights of a Framework Participant at an ACDES meeting.

“**Voting Member**” has the meaning given to that term in the Constitution.

1.2 Interpretation

In these Regulations:

- (a) words importing any gender include the other genders;
- (b) the word person includes an individual, a partnership, a joint venture, a firm, a body corporate, an unincorporated association, a Government agency or an authority;
- (c) the singular includes the plural and vice versa;
- (d) “writing” and cognate expressions include all means (including without limitation any electronic form or medium) by which words are able to be reproduced in a tangible and permanently visible form;
- (e) references to a “document” include any notice, certificate, instrument, agreement or document in writing of any kind;

-
- (f) a reference to a statute, code or the *Corporations Act 2001 (Cth)* (or to a provision of a statute, code or the *Corporations Act 2001 (Cth)*) means the statute, the code, the *Corporations Act 2001 (Cth)* or the provision as modified or amended and in operation for the time being, or any statute, code or provision enacted in lieu thereof and includes any regulation or rule for the time being in force under the statute, the code, the *Corporations Act 2001 (Cth)* or the provision;
- (g) a document (including this agreement) includes any variation or replacement of it;
- (h) a clause, annexure or schedule is a reference to a clause in or annexure or schedule to these Regulations unless otherwise specified;
- (i) a particular person includes a reference to the person's executors, administrators, successors and substitutes (including, persons taking by novation) and permitted assigns;
- (j) a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) Australian dollars, dollars, \$, A\$ or AUD is a reference to the lawful currency of Australia;
- (l) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (m) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) if an act under ACDES to be done by a Framework Participant on or by a given day is done after 17.30 hours on that day, it is taken to be done on the next day;
- (o) a party means a party to these Regulations and the Procedures;
- (p) if an event under these Regulations or the Procedures must occur on a stipulated day which is not a Banking Business Day then the stipulated day will be taken to be the next Banking Business Day;
- (q) the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (r) in Parts 6 and 7, a Framework Participant and its Subsidiaries are deemed to be a single entity for the purposes of determining membership of the Management Committee and voting rights and, accordingly, a reference to a Framework Participant for those purposes (including, without limitation, in the definition of ACDES Market Share) is deemed to be a reference to the Framework Participant and its Subsidiaries acting jointly;
-

- (s) words defined in the *Corporations Act 2001 (Cth)* have, unless the contrary intention appears, the same meaning in these Regulations;
- (t) these Regulations have been adopted by the Board and take effect on a date to be specified by the Chief Executive Officer;
- (u) headings are inserted for convenience and do not affect the interpretation of these Regulations;
- (v) if the whole or any part of a provision of these Regulations or the Procedures is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of these Regulations and the Procedures has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This Regulation has no effect if the severance alters the basic nature of these Regulations or is contrary to public policy; and
- (w) each reference in these Regulations to any obligation of a person to comply with these Regulations, the Procedures or any other document is to be construed as an obligation to comply with those documents to which that person is a party.

1.3 Inconsistency with Constitution or Procedures

- (a) If a provision of these Regulations or the Procedures is inconsistent with a provision of the Constitution, the provision of the Constitution prevails.
- (b) If a provision of the Procedures is inconsistent with a provision of these Regulations, the provision of these Regulations prevails.
- (c) If any part of Regulation 2.1 is inconsistent with any other provision of these Regulations, then that other provision prevails to the extent of the inconsistency.

1.4 Governing Law

These Regulations are to be interpreted in accordance with the same laws which govern the interpretation of the Constitution.

1.5 Payment Systems And Netting Act 1998

For the purposes of Part 3 of the *Payment Systems and Netting Act 1998 (Cth)* ("the Act") as it applies to the netting arrangement contemplated by these Regulations and the Procedures:

- (a) the Company is the coordinator of the arrangement;
- (b) notification to the coordinator for the purposes of sub-sections 12(1)(e)(i) and (f) of the Act is by means of notice given to the Chief Executive Officer pursuant to Regulation 2.5; and

- (c) discretion to exclude a party from the arrangement for the purposes of section 12(1)(e)(ii) of the Act is available to the coordinator by means of the Management Committee taking action pursuant to Regulation 4.8(a)(v), the operation of Regulations 4.10(a)(ii) or (iii) or the Board acting pursuant to Article 2.16 of the Constitution (Termination of Membership) or Regulation 4.10(d).

The next page is 2.1

PART 2 SCOPE AND EFFECT**2.1 Objects and Scope of ACDES**

The primary object of ACDES is to facilitate the distribution of Cash to the general community and the efficient exchange and distribution of Cash between Framework Participants as necessary to ensure there is an adequate supply of Cash to meet demand at Cash Points. ACDES is administered by Australian Payments Network Limited.

- (a) Framework Participants first apply to become Framework Participants, and in doing so, agree to be bound by these Regulations and the Procedures. These Regulations and the Procedures set out the functions and organisation of ACDES and important features of ACDES (such as payment and Settlement).
- (b) Each Framework Participant must enter into a Bilateral Agreement with each other Framework Participant with whom it wishes to enter into a Transaction. Those agreements will usually be executed between Framework Participants before any Transactions are entered into by them. The Bilateral Agreements will set out the general terms on which the Framework Participants agree to enter into Transactions with each other.
- (c) These Regulations and the Procedures set out the minimum matters that must be included in every Bilateral Agreement. However, other parts of each Bilateral Agreement may be individually negotiated by the Framework Participants who are parties to them (subject to the requirement that they must not be inconsistent with these Regulations and the Procedures).
- (d) Individual Transactions between Framework Participants will be evidenced by a Transaction File, Settlement Sheet or Standing Order. Each Transaction and its Transaction File, Settlement Sheet or Standing Order will form part of the Bilateral Agreement (that is, the Bilateral Agreement will operate as a master agreement for each Transaction made between the Framework Participants who are a party to that Bilateral Agreement). Amended effective 1/1/17
- (e) Bilateral Agreements between Framework Participants may contain the capacity for the Framework Participants to enter into Transactions in a number of ways, such as:
 - (i) through the exchange of Transaction Files (either as a Standard Transaction or an Emergency Buy); or Amended effective 1/1/17
 - (ii) under a Settlement Sheet (either as a Standard Transaction or an Emergency Buy); or Amended effective 1/1/17
 - (iii) under a Standing Order.

- (f) These Regulations provide for two types of interests which might be the subject of Transactions.
 - (i) Exclusive Title to Cash - for example, a sale of Cash held by a Framework Participant in its own vaults, which is then physically delivered from the Seller to the Buyer.
 - (ii) Cash Pool Title - a Framework Participant's title as a co-owner of a Cash Pool. A Transaction in Cash Pool Title could require that the Cash Pool Title be converted to Exclusive Title to Cash which would then be delivered to the Buyer. Alternatively, the Transaction could be an Intra-Pool Transfer, under which the ownership of the Cash Pool Title itself was transferred from the Seller to the Buyer without being converted to Exclusive Title to Cash.
- (g) These Regulations do not restrict a Framework Participant's ability to enter into transactions to buy and sell cash with people who are not Framework Participants or with Framework Participants outside ACDES. Any transaction made by a Framework Participant with a non-Framework Participant falls outside the scope of these Regulations and the Procedures.

2.2 Effect of Regulations and Procedures

- (a) ACDES has been established for the benefit of Framework Participants who, by and in consideration of becoming Framework Participants, acknowledge that they are bound to comply with the Constitution, these Regulations and the Procedures and to fulfil and perform every obligation and duty imposed on them by or pursuant to the Constitution, these Regulations and the Procedures.
- (b) These Regulations and the Procedures have the effect of a contract under seal:
 - (i) between the Company and each Framework Participant; and
 - (ii) between the Framework Participants.
- (c) The contractual relationship between the Company and the Framework Participants and between the Framework Participants forms part of an ongoing business relationship between such parties in relation to the Cash exchanged and settled for among Framework Participants in connection with Transactions.

2.3 Framework Participants act as Principals

- (a) In incurring rights and obligations under these Regulations and the Procedures, each Framework Participant acts on the basis that it assumes those rights and incurs those obligations as a principal, notwithstanding any other fact, matter or circumstance (including, without limitation, any actual or constructive notice of any agency relationship entered into by a Framework Participant for the purposes of its participation in any Transaction or the fact that Cash is being exchanged as an agent for the payee or another person).
- (b) No person other than the Framework Participant which assumes rights or incurs obligations under these Regulations and the Procedures (including any person asserting rights as a principal on whose behalf such a Framework Participant acts) may enforce those rights or assume those obligations.
- (c) Nothing in these Regulations or the Procedures shall affect the rights and obligations attaching to any Cash which are vested in, or may be acquired or incurred (whether at law, in equity or otherwise) by, any other persons.

2.4 Assignment and Transfer

The rights and obligations of each Framework Participant under the Constitution, these Regulations and the Procedures are incapable of being assigned (whether at law, in equity or otherwise), charged, transferred or the subject of any trust or other fiduciary obligation which may affect or abrogate the personal liability of that Framework Participant. No action which purports to do any of the foregoing shall affect in any manner the rights and obligations of a Framework Participant under the Constitution, these Regulations and the Procedures.

2.5 Insolvency

- (a) A Framework Participant must notify the Chief Executive Officer immediately upon becoming aware of:
 - (i) any Insolvency Event in respect of itself; or
 - (ii) any reasonable grounds to suspect any Insolvency Event in respect of any other Framework Participant.
- (b) Upon receiving any notification under Regulation 2.5(a)(i), the Chief Executive Officer must promptly notify APRA, the RBA, all other Framework Participants, all members of the Management Committee and all Directors.
- (c) Upon receiving any notification under Regulation 2.5(a)(ii), the Chief Executive Officer must promptly:
 - (i) notify APRA and the RBA;

- (ii) make enquiries of the Framework Participant in respect of which the Insolvency Event is reported to be suspected; and
 - (iii) if the relevant Framework Participant is prudentially supervised, make enquiries of APRA or, if the relevant Framework Participant is not supervised by APRA, the relevant supervisor.
- (d) To the extent that an Insolvency Event is either admitted by the relevant Framework Participant or the relevant supervisor acts pursuant to paragraph (i) of the definition of Insolvent and that fact is communicated to the Chief Executive Officer, the Chief Executive Officer must promptly notify all other Framework Participants, all members of the Management Committee and all Directors.
- (e) Any notification to or from the Chief Executive Officer under this Regulation 2.5 must identify the Framework Participant and the Insolvency Event(s) in respect of which it is given.
- (f) The provisions of Regulation 4.8 or Regulation 4.10 may apply as a result.

2.6 Suitable Transactions

To the extent the Procedures stipulate procedures for the Settlement of any Transactions, the Transactions to be so settled are limited to the Transactions which are effected in Australia.

2.7 No Obligation to Engage in Business as a Framework Participant

No Framework Participant is obliged, solely on account of its membership as a Framework Participant, to engage with any other Framework Participant in business of a kind which would, in the ordinary course, give rise to the exchange of Cash between them.

2.8 Review

The Management Committee must regularly review the overall integrity and efficiency of ACDES in light of operational experience and provide regular reports by way of recommendation to the Board on the need (if any) for amendments to these Regulations and the Procedures.

The next page is 3.1

PART 3 DISCLAIMERS AND LIMITATION OF LIABILITY

3.1 Assets and Liabilities of the Company

It is expressly agreed and acknowledged that the Company will not acquire any financial assets (other than in respect of fees and charges payable by Framework Participants) or incur any liabilities as a result of the conduct of ACDES.

3.2 Representations and Warranties

- (a) Each Framework Participant represents and warrants to the Company and each other Framework Participant that:
- (i) it has not relied on any representation made by the Company or any other Framework Participant to induce it to become a Framework Participant;
 - (ii) it has the power and authority to execute the Membership Application and comply with its obligations under these Regulations and the Procedures;
 - (iii) it has made its own appraisal of the qualifications to be satisfied in order for a person to become a Framework Participant;
 - (iv) its obligations under these Regulations and the Procedures are valid and binding and are enforceable against it according with their terms;
 - (v) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they are due and payable;
 - (vi) it does not enter into ACDES as trustee;
 - (vii) it has disclosed to the Company all facts relating to it, these Regulations, the Procedures and all things in connection with them which are material to the assessment of the nature and amount of risk undertaken by the other Framework Participants if the Management Committee allows it to become a Framework Participant and do anything in connection with ACDES; and
 - (viii) it has made (without reliance on or inducement to or from the Company or any other Framework Participant) its own assessment and approval of the Constitution, these Regulations and the Procedures as appropriate to their stated purpose.
- (b) Each Framework Participant acknowledges that the Company and each other Framework Participant from time to time relies on the representations and warranties in Regulation 3.2.

PART 3 DISCLAIMERS AND LIMITATION OF LIABILITY

- (c) Each Framework Participant agrees to notify the Company of anything that happens which would mean it could not truthfully repeat all the representations and warranties in Regulation 3.2 by reference to the then current circumstances.

3.3 Disclaimers

- (a) Except as expressly provided in the Constitution, these Regulations or the Procedures, neither the Company nor any of its officers, employees or agents has any duty or responsibility, either initially or on a continuing basis, to:
- (i) keep itself informed about the performance by the Framework Participants of their obligations as a Framework Participant, or under the Constitution, these Regulations and the Procedures, provided that if the Company becomes aware that a Framework Participant has breached its obligations under the Constitution, these Regulations or the Procedures, the Company will bring the matter to the attention of that Framework Participant and the Management Committee; or
 - (ii) keep itself informed about the financial condition, affairs or creditworthiness of any Framework Participant or its standing as a Framework Participant; or
 - (iii) provide any Framework Participant with credit or other information with respect to any other Framework Participant.
- (b) Each Framework Participant acknowledges that no officer, employee or agent of the Company has any authority to make any representations or give any warranties in relation to the liability of the Company with respect to the operation of ACDES which are inconsistent with the Constitution, these Regulations or the Procedures.

3.4 Exclusions

Without limiting Regulation 3.1 or any other provision of these Regulations, the Company will not be liable for any loss to any person or damage to persons or property, whether such loss or damage is direct or consequential (including but not limited to loss of profits), howsoever arising out of:

- (a) any act or omission by any Framework Participant or any other person other than the Company, its officers, employees or agents (including without limitation any errors or delays, any breach of warranty or undertaking or representation, any breach of these Regulations, the Procedures or the terms of any other document relating to ACDES, any Insolvency Event, any failure to settle any obligations arising out of any Transaction, any fraud or any forgery);
- (b) the exercise, or attempted exercise of, failure to exercise, or delay in exercising, a right or remedy under these Regulations or the Procedures;

PART 3 DISCLAIMERS AND LIMITATION OF LIABILITY

- (c) any act or omission done by, or any refusal to do any act by, the Company, its officers, employees or agents in good faith and without negligence or in reliance on any act, conduct or consent of any other person or on any instructions, information or document provided to the Company, its officers, employees or agents by any other person;
- (d) any fraud or forgery on the part of any officer, employee or agent of the Company outside the scope of their employment with the Company, except to the extent to which the Company would have been responsible at common law for such fraud or forgery;
- (e) the failure of the Company, its officers, employees or agents to receive any instructions, information or document from any other person, unless the failure has resulted from a negligent act or omission of the Company;
- (f) the terms of any representation, instructions, information or document given to the Company, its officers, employees or agents by any other person;
- (g) any error or omission in any document issued by the Company, other than an error or omission resulting from a negligent act or omission of the Company;
- (h) any technological failure of any sort (including without limitation any telephone, computer or electrical failure) whether arising in connection with Transactions or otherwise;
- (i) any unauthorised access to, or participation in ACDES by any person, other than an officer, employee, or agent of the Company;
- (j) any contractual arrangements between any Framework Participant and another person; or
- (k) any change in the status, financial condition, affairs or creditworthiness of a Framework Participant or another person, including without limitation in its capacity as a Framework Participant.

3.5 Limit of Liability

- (a) If, notwithstanding Regulations 3.1 to 3.4 inclusive, any liability is incurred by the Company in relation to ACDES, the aggregate amount of that liability in respect of all claims made by Framework Participants in respect of, or arising out of, any one event will not exceed the amount equal to ten times the Framework fee charged to a Framework Participant under Regulation 5.3.
- (b) All claims made by Framework Participants against the Company in relation to ACDES must be made within 12 months of the occurrence of the event which it is alleged gives rise to the claim against the Company.

PART 3 DISCLAIMERS AND LIMITATION OF LIABILITY

- (c) For the purposes of Regulation 3.5(b) all inter-related events which give rise to the Company's liability under these Regulations, the Procedures or otherwise will be treated as one event.
- (d) If any 2 or more Framework Participants suffer losses which exceed the total aggregate limit specified in Regulation 3.5(a), the liability of the Company to each of those Framework Participants in accordance with these Regulations will be proportional to the total loss suffered by each of those Framework Participants respectively.
- (e) Nothing in this PART 3 affects the scope or interpretation of Regulations 3.1 to 3.4 nor implicitly creates or evidences any duties or responsibilities of the Company, or any of its officers, employees or agents.

The next page is 4.1

PART 4 MEMBERSHIP AS A FRAMEWORK PARTICIPANT

4.1 Framework Participants

- (a) Subject to Regulation 4.1(b), a Framework Participant must, to the extent it engages or is deemed to engage in Transactions with other Framework Participants within ACDES, at all times satisfy applicable technical, operational and security standards, specifications and requirements in the Procedures.
- (b) Framework Participants may enter into cash delivery and supply transactions with Framework Participants and non-Framework Participants outside of ACDES. However, in such cases these Regulations and the Procedures will not apply to the transactions and consequently it will not be made with the benefit of these Regulations and the Procedures.

4.2 Qualifications – All Framework Participants

- (a) In order to be a Framework Participant, a person must:
 - (i) be a Constitutional Corporation which carries on business at or through a permanent establishment in Australia;
 - (ii) engage in Cash Exchanges with another body corporate which is a Framework Participant, or do so on or soon after becoming a Framework Participant;
 - (iii) settle payment obligations in accordance with PART 10 for the value of obligations incurred in Transactions;
 - (iv) be able to comply with any applicable laws, the Constitution, these Regulations and the Procedures in relation to Transactions;
 - (v) complete and deliver to the Secretary a Membership Application; and
 - (vi) agree to pay all fees, costs, charges and expenses which may be levied on, or which are to be reimbursed by, Framework Participants in accordance with these Regulations.
- (b) As a further condition, the Management Committee or the Board may require an Applicant which is subject to prudential supervision to provide evidence that the relevant supervisor does not object to the application for membership as a Framework Participant.

4.3 Membership Applications

- (a) Membership Applications must be addressed to the Secretary and must be substantially in the form of ANNEXURE 1 or such other form that the Board may approve from time to time. Applicants must:
- (i) comply with all the conditions of application as are specified in these Regulations;
 - (ii) provide sufficient information to demonstrate that the Applicant satisfies the requirements for membership as a Framework Participant contained in Regulation 4.2; and
 - (iii) promptly supply any other information which the Management Committee may reasonably require.
- (b) The Secretary must promptly forward a copy of each Membership Application to the members of the Management Committee. All Membership Applications received by the Management Committee must be promptly considered by the Management Committee which shall accept for membership an Applicant which complies with the conditions for membership specified in these Regulations.
- (c) If:
- (i) the Management Committee is unable to determine whether an Applicant complies with the conditions for membership specified in these Regulations; or
 - (ii) three members of the Management Committee or Framework Participants entitled to cast more than 33% of the total votes available to be cast at meetings of the Management Committee determine that an Applicant does not comply with the conditions for membership specified in these Regulations,
- the Management Committee (without having accepted or rejected the relevant Membership Application) must refer the relevant Membership Application to the Board. The Board must promptly exercise the powers of the Management Committee in determining whether the Applicant complies with the conditions for membership specified in these Regulations and, if so, the Board must accept the Membership Application.
- (d) A body corporate which has applied for Framework Participantship but has not been informed by the Secretary of the result of its Framework Participantship Application may withdraw the Framework Participantship Application at any time.
- (e) If a Membership Application does not comply with these Regulations, the Secretary must notify the Applicant. Any such Applicant is entitled:
- (i) within 3 months to request that the Board review that decision; or

PART 4 MEMBERSHIP AS A FRAMEWORK PARTICIPANT

- (ii) at any time to lodge a fresh Membership Application in accordance with these Regulations.
- (f) If a Membership Application is accepted, the Secretary must promptly notify the Applicant. The Secretary must also promptly notify all Framework Participants of each successful Membership Application and the date on which the new Framework Participant will commence participation in ACDES.

4.4 Transitional arrangements

- (a) Initial Framework Participants will be regarded as Framework Participants without the need for such bodies corporate to make a Membership Application under Regulations 4.3.
- (b) However, each such body corporate must agree or have agreed in writing on or before the Commencement Date to be bound by the Constitution, these Regulations and the Procedures.

4.5 Rights, restrictions and obligations of Framework Participants to the Company

- (a) A Framework Participant (in its capacity as a Framework Participant) may not share in any distribution of capital or profits of the Company or in a distribution on a winding-up, dissolution or a reduction of the capital of the Company.
- (b) A Framework Participant (in its capacity as a Framework Participant) has no right to vote at general meetings of the Company.
- (c) A Framework Participant has the same rights as Voting Members of the Company to receive notices, annual reports and audited profit and loss accounts and audited balance sheets and to attend and speak at general meetings of the Company.
- (d) A Framework Participant has the right to participate in ACDES and to vote at any ACDES meeting convened in accordance with PART 7 or any other meeting of the Framework Participants convened in accordance with the Constitution or the *Corporations Act 2001 (Cth)*.
- (e) In exercising any such right, each Framework Participant must act in good faith.
- (f) A Framework Participant may not transfer or share its membership as a Framework Participant.

4.6 Rights of Framework Participants

Each Framework Participant has the right to:

- (a) enter into one or more Bilateral Agreements in accordance with these Regulations and the Procedures;

PART 4 MEMBERSHIP AS A FRAMEWORK PARTICIPANT

- (b) engage in Settlement in accordance with these Regulations and the Procedures; and
- (c) enforce against each other, and any past, present or future Framework Participant all of the respective obligations of that Framework Participant under these Regulations and the Procedures.

4.7 Obligations of Framework Participants

Each Framework Participant must:

- (a) comply with its obligations under these Regulations and the Procedures;
- (b) ensure that any Bilateral Agreement it enters into complies with these Regulations and the Procedures;
- (c) comply with its Settlement obligations as set out in these Regulations and the Procedures;
- (d) take reasonable steps to minimise the risk of fraud or errors;
- (e) perform its obligations under ACDES (including obligations under these Regulations) with reasonable care, skill and diligence;
- (f) not act or fail to act in a manner that may adversely affect the integrity or efficiency of ACDES; and
- (g) supply the Company and the Management Committee with all information requested by the Company or the Management Committee from time to time within a reasonable time from the date of the request.

4.8 Suspension

- (a) The Management Committee may, subject to Regulation 4.8(b) below, suspend the membership of a Framework Participant for a specified or indefinite period of time in the following circumstances (each a “**Suspension Event**”):
 - (i) the Framework Participant is subject to prudential supervision and the relevant supervisor requests such suspension;
 - (ii) by agreement with the Framework Participant concerned;
 - (iii) the Framework Participant no longer satisfies all applicable requirements for membership set out in Regulation 4.2;
 - (iv) an Insolvency Event (not being an event which results in automatic cessation of membership pursuant to Regulations 4.10(a)(ii) or (iii) occurs in respect of the Framework Participant; or

PART 4 MEMBERSHIP AS A FRAMEWORK PARTICIPANT

- (v) the Framework Participant breaches its obligations under the Constitution, these Regulations or the Procedures and fails to rectify the breach or provide an explanation satisfactory to the Management Committee within 30 days of receipt of a request from the Secretary to rectify the breach or provide such an explanation.
- (b) If a Framework Participant is subject to prudential supervision by APRA then the Management Committee must give the APRA reasonable notice of, and an opportunity to be heard at, any meeting at which it will consider suspending the Framework Participant pursuant to Regulation 4.8(a)(iv).

4.9 Effect of Suspension from ACDES

- (a) A Framework Participant whose membership as a Framework Participant is suspended under Regulation 4.8 is not entitled to vote at any ACDES meeting convened in accordance with PART 7 or any other meeting of Framework Participants convened in accordance with the Constitution or the *Corporations Act 2001 (Cth)*, except to the extent approved by the Management Committee (or the Chief Executive Officer if authorised to grant such approvals by the Management Committee).
- (b) In addition, if a Framework Participant whose membership as a Framework Participant is suspended under Regulation 4.8 has nominated a member of the Management Committee pursuant to Regulation 6.1(a)(ii), that Framework Participant is not entitled to vote at meetings of the Management Committee, but may continue to attend and participate in such meetings, during the period of suspension under Regulation 4.8.
- (c) A Framework Participant whose membership is suspended under Regulation 4.8 is not excused from discharging its obligations under the Constitution, these Regulations and the Procedures, except as expressly provided in or pursuant to these Regulations and the Procedures.
- (d) The Secretary will notify all Framework Participants (by the most expeditious means reasonably available) of any suspension under Regulation 4.8.

4.10 Termination

- (a) A Framework Participant ceases to be a Framework Participant on:
 - (i) resignation;
 - (ii) becoming Insolvent or making an arrangement or composition with creditors generally;
 - (iii) being wound-up, dissolved or otherwise ceasing to exist;
 - (iv) permanently ceasing to be engaged in Transactions; or

PART 4 MEMBERSHIP AS A FRAMEWORK PARTICIPANT

- (v) the Board terminating that Framework Participant's membership in accordance with the Constitution and these Regulations.
- (b) A Framework Participant may, by notice in writing to the Company, resign as a Framework Participant with immediate effect. The notice is irrevocable.
- (c) A Framework Participant may not resign except by giving notice in accordance with Regulation 4.10(b).
- (d) The Board (after consultation with the Management Committee) may by notice in writing to a Framework Participant, terminate the membership of that Framework Participant with immediate effect if and only if the following pre-conditions have been fulfilled:
 - (i) a Suspension Event has occurred in respect of that Framework Participant and has not been remedied;
 - (ii) (if that Framework Participant is subject to prudential supervision) the Board has consulted with the relevant supervisor regarding such termination; and
 - (iii) the Board has provided an opportunity for that Framework Participant to make submissions to the Board regarding such termination.
- (e) The Board is not obliged to give any reasons for such decision and may revoke any such notice at any time before it becomes effective.
- (f) Any resignation or termination of the membership of a Framework Participant shall not affect any right or liability arising under the Constitution, these Regulations or the Procedures before that resignation or termination takes effect or arising in respect of any act, matter or thing occurring prior to that time. A Framework Participant who resigns pursuant to Regulation 4.10(b) or whose membership as a Framework Participant is terminated pursuant to Regulation 4.10(d) will continue to be bound by the Constitution, these Regulations and the Procedures in respect of:
 - (i) any act, matter or thing occurring prior to the time such resignation or termination takes effect or as a result of such resignation or termination;
 - (ii) any right or liability under these Regulations or the Procedures which relates to or may arise at any future time from any breach of these Regulations or the Procedures which occurred prior to or on the date of termination; and

PART 4 MEMBERSHIP AS A FRAMEWORK PARTICIPANT

- (iii) any fees, costs, charges and expenses which may be levied on, or which are to be reimbursed by, Framework Participants in accordance with these Regulations or the Procedures in respect of periods which commence prior to the time such resignation or termination takes effect or which relate to any such act, matter or thing.
- (g) A Framework Participant which resigns or whose membership as a Framework Participant is terminated is not entitled to be repaid all or part of any entrance fee, Framework fee or any other fee which has been paid by it.
- (h) On termination of a Framework Participant's membership, the Secretary will notify all other Framework Participants of the termination specifying:
 - (i) the name of the Framework Participant whose membership as a Framework Participant has been terminated; and
 - (ii) the date on which the termination will take, or has taken, effect.

The next page is 5.1

PART 5 FEES**5.1 Entrance Fees**

An applicant whose application for membership is accepted must pay an entrance fee to the Company. The entrance fee is displayed on the Company's extranet and indexed annually in accordance with Regulation 5.2.

5.2 Indexation

- (a) The Entrance Fee specified in Regulation 5.1 and the dispute resolution fee specified in Regulation 13.4 are to be indexed on an annual basis. The Management Committee at its first meeting following publication of the Consumer Price Index for the September quarter (as defined in "C" below) shall determine the indexed amount of each such fee or amount to apply during the next calendar year. The indexed amount shall be the amount represented by A (rounded in the manner set out below) in the formula:

$$A = B \times ((100+C)/100)$$

- (b) where:

- (i) is the amount of such fee or amount immediately preceding such determination (disregarding any rounding in the manner set out below which was applied to that fee); and
- (ii) is the Consumer Price Index, All Groups Percentage Changes (change from corresponding quarter of previous year – weighted average of 8 capital cities) figure in respect of the September quarter for the previous calendar year, in the form appearing in the quarterly publication entitled Consumer Price Index (Catalogue No. 6401.0) published by the Australian Bureau of Statistics. If that figure is not published and is not otherwise available or that compilation of such figure is suspended or discontinued, C shall mean such figure published in an official publication or otherwise officially released by the Australian Bureau of Statistics (or mathematically derivable from such officially published or released figure) which in the opinion of the Management Committee represents the percentage change in the cost of living between the September quarter for the previous calendar year and the corresponding quarter for the immediately preceding calendar year.
- (iii) The amount represented by A in the above formula shall be rounded to the nearest:
- (iv) \$100 in the case of the entrance fee payable by Framework Participants (\$50 being rounded up); and
- (v) \$10 in the case of the dispute resolution fee (\$5 being rounded up).

5.3 Framework Fees

In addition to the fees referred to in Regulation 5.1, each Framework Participant must pay the fees set out below in the manner and amount and at the times determined by the Board:

- (a) an annual Framework fee charged to each Framework Participant. The proportion of the Framework fee payable by a Framework Participant shall be equal to its AMS; and
- (b) special project funding – the Board may, in its discretion, charge Framework Participants an amount to fund ACDES projects which have been recommended for funding by the Management Committee.

5.4 Time for Payment of Fees

- (a) The Company must provide a Framework Participant with 30 days' notice of fees payable under PART 5.
- (b) Once paid, those fees are not refundable.

5.5 Disputes

Each Framework Participant must also pay to the Company the fees, costs and expenses stipulated in PART 13.

5.6 Gross up for GST Supplies by the Company

- (a) If:
 - (i) the Company makes a Supply to a Framework Participant (in its capacity as a Framework Participant) under the Constitution, these Regulations or the Procedures; and
 - (ii) the Company is required to pay GST under the GST Law in respect of that Supply (a "Taxable Supply"), then the Framework Participant must pay to the Company an additional amount equal to the GST Exclusive Consideration multiplied by the GST Rate, without deduction or set-off of any other amount.
- (b) The Company must issue a Tax Invoice to each Framework Participant for the GST on each Taxable Supply and must include in the Tax Invoice all particulars required by the GST Law.
- (c) The Framework Participant must pay the additional amount payable under Regulation 5.6(a) at the same time and manner as the GST Exclusive Consideration (or, if the GST Exclusive Consideration is not payable, within 14 days).

5.7 Gross up for GST Supplies between Framework Participants

- (a) If a Framework Participant makes a Supply to another Framework Participant, each in its capacity as a Framework Participant, and the Framework Participant making the Supply ("the Supplier") is required to pay GST under the GST Law in respect of that Supply, (a "Taxable Supply"), then the Framework Participant receiving the Supply ("the Recipient") must pay to the Supplier an additional amount equal to the GST Exclusive Consideration for the supply multiplied by the GST Rate, without deduction or set-off of any other amount.
- (b) The Supplier must issue a Tax Invoice to the Recipient in respect of each Taxable Supply and must include in the Tax Invoice all particulars required by the GST Law.
- (c) The Recipient must pay the additional amount payable under Regulation 5.7(a) at the same time and manner as the GST Exclusive Consideration is payable or to be provided (or if the GST Exclusive Consideration is not payable, within 14 days).

5.8 Mergers, Acquisitions and Re-organisations

Where, by takeover, merger or other action, an existing Framework Participant becomes a Subsidiary of or is otherwise acquired by another body corporate or that Framework Participant's business is assumed by another body corporate which is a Related Body Corporate of that Framework Participant or another body corporate formed as a result of that action (in this Regulation, that other body corporate being an "Owner") and the Owner applies for membership as a Framework Participant within 12 months of such occurrence and is accepted as a Framework Participant, the Management Committee may (but is not obliged to do so), upon receipt of such information as the Management Committee may reasonably require, waive the fee which would otherwise be payable by the Owner pursuant to Regulation 5.1.

The next page is 6.1

PART 6 MANAGEMENT COMMITTEE

6.1 Composition

- (a) Subject to Article 10.3 of the Constitution (Composition of Committees of Management) and Regulation 1.2(r), the following persons are entitled to be members of the Management Committee of ACDES if appointed, nominated or elected in the manner set out in these Regulations:
 - (i) if the Directors so elect, one person appointed by the Board under Article 10.3 of the Constitution (Composition of Committees of Management);
 - (ii) a person nominated by each Framework Participant which has at least 5% of AMS;
 - (iii) up to three persons elected in a ballot by all Framework Participants which are not entitled to nominate a member of the Management Committee under any other provision of this Regulation 6.1(a); and
 - (iv) if the RBA so elects, one person appointed by the RBA.
- (b) For the avoidance of doubt:
 - (i) a Framework Participant which at the commencement of the term of office of members of the Management Committee did not have a total AMS percentage of at least 5% but which upon a subsequent determination of AMS percentages in accordance with Regulation 6.7 has a total AMS percentage of at least 5% may nominate a member of the Management Committee for the balance of the term of the other members of the Management Committee. Any such nomination shall not affect the validity of any previous nomination or election pursuant to Regulations 6.1(a)(ii), (iii) or (iv);
 - (ii) if a Framework Participant which nominated a member of the Management Committee pursuant to Regulation 6.1(a)(ii) ceases to have a total AMS percentage of at least 5% upon a subsequent determination of AMS percentages in accordance with Regulation 6.7, that member remains in office for the balance of his or her term of office; and
 - (iii) if a Framework Participant does not choose to nominate a member under Regulations 6.1(a)(ii), or the RBA does not choose to nominate a member under Regulation 6.1(a)(iv), in accordance with Regulation 6.3, that Framework Participant, or the RBA (as the case may be), may exercise the right of nomination at a later date.

- (c) The composition of the Management Committee and the voting entitlement of members of the Management Committee were determined following consultation with participants in the Australian banking, permanent building society and credit union industries and represent a compromise designed to ensure that participants in operational payments clearing and settlement systems in Australia have an ability to participate in the management of ACDES.
- (d) Accordingly, it may from time to time be necessary to review the composition of the Management Committee or the voting entitlement of members of the Management Committee. In addition to the procedures set out in Regulations 6.1(b) and (c), and PART 7, if the circumstances which gave rise to the compromise referred to above change in a material respect in the opinion of at least 3 Directors, then any 3 Directors may propose a resolution to amend these Regulations in relation to the composition of the Management Committee or the voting entitlement of members of the Management Committee.
- (e) The Directors must, on the requisition of those Directors, immediately convene an ACDES meeting to be held as soon as practicable, but in any case, not later than 3 months after the receipt by the Company of the requisition to consider that resolution.

6.2 Term of Office

- (a) Except as provided in Regulations 6.1(b) and 6.10, the term of office of a person appointed, nominated or elected as a member of the Management Committee commences at the conclusion of the relevant annual general meeting of the Company.
- (b) Subject to Article 10.5 of the Constitution (Removal of Members of a Committee of Management) and Regulation 6.10, the term of office of all members of the Management Committee expires at the conclusion of the third annual general meeting of the Company following the appointment of the then current chairman of the Management Committee. A retiring member of the Management Committee may be re-appointed or re-elected, as the case may be.

6.3 Nominations and Election Process

- (a) Each nomination of a member of the Management Committee under Regulation 6.1(a)(ii) or (iv) must be made in writing signed by the Framework Participant entitled to nominate that member of the Management Committee or the RBA (as the case may be) and endorsed with the nominee's consent.

- (b) Each nomination under Regulation 6.1(a)(ii) or (iv) must be forwarded to the Secretary not later than 7 days (or such shorter period as the chairman of the Management Committee may accept in any particular case) prior to the date of the annual general meeting of the Company at which the terms of office of the existing members of the Management Committee expire. The Secretary will call for such nominations as soon as practicable after the Board determines the date on which the relevant annual general meeting will be held.
- (c) A ballot under Regulation 6.1(a)(iii) will be conducted in accordance with the processes for election determined by the Board (or, if requested by the Board, a committee of the Board), including processes for the conduct of elections, nomination of candidates and method of voting.

6.4 Member Unable or Unwilling to Act

- (a) If any member of the Management Committee is so located or circumstanced that it is not reasonably practicable for any necessary notice or other communication to be given to that member in relation to the meetings, deliberations or other affairs of the Management Committee or for that member to attend any one or more meetings of the Management Committee (in this Regulation, an “**Inability**”), then that member (or if that member is employed by a Framework Participant, that Framework Participant) may nominate another person who is qualified to be a member of the Management Committee to be an alternate member of the Management Committee for so long as the Inability subsists.
- (b) Any such nomination must be in writing and forwarded to the Secretary.
- (c) An alternate member may exercise any powers which the member may exercise and is deemed for all purposes to be a member of the Management Committee during the period of the Inability.

6.5 Powers and Duties

- (a) Subject to the Constitution, the Directors delegate to the Management Committee such of their powers, other than powers required by law to be dealt with by the Directors as a Board, as necessary, desirable or expedient to enable the Management Committee to properly perform its obligations under the Constitution. Subject to Regulation 6.5(b), the Board delegates to the Management Committee such of its powers, other than powers required by law to be dealt with by the Board, which are necessary to enable the Management Committee to properly perform its obligations under these Regulations.
- (b) Subject to Article 10.6 of the Constitution (Directions to a Committee of Management), the Board may impose such conditions or restrictions as it thinks fit (whether by giving directions or otherwise) on the exercise of the powers delegated to the Management Committee pursuant to Regulation 6.5(a).

- (c) In the performance of their duties, the members of the Management Committee must observe the same standards as are imposed on the Directors and in particular, each Member of the Management Committee must:
 - (i) at all times act honestly in the exercise of his or her powers and the discharge of the duties of his or her office;
 - (ii) at all times exercise a reasonable degree of care and diligence in the exercise of his or her powers and the discharge of his or her duties;
 - (iii) not make improper use of information acquired by virtue of his or her position as a member of the Management Committee to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Company;
 - (iv) not make improper use of his or her position as a member of the Management Committee to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Company.
- (d) This Regulation 6.5 has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person by reason of the person's office as a member of the Management Committee and does not prevent the institution of any civil proceedings in respect of a breach of such a duty or in respect of such a liability.
- (e) In addition to any other rights, powers and privileges to which he or she may be entitled, each member of the Management Committee is at liberty to convey to the Framework Participant which nominated that member or, in the case of a member nominated by the RBA to convey to the RBA, such reports of the deliberations and decisions of the Management Committee which such member may think fit. Such member may also in his or her absolute discretion (but without imposing any obligation to do so) seek expressions of opinion from his or her nominator; and
- (f) The chairman of the Management Committee is at liberty to convey to any Framework Participant such reports of the deliberations and decisions of the Management Committee which the chairman may think fit. The chairman of the Management Committee may also in his or her absolute discretion (but without imposing any obligation to do so) seek an expression of opinion from any Framework Participant.

6.6 Responsibilities

- (a) The Management Committee is responsible for the effective operation and management of ACDES, including without limitation:
 - (i) technical and efficiency standards;

- (ii) the amendment of the fees and charges payable by Framework Participants pursuant to PART 5 (other than those referred to in Regulation 5.3);
 - (iii) operating procedures and policies;
 - (iv) subject to a Framework Participant being entitled to refer any Dispute (whether initially or by way of a request for a review of a decision of the Management Committee) to the Board, the resolution of Disputes by arbitration or otherwise between Framework Participants;
 - (v) supervision of the observance by Framework Participants of these Regulations and the Procedures;
 - (vi) making such submissions as the Management Committee thinks appropriate to governments, ministers, parliamentary committees, regulatory authorities or any other body on behalf of ACDES and the Framework Participants on issues of relevance to the Framework Participants;
 - (vii) the other matters expressly referred to in these Regulations and the Procedures; and
 - (viii) such other matters as the Board may consider necessary, desirable or expedient for the better and more secure, efficient and equitable operation of ACDES.
- (b) In discharging its responsibilities under the Constitution, these Regulations and the Procedures, the Management Committee may delegate its powers, duties and authorities to one or more sub-committees of the Management Committee or, with the consent of the Chief Executive Officer, to the Chief Executive Officer. However, in any such case the Management Committee will remain accountable to the Board for the proper discharge and performance of those powers, duties and authorities.

6.7 Calculation of ACDES Market Share

The respective percentage shares of AMS for each Framework Participant will be calculated as follows:

- (a) the Company will collect data annually in relation to the volume and value of each Framework Participant's annual Transaction activity in ACDES on an annual basis, and aggregate that data to calculate the National Total Cash Value and National Total Cash Volume;
- (b) the Company will calculate the respective AMS for each Framework Participant's as a simple arithmetic average of that Framework Participant's percentage share of the National Total Cash Value and National Total Cash Volume;

- (c) the Company will calculate the respective AMS for each Framework Participant at least annually prior to the annual general meeting of the Company;
- (d) each calculation of AMS will be promptly notified by the Secretary to all Framework Participants;
- (e) each calculation made in good faith will be binding and conclusive upon all Framework participants and will supersede any previous calculation.

6.8 Proceedings

- (a) The person (if any) appointed by the Board under Article 10.3 of the Constitution (Composition of Committees of Management) will act as the chairman of the Management Committee. Failing any such appointment, the chairman will be that member of the Management Committee selected for the time being by the Board in accordance with Article 10.4 of the Constitution (Chair of the Committee of Management).
- (b) The Management Committee may meet and adjourn as it thinks proper. The chairman of the Management Committee may at his or her discretion (and shall at the request in writing of any 2 members of the Management Committee) convene meetings of the Management Committee.
- (c) Except as provided to the contrary in these Regulations or unless such notice is waived by all members of the Management Committee, 7 days' notice of each meeting of the Management Committee shall be given to each member at his or her usual business address. The Secretary should ensure that each member of the Management Committee has received notice of each meeting. The non-receipt of notice of a meeting of the Management Committee by, or the accidental omission to give notice of a meeting of the Management Committee to, a member does not invalidate any resolution passed at the meeting of the Management Committee.
- (d) Where a meeting of the Management Committee is held and the chairman is not present within 15 minutes from the time appointed for the commencement of the meeting or is unable or unwilling to act, the members present may elect one of their number to be chairman of the meeting. The person elected as Chair retains his or her deliberative vote when acting in that capacity.
- (e) The quorum for a meeting of the Management Committee is 75% of the number of members of the Management Committee for the time being.
- (f) Questions arising at a meeting of the Management Committee are to be answered in the affirmative if a simple majority of votes is cast in favour of the question. Any such decision is for all purposes a decision of the Management Committee.

- (g) A declaration by the chairman of the Management Committee that a resolution has been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minutes of the proceedings of the Management Committee is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (h) The Management Committee may permit such other person as it sees fit to attend any meeting of the Management Committee either in an advisory capacity or as an observer, but such allowance does not give that person any entitlement to vote and must not disrupt the proceedings of the meeting.

6.9 Voting Entitlement

- (a) Subject to Regulation 1.2(r), each member of the Management Committee will be entitled to cast the following votes at meetings of the Management Committee:
 - (i) the member appointed under Regulation 6.1(a)(i), no vote;
 - (ii) the member nominated under Regulation 6.1(a)(iv), no vote; and
 - (iii) each other member has an entitlement equal to the AMS of the Framework Participant, or the Framework Participant constituency, which nominated or elected that member, subject to Regulation 6.9(b).
- (b) The AMS represented by each member elected under Regulation 6.1(a)(iii) is the total AMS of the Framework Participant constituency represented by that member, divided by the number of members for that constituency.
- (c) AMS is calculated in accordance with Regulation 6.7 and accordingly the voting entitlement of a member of the Management Committee may change during that member's term of office. Any such change is to take effect at the first Management Committee meeting following the calculation of AMS.

6.10 Vacation of Office

- (a) The office of a member of the Management Committee becomes vacant if:
 - (i) that member dies or becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (ii) that member resigns his or her office by notice in writing to the Secretary;

- (iii) that member is absent without the consent of the chairman of the Management Committee from meetings of the Management Committee held during a period of 6 months;
 - (iv) that member is removed by the Board in accordance with Article 10.5 of the Constitution (Removal of Members of a Committee of Management);
 - (v) that member is removed by the Framework Participant which nominated such member pursuant to Regulation 6.1(a)(ii);
 - (vi) in the case of a member nominated by the RBA, the member is removed by the RBA;
 - (vii) in the case of a member elected pursuant to Regulation 6.10(a)(iii) who:
 - (A) was an officer or employee of a Framework Participant in the electing constituency at the time of the election, that member ceases to be an officer or employee of that Framework Participant or any other Framework Participant in the electing constituency; or
 - (B) held a professional position at the time of the election, that member ceases to practice in the profession,

unless the Management Committee determines, in its discretion, that the cessation is unlikely to impair the member's capacity to perform his or her duties as a member of the Management Committee.
 - (viii) the Framework Participant entitled to nominate that member ceases to be a Framework Participant; or
 - (ix) the Framework Participant entitled to nominate that member becomes a Subsidiary of another Framework Participant.
- (b) A notice of removal under Regulations 6.10(a)(iii) or (iv) must be in writing and signed by the chairman of the Management Committee. A notice of removal under Regulations 6.10(a)(v) or (vi) must be in writing and signed by all the Framework Participants, or other persons, entitled to effect such removal. A notice of removal takes effect upon its receipt by the Secretary.

- (c) Where the office of a member of the Management Committee becomes vacant pursuant to Regulations 6.10(a)(i) to (vii), then:
 - (i) the Framework Participant or other person which nominated the retiring or removed member may nominate (or in the case of a vacancy in the office of chairman or the office established pursuant to Regulation 6.10(a)(i), the Board may appoint) a different person as a replacement member of the Management Committee in the same manner as prescribed in Regulation 6.3; or
 - (ii) the Secretary must arrange for a vote of the Framework Participant constituency referred to in Regulation 6.1(a)(iii) to take place no later than the date of the next annual general meeting to elect a new person as a replacement member, and the voting entitlement of the retiring or removed member is reallocated equally among the remaining elected members until the election is held.
- (d) The person who is nominated, appointed or elected as a replacement member of the Management Committee shall only hold office for the remaining term of the retiring or removed member. The term of office of a replacement member of the Management Committee commences on appointment, or receipt of the nomination pursuant to Regulation 6.10(c)(i) or upon declaration of an election held in accordance with Regulation 6.10(c)(ii). Such a person is eligible for re-appointment or re-election.

6.11 Written Resolution

- (a) If all the members of the Management Committee who are eligible to vote on a resolution have signed a document containing a statement that they are in favour of a resolution of the Management Committee in terms set out in the document, a resolution in those terms is deemed to have been passed at a meeting of the Management Committee held on the day on which the document was last signed by a member of the Management Committee.
- (b) For the purposes of Regulation 6.11(a), 2 or more separate documents containing statements in identical terms each of which is signed by one or more members of the Management Committee who are eligible to vote on the resolution are together deemed to constitute one document containing a statement in those terms signed by those members of the Management Committee on the respective days on which they signed the separate documents.

6.12 Meetings Defined

For the purposes of these Regulations, a meeting of the Management Committee means:

- (a) a meeting of the Management Committee assembled in person on the same day at the same time and place; or

- (b) the members of the Management Committee communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion notwithstanding that they (or one or more of them) are not physically present in the same place,

and a member participating in the meeting under Regulation 6.12(b) is deemed to be present (including for the purposes of constituting a quorum) and entitled to vote at the meeting.

6.13 Validity of Acts

All acts done by any meeting of the Management Committee or by any person acting as a member are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a member or to act as a member, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and were qualified to be a member of the Management Committee.

6.14 Appointment of Secretary

- (a) There must be at least one Secretary of the Management Committee who is to be appointed by the Chief Executive Officer. The Chief Executive Officer may remove a Secretary from office at any time.
- (b) The Secretary is vested with the powers, duties and authorities specified in these Regulations and the Procedures. In addition and with the consent of the Chief Executive Officer, the Management Committee may vest in the Secretary such additional powers, duties and authorities as it may from time to time determine.
- (c) The Secretary is entitled to attend all meetings of the Management Committee and all meetings of Framework Participants and may be heard on any matter.
- (d) The Secretary must prepare minutes of each meeting of the Management Committee for approval by the chairman of the Management Committee. All minutes approved by the chairman must be made available to each member of the Management Committee and each Director.

6.15 Chief Executive Officer

The Chief Executive Officer is entitled to attend all meetings of the Management Committee and all meetings of Framework Participants and may be heard on any matter.

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PART 7 MEETINGS OF FRAMEWORK PARTICIPANTS

7.1 ACDES Meetings and the Annual ACDES Meeting

- (a) ACDES must, in addition to any other ACDES meeting held by it, hold a meeting of the Framework Participants to be called the annual ACDES meeting, at least once in every calendar year and within the period of 5 months of the end of each of the Company's financial years, provided that ACDES is not obliged to hold an annual ACDES meeting in the first calendar year in which ACDES takes effect.
- (b) The purpose of the annual ACDES meeting is to provide a forum for Framework Participants to discuss any aspect of the operations of ACDES and any other matters relevant to members as Framework Participants.

7.2 ACDES Meeting

The Directors or the Management Committee may whenever they think fit convene an ACDES meeting.

7.3 Notice of ACDES Meeting

- (a) At least 14 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) specifying:
 - (i) the place, day and the hour of the ACDES meeting; and
 - (ii) in the case of special business, the general nature of that business,

must be given to all Framework Participants, all members of the Management Committee and all Directors.

- (b) The non-receipt of notice of an ACDES meeting by, or the accidental omission to give notice of an ACDES meeting to, a Framework Participant does not invalidate any resolution passed at the ACDES meeting.

7.4 Special Business of an ACDES Meeting

All business that is transacted at an ACDES meeting is special with the exception of the matters referred to in Regulation 7.1.

7.5 Requisitioned Meeting

In addition to the ACDES meetings convened under Regulations 7.1 and 7.2, the Management Committee must, on the requisition of 3 or more Framework Participants which are entitled to cast not less than 10% of the total votes of all Framework Participants on a poll at an ACDES meeting, immediately convene an ACDES meeting to be held as soon as practicable but, in any case, not later than 2 months after the receipt by the Management Committee of the requisition.

7.6 Objects of Requisitioned Meeting

The requisition for an ACDES meeting must state the objects of the ACDES meeting and must be signed by the requisitionists and forwarded to the Secretary. A requisition may consist of several documents in like form each signed by one or more of the requisitionists.

7.7 Convening Requisitioned Meeting

If the Management Committee does not, within 21 days after the deposit of the requisition, proceed to convene an ACDES meeting the requisitionists or any of them having more than one-half of the total voting rights of the requisitionists, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the Management Committee, convene a meeting, but a meeting so convened may not be held after the expiration of 3 months from the date the requisition is delivered to the Secretary.

7.8 Expenses of Requisitioned Meeting

Any reasonable expenses incurred by the requisitionists by reason of the failure of the Management Committee to convene an ACDES meeting must be paid to the requisitionists by the Company.

7.9 Postponement or Cancellation of Meeting

- (a) The Board or the Management Committee convening an ACDES meeting may postpone or cancel that ACDES meeting whenever they think fit (other than a meeting convened as the result of a requisition under Regulation 7.5 or by requisitionists under Regulation 7.7). The Board or the Management Committee postponing or cancelling an ACDES meeting must give as much notice as is possible in all the circumstances of the postponement or cancellation of that ACDES meeting to all persons entitled to receive notices of that ACDES meeting.
- (b) The non-receipt of notice of a postponement or cancellation by, or the accidental failure to give notice of a postponement or cancellation to, a Framework Participant does not invalidate the postponement or cancellation.

PART 7 MEETINGS OF FRAMEWORK PARTICIPANTS

7.10 Attendance at ACDES Meetings

- (a) Any Framework Participant may attend any ACDES meeting by appointing:
 - (i) a proxy;
 - (ii) an attorney; or
 - (iii) a person authorised by resolution of its directors or other governing body to act on its behalf at a particular ACDES meeting or at all meetings of the Framework Participants.
- (b) Unless the contrary intention appears, a reference to a Framework Participant in the succeeding provisions of this PART 7 means a Framework Participant, a proxy, an attorney or a person appointed under Regulation 7.10(a).

7.11 Quorum

No business may be transacted at any ACDES meeting unless a quorum is present comprising Framework Participants who are entitled in accordance with Regulation 7.18 to cast not less than 50% of the total votes of all Framework Participants on a poll.

7.12 Failure to Achieve Quorum

- (a) Where an ACDES meeting is convened in accordance with Regulation 7.5 or 7.7 and a quorum is not present within 30 minutes from the time appointed for the ACDES meeting, the ACDES meeting must be dissolved.
- (b) Where an ACDES meeting is convened in any other case and a quorum is not present within 30 minutes from the time appointed for that ACDES meeting:
 - (i) the ACDES meeting must be adjourned to such day, time and place as the Management Committee determines or if no determination is made by them to the same day in the next week at the same time and place; and
 - (ii) if at the adjourned ACDES meeting a quorum is not present within 30 minutes from the time appointed for that ACDES meeting the ACDES meeting must be dissolved.

7.13 Appointment and Powers of Chairman of an ACDES Meeting

- (a) Subject to Regulation 7.13(b), the chairman of the Management Committee must preside as chairman at every ACDES meeting.

PART 7 MEETINGS OF FRAMEWORK PARTICIPANTS

- (b) Where an ACDES meeting is held and the chairman of the Management Committee is not present within 15 minutes from the time appointed for the commencement of the meeting or is unable or unwilling to act, the members of the Management Committee present must elect one of their number to be chairman of the meeting, or, if no such member is present or if all such members present decline to take the chair, the Framework Participants present must elect a proxy, an attorney or a person acting on behalf of a Framework Participant pursuant to Regulation 7.10(a) as chairman of the meeting.

7.14 Adjournment of ACDES Meeting

- (a) The chairman of the meeting may, with the consent of any ACDES meeting at which a quorum is present, and must if so directed by the ACDES meeting, adjourn the ACDES meeting from time to time and from place to place, but no business may be transacted at any adjourned ACDES meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) When an ACDES meeting is adjourned for 30 days or more, notice of the adjourned ACDES meeting must be given as in the case of an original ACDES meeting.
- (c) Except as provided by Regulation 7.14(b), it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned ACDES meeting.

7.15 Voting at ACDES Meeting

- (a) At any ACDES meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:
- (i) the chairman of the meeting; or
 - (ii) a Framework Participant.
- (b) Unless a poll is properly demanded, a declaration by the chairman of the meeting that a resolution has on a show of hands been carried, or carried unanimously or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of ACDES, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

7.16 Passing of Resolutions

A resolution is taken to be carried if more than 50% of the total votes cast in respect of the resolution are cast in favour of the resolution. The chairman of the meeting shall not have a casting vote.

PART 7 MEETINGS OF FRAMEWORK PARTICIPANTS

7.17 Poll

- (a) If a poll is properly demanded, it must be taken in such manner and (subject to Regulation 7.17(b)) either at once or after an interval or adjournment or otherwise as the chairman of the meeting directs. The result of the poll is the resolution of the ACDES meeting in respect of the matter for which the poll was demanded.
- (b) A poll demanded on the election of a chairman of the meeting or on a question of adjournment must be taken immediately.
- (c) The demand for a poll may be withdrawn.

7.18 Voting Entitlement

A Framework Participant's voting entitlement is equal to its percentage share of AMS.

7.19 Objection to Voting Qualification

- (a) An objection may be raised to the qualification of a voter, or the number of votes which a voter can cast, only at the ACDES meeting or adjourned ACDES meeting before the vote objected to is given or tendered.
- (b) Any such objection must be referred to the chairman of the meeting, whose decision is final.
- (c) A vote not disallowed under such an objection is valid for all purposes.

7.20 Appointment of Proxy

- (a) An instrument appointing a proxy must be in writing under the hand of the appointor or of its attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised.
- (b) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- (c) An instrument appointing a proxy is deemed to confer authority on the proxy to demand or join in demanding a poll.
- (d) An instrument appointing a proxy must be in the form approved by the Management Committee from time to time.
- (e) A proxy may vote on a show of hands or on a poll.

7.21 Deposit of Proxy and Other Instruments

An instrument appointing a proxy is not to be treated as valid unless the instrument, and an original or certified copy of the power of attorney or other authority (if any) under which the instrument is signed, is or are received by the Secretary before the time for holding the ACDES meeting or adjourned ACDES meeting at which the person named in the instrument proposes to vote.

7.22 Validity of Vote in Certain Circumstances

A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, if no intimation in writing of the revocation or transfer has been received by the Secretary before the commencement of the ACDES meeting or adjourned ACDES meeting at which the instrument is used or the power is exercised.

7.23 Entitlement to Speak

Each Director and each member of the Management Committee is entitled to attend all ACDES meetings and is entitled to speak at those meetings.

7.24 Written Resolution

A resolution in writing signed by the Framework Participants entitled to cast more than 90% of all votes which could be cast at an ACDES meeting is as valid and effectual as if it had been passed at an ACDES meeting duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Framework Participants.

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PART 8 BILATERAL AGREEMENT

8.1 Entry into Bilateral Agreement

Any Bilateral Agreement must be entered into in accordance with the Procedures.

8.2 Inconsistency with Regulations

Each Bilateral Agreement is subject to the terms of these Regulations and the Procedures. If there is any inconsistency between a Bilateral Agreement and these Regulations or the Procedures, the terms of these Regulations or the Procedures will prevail.

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PART 9 CASH MOVEMENT

9.1 Title

- (a) Legal and beneficial title to the Cash or Cash Pool Title which is the subject of a Transaction File, Settlement Sheet or Standing Order passes on Delivery to the Buyer. Amended effective 1/1/17

- (b) If the Transaction is not an Intra-Pool Transfer, Delivery may not occur until the Seller has identified the Cash to be sold to the Buyer and has Exclusive Title to that Cash. If the Delivery Event set out in a Settlement Sheet or Standing Order is inconsistent with this Regulation, that Settlement Sheet or Standing Order will be deemed not to specify the Delivery Event for the Transaction, and Delivery will be determined subject to the rules in Regulation 9.2. Amended effective 1/1/17

- (c) A Framework Participant must not assign or otherwise deal with any Cash Pool Title it holds other than:
 - (i) in a Transaction under these Regulations; or
 - (ii) in order to exchange its Cash Pool Title for Exclusive Title to specific Cash.

- (d) The Buyer will be responsible for any direct costs incurred due to breach of its Settlement obligations.

9.2 Delivery

The following rules determine when Delivery is taken to have occurred if there is no specified Delivery Event for the Transaction.

- (a) **Rule 1**

If the Settlement Sheet or Standing Order states that the Seller has Exclusive Title to the specific Cash which is the subject of that Settlement Sheet or Standing Order, Delivery occurs when the Buyer or an agent of the Buyer (eg. a Cash Pool Manager of the Buyer) receives possession of and assumes physical control of the Cash. Amended effective 1/1/17

- (b) **Rule 2**

If the Settlement Sheet or Standing Order states that the Seller has Cash Pool Title, and the Transaction is not an Intra-Pool Transfer, then Delivery occurs when the Buyer or an agent of the Buyer (eg. a Cash Pool Manager of the Buyer) receives possession of and assumes physical control of the Cash which is described in the Settlement Sheet or Standing Order. For the avoidance of doubt, this will require the Seller to convert its Cash Pool Title into Exclusive Title to the Cash described in the Settlement Sheet or Standing Order, and then transfer possession of that Cash to the Buyer. Amended effective 1/1/17

(c) Rule 3

If the Settlement Sheet or Standing Order states that the Seller has Cash Pool Title, and the Transaction is an Intra-Pool Transfer, Delivery occurs at the time the transfer is recorded in the records of the Cash Pool Manager.

Amended
effective
1/1/17

9.3 Costs

The Buyer will pay all costs incurred in Delivering the Cash from the Seller to the Buyer, unless otherwise agreed in a Settlement Sheet or Standing Order.

Amended
effective
1/1/17

9.4 Obligation to Bulk Check Cash received

(a) The Buyer agrees to:

- (i) Bulk Check all Cash it takes Delivery of on the day of Delivery; and
- (ii) report any Cash Variations in the Bulk Check to the Seller before 17:00 hours on the next Banking Business Day following the day of Delivery.

(b) For the avoidance of doubt, in the case of an Intra-Pool Transfer, no Bulk Check is required as there is no physical delivery of Cash (only Cash Pool Title).

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PART 10 SETTLEMENT

- (a) Each Framework Participant must settle for its payment obligations incurred as a result of exchanges of Cash with other Framework Participants under ACDES in accordance with either:
 - (i) the Procedures; or
 - (ii) with respect to any two Framework Participants, arrangements agreed bilaterally between them.
- (b) No Loss Share

No Framework Participant is responsible for providing any liquidity support or sharing in any losses arising as a result of the failure of any Framework Participant to settle in accordance with this PART 10.

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PART 11 FRAUD AND UNAUTHORISED TRANSACTIONS

11.1 Fraud

- (a) If a fraud is committed in connection with ACDES by:
- (i) a Framework Participant, or its employee, contractor or agent, then that Framework Participant must bear the direct loss (if any), including reasonable legal and recovery expenses incurred by a Framework Participant or the Company, which results from that fraud; or
 - (ii) a third party where a Framework Participant has contributed to the fraud, then the loss (if any) incurred by a Framework Participant or the Company which results from that fraud must be borne by the Framework Participant who has, or the Framework Participants who have, contributed to the fraud, or if more than one Framework Participant, the loss must be apportioned between them.
- (b) In all other cases the Framework Participant holding Exclusive Title or Cash Pool Title, as the case may be, will bear the direct loss for the unauthorised Transaction.

11.2 Unauthorised transaction

- (a) If an unauthorised Transaction is caused by:
- (i) a Framework Participant, or its employee, contractor or agent, then that Framework Participant must bear any direct loss including reasonable legal and recovery expenses incurred by a Framework Participant or the Company which results from that fraud; or
 - (ii) a third party where a Framework Participant has contributed to the fraud, then any loss incurred by a Framework Participant or the Company which results from that unauthorised Transaction must be borne by the Framework Participant who contributed to the unauthorised transaction, or if there is more than one Framework Participant, the loss must be apportioned between them.
- (b) In all other cases the Framework Participant holding Exclusive Title or Cash Pool Title, as the case may be, will bear the direct loss for unauthorised Transaction.

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PART 12 ACDES PROCEDURES

12.1 Procedures

- (a) The Management Committee will determine and publish from time to time practices, procedures, standards and specifications relating to all or any aspects of ACDES.
- (b) Each Framework Participant agrees and acknowledges that it is bound by the Procedures, as amended from time to time.

12.2 Amendment of Procedures

- (a) The Management Committee may vary any practice, procedure, standard or specification previously determined and published under Regulation 12.1, provided that if such variation relates to a matter of principle or a fundamental term such variation must also be:
 - (i) approved by the chairman of the Management Committee and the Chief Executive Officer;
 - (ii) approved by the Board; or
 - (iii) in accordance with (or a consequence of) an amendment to these Regulations,

and provided that any variation of a grammatical, cosmetic, typographical or minor nature to the Procedures previously determined and published under Regulation 12.1 which, in the reasonable opinion of the Chief Executive Officer, will not prejudice any Framework Participant or operations in connection with ACDES, may be made by the Chief Executive Officer.

- (b) Any variation made by the Chief Executive Officer must be notified to the Management Committee within 30 days of the making of the variation. The Management Committee must publish all variations from time to time in accordance with Regulation 12.1.

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PART 13 BREACHES OF REGULATIONS AND DISPUTES

13.1 Definitions and Interpretations

The following words have the following meanings in this PART 13 unless the contrary intention appears.

"Dispute" means a dispute or difference between:

- (a) the Board, the Management Committee, any delegate of the Management Committee and any one or more Framework Participants; or
- (b) two or more Framework Participants,

arising out of, or in any way connected with, the Constitution (insofar as they relate to the operation or management of ACDES), these Regulations and the Procedures including, without limitation, a dispute or difference:

- (i) arising out of, or in any way connected with, any non-compliance with the Constitution (insofar as they apply to ACDES), these Regulations or the Procedures;
- (ii) arising out of, or in any way connected with, any decision of the Board which relates to ACDES, the Management Committee or any delegate of the Management Committee;
- (iii) as to any sum of money claimed to be payable pursuant to, or any liability or obligation or other matter to be ascertained or dealt with or which arises under, Regulation 4.10;
- (iv) arising out of, or in any way connected with, the non-payment or alleged non-payment of any sum of money otherwise payable or alleged to be otherwise payable pursuant to these Regulations or the Procedures; and
- (v) arising out of, or in any way connected with, the efficiency of the methods and procedures used by a Framework Participant.

"Dispute Resolution Certificate" means a certificate evidencing a determination made under this PART 13 signed by:

- (a) in the case of a determination by the Management Committee, the chairman of the Management Committee or members of the Management Committee who together are entitled to cast more than 50% of the total votes available to be cast at meetings of the Management Committee; or

PART 13 BREACHES OF REGULATIONS AND DISPUTES

- (b) in the case of a determination by the Board, the chairman of the Company or Directors who together are entitled to cast sufficient votes for the resolution on such determination to be passed at meetings of the Board.
- (c) A reference in this PART 13 to:
 - (i) a determination by a person includes a decision by that person;
 - (ii) proceedings includes actions, suits and proceedings at law, in equity or otherwise.

13.2 Resolution of Disputes

- (a) Subject to Regulations 13.2(b), 13.8 and 13.10, all Disputes must be referred in writing to a meeting of the Management Committee for determination by the Management Committee. A determination of the Management Committee in relation to a Dispute must be evidenced by a Dispute Resolution Certificate and a determination so evidenced will be binding upon all parties to the Dispute (including, without limitation, any Framework Participant which, subsequently to the occurrence of the events giving rise to the Dispute, resigns as a Framework Participant pursuant to PART 4 or whose membership as a Framework Participant is terminated pursuant to Regulation 4.9(d)).
- (b) Subject to Regulations 13.8(a)(iii) and (iv) and 13.10 and except in the circumstances referred to in Regulations 13.8(a)(i) and (ii), no proceedings may be commenced in any court of law or equity or otherwise in relation to any Dispute unless:
 - (i) the Dispute has first or already been referred to the Management Committee pursuant to Regulation 13.2(a);
 - (ii) the Dispute has been determined by the Management Committee; and
 - (iii) the determination has been evidenced by a Certificate in accordance with Regulation 13.2(a).

13.3 Disputes over fitness of Cash

- (a) If a Dispute arises over fitness of Cash, each Framework Participant agrees that that Dispute will be determined by the RBA in accordance with the RBA's procedures.
- (b) A Framework Participant may not commence legal proceedings (except proceedings seeking interlocutory relief) in relation to a Dispute over fitness of Cash unless the procedure outlined in Regulation 13.2(b) has been followed.

13.4 Dispute Resolution Fee and Costs

- (a) Subject to Regulation 13.4(c), each Framework Participant party to a Dispute which is referred to the Management Committee pursuant to Regulation 13.2(a) or to the Board pursuant to Regulation 13.10 (whether initially or by way of review) must:
 - (i) pay to the Company, within 14 days of the date on which the Dispute is first referred to the Management Committee or the Board, a dispute resolution fee which, subject to Regulation 5.2, shall be \$1,000; and
 - (ii) pay to the Company, within 14 days of determination of the Dispute by the Management Committee, and (in such proportions as the Management Committee shall determine are reasonable and appropriate in all the circumstances) all costs and expenses incurred by the Company in relation to that referral (including, without limitation, all costs and expenses (on a solicitor and own client basis) incurred in obtaining legal, financial, actuarial or accountancy advice and administrative costs reasonably incurred by the Company).
- (b) For the avoidance of doubt, the Management Committee may determine that all costs and expenses referred to in Regulation 13.4(a)(ii) are to be paid by any one party to the relevant Dispute.
- (c) If the parties to a Dispute settle the Dispute prior to determination of it by the Management Committee, they may withdraw the Dispute from the Management Committee by each giving written notice of that withdrawal to the Secretary.
- (d) If a Dispute is withdrawn from the Management Committee pursuant to Regulation 13.4(c) and the parties concerned have agreed, confidentially or otherwise, as to the apportionment among them of costs and expenses referred to in Regulation 13.4(a)(ii), then the parties involved may notify the Company in writing, within 7 days of the date on which all notices of withdrawal of the Dispute under Regulation 13.4(c) are received by the Secretary (the "**Withdrawal Date**") of the agreed apportionment of those costs and expenses and the Company will render invoices in accordance with the notified agreed apportionment payable within 14 days of the Withdrawal Date.
- (e) If a Dispute has been withdrawn by the parties concerned pursuant to Regulation 13.4(c) and those parties have not reached agreement as to the apportionment of the Company's costs and expenses connected with referral of the Dispute or have not notified the Company of any agreed apportionment of those costs and expenses in accordance with this Regulation, the Company may render to those parties invoices for recovery of those costs and expenses requiring each party to pay to the Company within 14 days of the Withdrawal Date an equal portion of those costs and expenses.

PART 13 BREACHES OF REGULATIONS AND DISPUTES

- (f) The Company must keep confidential to itself and its employees and advisers all information provided to it with respect to settlement of a Dispute, including without limitation, information about any agreement between the parties to the Dispute as to apportionment of the Company's costs and expenses, but excluding the fact that a settlement has been agreed and may not disclose that information to any Framework Participant or Management Committee member without the consent of the parties to the Dispute.

13.5 Commencement of Proceedings

- (a) Regulations 13.5(b) to 13.7 inclusive apply to all Disputes, other than:
- (i) a determination to which Regulation 13.8 applies if that determination relates to a question concerning the efficiency of the methods and procedures used by a Framework Participant in relation to the Delivery of Cash or the communication of advice of the dishonour of a Transaction; and
 - (ii) any other determination to which Regulation 13.8 applies if the Management Committee certifies in writing that in its opinion the relevant Dispute is one to which it is inappropriate for Regulations 13.5(b) to 13.7 to apply.
- (b) If a Framework Participant (in this PART 13, the "Defendant Framework Participant") fails or refuses to give effect to a determination of the Management Committee in relation to a Dispute to which Regulations 13.5(b) to 13.7 apply, which determination is evidenced by a Dispute Resolution Certificate, the Management Committee may:
- (i) terminate that Framework Participant's membership of ACDES; and
 - (ii) resolve that proceedings be commenced and prosecuted against the Defendant Framework Participant by the Company in its own right.
- (c) Alternatively, any aggrieved Framework Participant which was a Framework Participant at the date of issue of the relevant certificate (other than the Defendant Framework Participant) may commence proceedings against the Defendant Framework Participant and request the assistance of the Company in relation to such proceedings in which event the Management Committee may require the Company to provide whatever administrative assistance the Management Committee determines should be rendered by the Company to facilitate the conduct of such proceedings.

PART 13 BREACHES OF REGULATIONS AND DISPUTES

- (d) If the Management Committee resolves that proceedings be commenced by the Company against the Defendant Framework Participant, or if, in the opinion of the Management Committee it is desirable for the Company to render administrative assistance to facilitate the conduct of proceedings by one or more Framework Participants which were Framework Participants at the date of issue of the relevant Certificate (other than the Defendant Framework Participant), then every such Framework Participant irrevocably authorises the Company to commence such proceedings or render such administrative assistance respectively.

13.6 Costs

- (a) All:
- (i) costs (including costs as between solicitor and own client) and disbursements incurred by the Company in relation to any proceedings commenced and prosecuted in accordance with Regulation 13.5(b);
 - (ii) administrative costs reasonably incurred by the Company in relation to any such proceedings;
 - (iii) costs (including disbursements) and damages which may be awarded against the Company in relation to any such proceedings (or be payable by the Company as the result of any settlement of any such proceedings); and
 - (iv) liabilities and losses arising from any such proceedings which are suffered or incurred by the Company,

are to be treated as costs and expenses of operating, or incurred in connection with ACDES.

13.7 Distribution of Recoveries

If any proceedings are commenced by a Framework Participant or Framework Participants pursuant to this PART 13, and the Company renders administrative assistance pursuant to Regulation 13.5(c) to facilitate the conduct of those proceedings, then any award of damages or costs in favour of that or those Framework Participants must first be applied to reimburse the Company for those costs incurred by it in rendering such administrative assistance.

13.8 Efficiency Disputes

- (a) No Dispute of the type referred to in paragraph (v) of the definition of "Disputes" contained in Regulation 13.1 shall be submitted to the Management Committee for determination under Regulation 13.2:
- (i) if the determination of the Management Committee would or would purport to, affect the rights or liabilities of any customer of the Framework Participants concerned in the Dispute; or

PART 13 BREACHES OF REGULATIONS AND DISPUTES

- (ii) if, or to the extent that, the matter is capable of resolution by an application of objective requirements or provisions contained in published established practices followed by Framework Participants of the industry generally and there is no disagreement on any question of fact relevant to such requirements or provisions; or
 - (iii) unless and until the parties to the Dispute have tried to resolve the Dispute by discussion and negotiation between them; or
 - (iv) unless and until the Dispute has been submitted by the parties to, if relevant, a delegate of the Management Committee for an investigation of the facts and for the formulation, and forwarding to the Management Committee and to each of the parties to the Dispute, of an outline of its understanding of such facts together with an expression of its opinion as to the manner in which the Dispute might be resolved.
- (b) In determining any Dispute which is brought before it under Regulation 13.2, the Management Committee may call upon the parties to furnish it with such information and documents as it may reasonably deem necessary to enable it to adjudicate upon the Dispute.

13.9 Loss Apportionment

In all cases where a loss has to be met by reason of:

- (a) a conflict of opinion as to which of the parties to the Dispute was responsible for the loss; or
- (b) the inability of any one or more of the parties to obtain reimbursement from or recourse against a customer,

the Management Committee will have authority to determine where the loss, and how the apportionment of the loss, will fall having regard to the merits of the individual case.

13.10 Reference to the Board

- (a) Notwithstanding anything to the contrary in this PART 13:
 - (i) prior to the Management Committee taking any preliminary or other action pursuant to Regulation 13.2 in relation to a Dispute, a Framework Participant party to that Dispute may refer that Dispute directly to the Board for determination by the Board in which case the Dispute will not be referred to the Management Committee for its determination; and

PART 13 BREACHES OF REGULATIONS AND DISPUTES

- (ii) within 3 months of the date of a Dispute Resolution Certificate, a Framework Participant party to the relevant Dispute may also refer that Dispute to the Board by way of a request for a review of a determination of the Management Committee (which determination is evidenced by that Certificate) for further determination by the Board.
- (b) A determination of the Board in relation to a Dispute referred to it under this Regulation 13.10 must be evidenced by a resolution of the Board and a Dispute Resolution Certificate and a determination so evidenced will be binding upon all parties to the Dispute (including, without limitation, any body corporate which, subsequently to the occurrence of the events giving rise to the Dispute, resigns as a Framework Participant pursuant to Regulation 4.9(b) or whose membership as a Framework Participant is terminated pursuant to Regulation 4.9(d)) until such time as a court of law or equity otherwise orders.
- (c) Where a determination of the Board is made and evidenced in accordance with Regulation 13.10, Regulations 13.2(b) to 13.9 inclusive will apply as if a determination of the Board in relation to a Dispute is a determination of the Management Committee in relation to that Dispute and the powers and duties of the Management Committee under those Regulations are powers and duties of the Board.

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PART 14 NOTICES

- (a) A notice may be given by the Company to any Framework Participant or other person receiving notice under these Regulations either by:
- (i) serving it personally; or
 - (ii) sending it by post, telex or facsimile transmission to the address shown in the Register or the address supplied by that person to the Company for the giving of notices; or
 - (iii) sending an electronic mail message to an email address supplied by the Framework Participant or that person to the Company for the giving of notices or by publishing the notice on the Company's extranet or website in a manner accessible by the Framework Participant or that person receiving notice.

(Note: Publication on the Company's extranet or website must be accompanied by an electronic communication to the recipient(s) of the notice advising of the publication.)

- (b) Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and the notice is deemed to have been served on the business day after the date of its posting.
- (c) Where a notice is sent by telex or facsimile transmission, service of the notice is deemed to be effected by properly addressing the telex or facsimile transmission and transmitting same and to have been served in the case of a facsimile transmission on the business day following its despatch, and in the case of a telex transmission on the business day following receipt by the sender of the answerback of the addressee.
- (d) Where a notice is sent by electronic mail or published on the Company's extranet or website, the notice is deemed to be served on the business day following its despatch or publication.

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PART 15 INFORMATION

15.1 Statistics

- (a) Each Framework Participant must at the request of the Management Committee or the Company provide to the Company all reasonable information relating to that Framework Participant's costs, Transaction volumes, Transaction values and other matters relevant to ACDES.
- (b) On a written request from an Auditor, each Framework Participant must provide to the Auditor, without unnecessary delay, any information and documents in the possession or control of that Framework Participant that the Auditor reasonably requires to conduct an Audit.

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PART 16 MISCELLANEOUS

16.1 Set-Off

Nothing in these Regulations shall be construed so as to negate or exclude any right of set-off which may otherwise arise.

16.2 Amendments

- (a) These Regulations may be amended from time to time in accordance with Article 10.8 of the Constitution (Amendment of Regulations) which requires that:
 - (i) the Management Committee recommends the amendments;
 - (ii) Framework Participants approve the amendments by a resolution at a meeting convened in accordance with PART 7;
 - (iii) the Board approves the amendments; and
 - (iv) the amendments cannot become effective before they are approved by the Board.
- (b) Any amendment to these Regulations must contain an editorial note setting out the effective date of such amendment.

16.3 Exclusion of Fiduciary and Trustee Relationships

Neither the Company nor any Framework Participant nor another person shall, by reason only of these Regulations or another document relating to ACDES, have a fiduciary relationship with, or be trustee for, a Framework Participant or another person unless expressly agreed.

16.4 Representations and Warranties

The Company is entitled to assume the correctness of any representation or warranty made by a Framework Participant and is not required to conduct independent enquiries or to conduct searches of public registers to confirm the correctness of any representation or warranty.

16.5 Confidentiality

- (a) All Confidential Information is confidential to the recipient of that information and its employees and each such recipient must ensure that Confidential Information is not disclosed to any other person except:
 - (i) any existing, prospective or potential contractors or consultants and any participants in a tender process initiated by or for that recipient;
 - (ii) with the consent of the provider of that information (which consent must not be unreasonably withheld);

- (iii) (in the case of statistics) on a basis which does not identify the provider of the information;
 - (iv) if required to be disclosed by law or required by any stock exchange or supervisory authority which is responsible for the prudential supervision of the recipient;
 - (v) in connection with legal proceedings or disputes in which the recipient is a party;
 - (vi) if the information is generally and publicly available;
 - (vii) its legal advisers and auditors for the purpose of considering or advising upon the Confidential Information; or
 - (viii) to a Related Body Corporate of the recipient.
- (b) Except to the extent that it would contravene a law or stock exchange listing requirement, in respect of disclosure by a recipient (the First Recipient) of Confidential Information to a further recipient (the Second Recipient) pursuant to Regulations 16.5(a)(i), (iv), (v) and (viii) above, the First Recipient must prior to disclosure:
- (i) advise the Company in writing; and
 - (ii) obtain from the Second Recipient an undertaking to abide by the requirements of this Regulation 16.5. The undertaking obtained should, wherever possible, be enforceable directly by the Company.

16.6 Expenditure

The expenses incurred by the Management Committee, any sub-committee of the Management Committee, any member of those committees, each Manager or any other person in the performance of their duties under these Regulations and the Procedures must be in accordance with the financial budgets of the Company which have been approved by the Board or otherwise determined by the Board or the Chief Executive Officer (either specifically or on a general basis).

16.7 Indemnity

Every person who is or has been a member of the Management Committee is entitled to be indemnified out of the property of the Company against:

- (a) every liability incurred by the person in that capacity (except a liability for legal costs); and

- (b) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:
- (c) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (d) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

16.8 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a member of the Management Committee against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium;
or
- (b) the contract would, if the Company paid the premium, be made void by statute.

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ANNEXURE 1 ACDES MEMBERSHIP APPLICATION FORM

ANNEXURE 1 ACDES MEMBERSHIP APPLICATION FORM

To: The Secretary
Australian Payments Network Limited
Level 23, Tower 3, International
Towers Sydney, 300 Barangaroo
Avenue
Sydney NSW 2000

From: Full Name of Applicant:

ACN / ARBN:

Place of Incorporation:

Registered Office Address / Principal
Place of Business in Australia:

Name of Framework Participant
Representative:

Telephone Number: ()

Email Address:

MEMBERSHIP DEED POLL

The Applicant applies for membership as a Framework Participant of the Australian Cash Distribution and Exchange System (CS5) on the terms and conditions set out in this deed.

1. Undertakings by the Applicant

- 1.1 The Applicant represents that it is able to meet the qualifications for Membership of the Australian Cash Distribution and Exchange System (CS5).
- 1.2 The Applicant will comply with the Regulations and the Procedures and acknowledges receiving and reading a copy of them before executing this deed.
- 1.3 The Applicant undertakes not to impair the overall efficiency of ACDES.
- 1.4 The Applicant undertakes to pay the fees and other amounts payable under the Regulations and the Procedures and this deed.
- 1.5 The Applicant acknowledges that the Company is appointed the attorney of the Applicant for certain purposes pursuant to the Regulations.
- 1.6 The Applicant will comply with the requirements and directions of the Company and the Management Committee as notified to the Applicant from time to time.
- 1.7 The Applicant acknowledges that this Membership Application will be considered in accordance with the Regulations and if the Membership Application is accepted the Applicant is bound by the Regulations from the date of that acceptance. The Applicant will be notified as to whether its Membership Application is accepted or rejected in accordance with the procedure set out in the Regulations.

2. Benefit

- 2.1 The Applicant acknowledges that the obligations contained in this deed are for the benefit of the Company and every other ACDES Member regardless of when that ACDES Member becomes an ACDES Member. Accordingly, any ACDES Member or the Company has the benefit of, and may enforce, this deed even though it is not a party to it, or in the case of an ACDES Member, is not an ACDES Member, at the time of execution and delivery of this deed.
- 2.2 Each ACDES Member and the Company may enforce its rights under this deed independently from:
 - (a) (in the case of an ACDES Member, the Company, and each other ACDES Member; and
 - (b) in the case of the Company, each other ACDES Member.

ANNEXURE 1 ACDES MEMBERSHIP APPLICATION FORM

3. Termination

- 3.1 Membership may only be terminated in accordance with the Regulations.
- 3.2 This deed continues and may not be revoked by the Applicant while the Applicant is an ACDES Member, (including throughout any periods during which that Membership is suspended).
- 3.3 If the Applicant terminates its Membership under clause 3.1, then it may terminate this deed by giving written notice to the Company.
- 3.4 Termination of this deed for any reason will not extinguish or otherwise affect any rights of the Company or a Framework Participant against the Applicant which:
- (a) accrued before the time of termination; or
 - (b) otherwise relate to or may arise at any future time from any breach of this deed, the Regulations or the Procedures which occurred before the time the termination takes effect.

4. Representations and warranties

- 4.1 The Applicant represents and warrants (except in relation to matters disclosed to the other parties in writing) that:
- (a) (incorporation and existence) it has been incorporated in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted; and
 - (b) (power) it has power to enter into this deed and comply with its obligations under it; and
 - (c) (no contravention or exceeding power) this deed does not contravene its constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded; and
 - (d) (authorisations) it has in full force and effect the authorisations necessary for it to enter into this deed, to comply with its obligations and exercise its rights under it and to allow them to be enforced; and
 - (e) (validity of obligations) its obligations under this deed are valid and binding and are enforceable against it in accordance with their terms; and
 - (f) (solvency) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable; and
 - (g) (not a trustee) it does not enter into this deed as trustee; and

ANNEXURE 1 ACDES MEMBERSHIP APPLICATION FORM

- (h) (no benefit to related party) no person has contravened or will contravene section 208 or section 209 of the *Corporations Act 2001 (Cth)* by entering into this deed or participating in any Transaction in connection with ACDES; and
- (i) (litigation) it is not aware at the date of this deed of any pending or threatened proceeding affecting it before a court, governmental agency, commission or arbitrator which would have a materially adverse effect on ACDES; and
- (j) (full disclosure) it has disclosed in writing to the Company all facts relating to it this deed and all things in connection with them which are material to the assessment of the nature and amount of the risk undertaken by the other parties in entering into this deed and doing anything in connection with it; and
- (k) (no immunity) it has no immunity from the jurisdiction of a court or from legal process.

4.2 The Applicant agrees to notify the Company without unnecessary delay of anything that happens which would mean it could not truthfully repeat all its representations and warranties in this clause on that date by reference to the then current circumstances. A notification under this clause does not limit the other parties' rights under this deed, the Regulations or the Procedures.

5. Indemnity

Each Framework Participant indemnifies the Company and each other Framework Participant with respect to all loss, damage and claims which they may suffer in connection with:

- (a) any fraud or negligence of that Framework Participant or its employees, agents or contractors in connection with ACDES; or
- (b) any failure of that Framework Participant or its employees, agents or contractors to comply with the Regulations or the Procedures.

6. Stamp duty

The Applicant must ensure that this deed is duly stamped in any relevant Australian jurisdiction at its expense.

7. Governing law

This deed is governed by the laws in force in the State of New South Wales. Each party irrevocably and unconditionally submits to the non exclusive jurisdiction of the courts of that state or territory and courts of appeal from them for determining any dispute concerning this deed, the Regulations, the Procedures or the Transactions contemplated by this deed.

ANNEXURE 1 ACDES MEMBERSHIP APPLICATION FORM

8. General

- 8.1 If anything in this deed is inconsistent with the Regulations or the Procedures then the provisions of this deed prevail.
- 8.2 Any indemnity in this deed is a continuing obligation, independent of the Applicant's other obligations under this deed. It is not necessary for a Framework Participant to incur any expense or make any payment before enforcing a right of indemnity under this deed.

9. Definitions and interpretation

- 9.1 Terms defined and interpreted in the Regulations and the Procedures bear the same meaning in this deed.
- 9.2 The Details form part of this deed.
- 9.3 Regulation 1.2 applies to the interpretation of this deed as though references in those Regulations to "Regulations" or to "Procedures" (or both) are to this deed or clauses of this deed, as the context may require.

ANNEXURE 1 ACDES MEMBERSHIP APPLICATION FORM

EXECUTED as a deed poll

Dated: _____

Place of execution: _____

THE COMMON SEAL of [Applicant] is)
affixed in accordance with its articles of)
association in the presence of:)

Signature of authorised person

Signature of authorised person

Office held

Office held

Name of authorised person (block letters)

Name of authorised person (block letters)

OR

SIGNED, SEALED AND DELIVERED by)
[Name of attorney] as attorney for)
[Applicant] under power of attorney dated)
XX XX XX in the presence of:)
)
)
)
)

By executing this deed the attorney states
that the attorney has received no notice of
revocation of the power of attorney

Signature of witness

Name of witness (block letters)

OR

EXECUTED by [Applicant] in accordance)
with section 127(1) of the Corporations Law)
by authority of its directors:)
)
)
)
)

Signature of director

Signature of director/company secretary*
**delete whichever is not applicable*

Name of director (block letters)

Name of director/company secretary* (block
letters)
**delete whichever is not applicable*

ANNEXURE 1 ACDES MEMBERSHIP APPLICATION FORM

Notes:

Applications should be completed in accordance with the following instructions:

- (a) by two directors or a director and a company secretary of the Applicant; OR
- (b) by affixing the Applicant's common seal witnessed by two directors or a director and a company secretary of the Applicant; OR
- (c) under power of attorney, in which case the attorney must state that no notice of revocation of the power of attorney under which the application is signed has been received and an original power of attorney or certified copy should be enclosed for noting.

The Company may require additional supporting documentation to satisfy itself that the application has been duly executed by the Applicant. If this is the case, the Company will contact the Applicant directly.

End