



RESERVE BANK OF AUSTRALIA

Committed Liquidity Facility

Terms and Conditions

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These Terms and Conditions are dated 7 October 2019.

RECITALS

- A. Under the Basel III liquidity standards implemented in Australia from 1 January 2015, APRA imposes a liquidity coverage ratio requirement on certain Authorised Deposit-taking Institutions.
- B. ADIs may seek approval from APRA to meet part of their LCR requirement through a committed liquidity facility with the Reserve Bank.
- C. This document has been prepared by the Reserve Bank and sets out the Terms and Conditions which apply to any committed liquidity facility between an ADI and the Reserve Bank.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 RITS Regulations

Words and expressions defined in the RITS Regulations will, unless the context requires otherwise or the word or expression is defined in these Terms and Conditions, have the same meaning when used in these Terms and Conditions.

1.2 Master Agreement

Where these Terms and Conditions refer to an SF Repo (Standing Facility Repo) which has been or is to be entered into by the Reserve Bank and the CLF Participant, the words and expressions 'Buyer', 'Confirmation', 'Contractual Currency', 'Event of Default', 'equivalent to', 'Market Value', 'Price Differential', 'Pricing Rate', 'Purchase Date', 'Purchase Price', 'Purchased Securities', 'Repurchase Date', 'Security', 'Seller', 'Termination' and 'Transaction' will have the meaning given to them in the Master Agreement which governs or would govern the SF Repo.

1.3 Definitions

In these Terms and Conditions, the following terms have the following meaning:

Authorised Deposit-taking Institution or **ADI** has the meaning given in section 5 of the *Banking Act 1959* (Cth).

Cash Rate Target means, in respect of any day, the Reserve Bank's target for the cash rate for that day as published by the Reserve Bank on its website (at www.rba.gov.au).

CLF Authorised Signatory means a person authorised to sign and/or despatch notices, including Utilisation Notices, under the Committed Liquidity Facility on behalf of the CLF Participant (either individually or jointly with another CLF Authorised Signatory), as determined in accordance with clause 17(f).

CLF Commitment Deed means a deed between the Reserve Bank and the CLF Participant, substantially in the form set out in Schedule 1, in which the Reserve Bank agrees to make a Committed Liquidity Facility available to the CLF Participant on these Terms and Conditions.

CLF Fee means a fee payable to the Reserve Bank by the CLF Participant pursuant to clause 10 as consideration for the Reserve Bank's Commitment.

CLF Operational Notes means the operational notes for the CLF that are issued by the Reserve Bank from time to time, in whatever form the Reserve Bank considers appropriate, pursuant to clause 18.

CLF Participant means the RITS Member which is party to the CLF Commitment Deed which forms part of the CLF.

Commitment means, on any day, the amount of the commitment of the Reserve Bank to the CLF Participant on that day as determined in accordance with clause 3.

Committed Liquidity Facility (or **CLF**) means a committed liquidity facility made available by the Reserve Bank to the CLF Participant on the terms and conditions set out in:

- (a) the CLF Commitment Deed between the Reserve Bank and the CLF Participant; and
- (b) these Terms and Conditions.

Condition Precedent means a condition precedent in clause 7(a).

Eligible Security means a Security which the Reserve Bank has determined it is prepared to purchase or sell under a Reciprocal Purchase Transaction to which Annexure A of the RITS Regulations applies and which satisfies any other criteria determined by the Reserve Bank from time to time as set out in the CLF Operational Notes for this purpose.

Fair Value means, in respect of the price of an Eligible Security or any other 'Security', the amount in Australian Dollars which, in the opinion of the Reserve Bank, represents the fair value of the Eligible Security or other 'Security', having regard to such pricing sources and methods (which may include available prices for securities with similar maturities, terms and credit characteristics as the relevant purchased securities) as the Reserve Bank considers appropriate.

Liquidity Coverage Ratio or **LCR** means the liquidity coverage ratio which APRA requires the CLF Participant to satisfy.

Margin means the figure specified as the Margin for the purposes of clause 9 in the CLF Operational Notes.

Margin Ratio means the factor by which the Fair Value of an Eligible Security may be divided in relation to an SF Repo, the effect of which is to reduce the consideration for the Eligible Security. The Reserve Bank, in its absolute discretion, will determine whether a Margin Ratio will be applied.

Master Agreement means the SIFMA/ICMA Agreement as amended and supplemented by Annex I in section 3 of Annexure A of the RITS Regulations and clause 6 of these Terms and Conditions.

Outstanding SF Repo means at any time an SF Repo for which the CLF Participant is the 'Seller' and for which at that time the 'Repurchase Date':

- (a) is yet to occur; or
- (b) has occurred, but the obligation for the CLF Participant to make payment of the 'Repurchase Price' to the Reserve Bank remains outstanding.

Purchase means a purchase of Eligible Securities by the Reserve Bank from the CLF Participant on a 'Purchase Date' in accordance with the terms of an SF Repo.

Reserve Bank means the Reserve Bank of Australia (ABN 50 008 559 486) of 65 Martin Place, Sydney, NSW, Australia.

RITS Member has the meaning given to the term 'Member' in the RITS Regulations.

RITS Membership Document has the meaning given to the term 'Membership Document' in the RITS Regulations.

RITS Regulations means the Regulations promulgated by the Reserve Bank governing participation in the Reserve Bank Information and Transfer System.

Utilisation means a use of the CLF by the CLF Participant by means of the entry into an SF Repo by the Reserve Bank and the CLF Participant pursuant to clause 8. **Utilise** has a corresponding meaning.

Utilisation Request means a request for a Utilisation of the Committed Liquidity Facility from the CLF Participant to the Reserve Bank in accordance with clause 5.

1.4 Interpretation

- (a) Reference to:
 - (i) the singular includes the plural and the plural includes the singular;
 - (ii) a 'person' includes an individual, company, body corporate, association, partnership, firm, joint venture, trust or government body; and
 - (iii) a party includes the party's executors, administrators, successors and permitted assigns.
- (b) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (c) 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.
- (d) Headings are for convenience only and do not affect the interpretation of these Terms and Conditions.
- (e) A reference to a document (including these Terms and Conditions) is to that document as varied, amended, modified, supplemented, novated, ratified and/or replaced from time to time.
- (f) A reference to a clause or schedule is a reference to a clause or schedule of these Terms and Conditions.
- (g) A reference to **\$, A\$, AUD** or **Australian Dollars** is a reference to the lawful currency of the Commonwealth of Australia.

1.5 Inconsistency

To the extent of any inconsistency between the following documents, the inconsistency is to be resolved in the following descending order of precedence:

- (a) the CLF Commitment Deed;
- (b) these Terms and Conditions; and
- (c) the CLF Operational Notes.

1.6 Separate agreement with each relevant ADI

The Committed Liquidity Facility takes effect as a separate agreement between the Reserve Bank and the CLF Participant. Nothing in any other committed liquidity facility between the Reserve Bank and another ADI which incorporates these Terms and Conditions will affect or be affected by the Committed Liquidity Facility.

2. ESTABLISHMENT

2.1 Execution of CLF Commitment Deed

The execution of a CLF Commitment Deed by the Reserve Bank and an ADI will establish a Committed Liquidity Facility between the Reserve Bank and that ADI as CLF Participant and will constitute a valid, binding and enforceable agreement between the Reserve Bank and the ADI on the terms and conditions set out in the CLF Commitment Deed and these Terms and Conditions.

2.2 No Commitment without CLF Commitment Deed

Unless and until a CLF Commitment Deed has been executed by the Reserve Bank and an ADI, no agreement will exist between the Reserve Bank and the ADI in respect of the subject matter of these Terms and Conditions and the Reserve Bank will have no Commitment to the ADI.

3. COMMITMENT

3.1 Amount

The commitment of the Reserve Bank to the CLF Participant on any day is, subject to clause 3.2, an amount in Australian Dollars which is equal to the Australian Dollar amount of CLF commitment of the Reserve Bank to the CLF Participant which, on or prior to that day, APRA has most recently advised the CLF Participant and the Reserve Bank in writing that the CLF Participant may count towards the CLF Participant's LCR on that day.

3.2 Cancellation

If the Reserve Bank's commitment to the CLF Participant has been cancelled in accordance with clause 12, the Reserve Bank's commitment to the CLF Participant will be nil unless and until the Reserve Bank and the CLF Participant execute a new CLF Commitment Deed.

4. THE FACILITY

4.1 Commitment is to enter into SF Repos

Subject to these Terms and Conditions (including the satisfaction or waiver of each Condition Precedent to a Utilisation), the Reserve Bank agrees that it will enter into one or more SF Repos with the CLF Participant on the Settlement Day(s) nominated by the CLF Participant in its Utilisation Request(s).

4.2 SF Repos will be subject to the RITS Regulations

Each SF Repo will be entered into subject to, and in accordance with, the terms and conditions which apply to SF Repos under the RITS Membership Documents.

5. UTILISATION REQUESTS

- (a) The CLF Participant may request a Utilisation of the Committed Liquidity Facility by submitting a Utilisation Request to the Reserve Bank.
- (b) Unless the Reserve Bank agrees otherwise, a Utilisation Request must:
 - (i) be in writing and in substantially the form set out in the CLF Operational Notes;
 - (ii) be submitted to the Reserve Bank in accordance with clause 17;

- (iii) be received by the Reserve Bank by no later than 5.45 pm AEST/AEDT (or such later time to which the Reserve Bank agrees) on the date of the proposed Purchase Date;
 - (iv) contain a statement from the CLF Participant that:
 - (A) the representations and warranties in clause 11.1 are true and correct when repeated on the date of the Utilisation Request; and
 - (B) no 'Event of Default' (or event which, with the giving of notice or the lapse of time or both, would constitute an 'Event of Default') has occurred or is continuing in respect of the CLF Participant under the Master Agreement; and
 - (v) be accompanied by a letter to the Reserve Bank in which the chief executive officer (or equivalent authority) of the CLF Participant attests that the CLF Participant has positive net worth.
- (c) A Utilisation Request must specify the following details of the proposed SF Repo:
- (i) **Purchase Date:** the proposed 'Purchase Date' for the SF Repo, which must be a Settlement Day on or after the date of the Utilisation Request;
 - (ii) **Purchase Price:** the proposed 'Purchase Price' for the SF Repo, which must be in Australian Dollars;
 - (iii) **Purchased Securities:** the proposed 'Purchased Securities' for the SF Repo (including their ISIN or other identifying number(s)), which must be Eligible Securities; and
 - (iv) **Repurchase Date:** whether the CLF Participant proposes that the SF Repo is to:
 - (A) **Intraday:** be required to be reversed on the Purchase Date;
 - (B) **Terminable on demand:** be an Open SF Repo; or
 - (C) **Fixed term:** have a fixed 'Repurchase Date' which is a Settlement Day no later than the thirtieth day following the 'Purchase Date' for the SF Repo, in which case the CLF Participant must specify the proposed 'Repurchase Date' for the SF Repo.

6. THE SF REPO(S)

6.1 Details

The details of an SF Repo to be entered into by the Reserve Bank and the CLF Participant pursuant to a Utilisation of the Committed Liquidity Facility will be determined as follows:

- (a) **'Buyer':** the Reserve Bank.
- (b) **'Seller':** the CLF Participant.
- (c) **'Purchase Date':** the date nominated by the CLF Participant as the 'Purchase Date' in its Utilisation Request, which must be a Settlement Day.
- (d) **'Purchase Price':** the consideration (payment amount) for the SF Repo, as nominated by the CLF Participant in its Utilisation Request.
- (e) **'Contractual Currency':** Australian Dollars.
- (f) **'Margin Ratio':** the Margin Ratio which is applicable to the 'Purchased Securities' for the SF Repo, as determined by the Reserve Bank in its absolute discretion.
- (g) **'Pricing Rate':** the 'Pricing Rate' for the SF Repo, as determined by the Reserve Bank in accordance with clause 9.

- (h) **‘Purchased Securities’**: any or all of the Eligible Securities nominated by the CLF Participant in its Utilisation Request, as determined by the Reserve Bank in accordance with clause 6.2.
- (i) **ISIN or other identifying number(s)**: the ISIN or other identifying number(s) of the Purchased Securities.
- (j) **‘Repurchase Date’**: the SF Repo will:
 - (i) **Intraday**: be required to be reversed on the Purchase Date, unless the CLF Participant requests and the Reserve Bank (in its discretion) agrees that the term may be extended overnight to the following Settlement Day (in which case the SF Repo will be required to be reversed on the Settlement Day immediately following the Purchase Date);
 - (ii) **Terminable on demand**: be an Open SF Repo, in which case the SF Repo does not have a ‘Repurchase Date’ agreed at the time it is effected and it may be reversed by either party issuing a demand for termination to the other party in accordance with the terms of the Master Agreement between the Reserve Bank and the CLF Participant; or
 - (iii) **Fixed term**: have a fixed ‘Repurchase Date’ which is a Settlement Day no later than the thirtieth day following the ‘Purchase Date’ for the SF Repo,

as agreed by the CLF Participant and the Reserve Bank based on good faith negotiations following the Reserve Bank’s receipt of the Utilisation Request. If no agreement is able to be reached by 5.45 pm AEST/AEDT on the date of the proposed Purchase Date, the SF Repo will be an Open SF Repo.

6.2 Determination of the Purchased Securities

- (a) Subject to clause 7(a)(iv), the Reserve Bank is to determine the ‘Purchased Securities’ for the purposes of an SF Repo by selecting, in its absolute discretion, from the Eligible Securities nominated by the CLF Participant in its Utilisation Request such number of Eligible Securities as are required to ensure that as at the proposed ‘Purchase Date’ the aggregate purchase price of the ‘Purchased Securities’, calculated by the Reserve Bank using the Fair Value of the ‘Purchased Securities’ as adjusted by the applicable Margin Ratio(s), will be equal to, or as close to equal to as is reasonably practicable, the ‘Purchase Price’ for the SF Repo that was nominated by the CLF Participant in its Utilisation Request.
- (b) Following its determination of the ‘Purchased Securities’ for the purposes of an SF Repo in accordance with paragraph (a), the Reserve Bank may elect for the SF Repo to be documented as either:
 - (i) a single ‘Transaction’ for the purposes of the Master Agreement; or
 - (ii) separate ‘Transactions’ for the purposes of the Master Agreement, with certain ‘Purchased Securities’ forming part of each separate ‘Transaction’ (as determined by the Reserve Bank).

6.3 Market Value for Margin Maintenance

Notwithstanding paragraph 1(e) in Annex I in section 3 of Annexure A of the RITS Regulations, for the purposes of paragraph 2(ee) of the Master Agreement the pricing source for the calculation of ‘Market Value’ will be the Reserve Bank and the Reserve Bank will determine the ‘Market Value’ of any ‘Securities’ by reference to their Fair Value.

6.4 Incorporation of terms

- (a) The representations and warranties in clause 11.1 are incorporated into each SF Repo as if set out in full in the Master Agreement and are deemed to be made by the CLF Participant to the Reserve Bank on the date of each SF Repo.

- (b) The indemnities in clause 14 are also incorporated into each SF Repo as if set out in full in the Master Agreement.

7. CONDITIONS PRECEDENT

- (a) It is a condition precedent to each Utilisation of the Committed Liquidity Facility by the CLF Participant, and to each Purchase corresponding to such a Utilisation, that:
- (i) the CLF Participant has provided the Reserve Bank with evidence, in form and substance satisfactory to the Reserve Bank, that the CLF Commitment Deed has been duly executed by the CLF Participant (which may include the delivery to the Reserve Bank of a legal opinion from a firm of reputable solicitors);
 - (ii) the CLF Participant has submitted a Utilisation Request that complies with the requirements in clause 5;
 - (iii) the details of the proposed SF Repo are not inconsistent with the requirements for a proposed SF Repo as set out in clause 6;
 - (iv) the Fair Value of the Eligible Securities nominated by the CLF Participant in the relevant Utilisation Request as adjusted by the applicable Margin Ratio(s), is or will be no less than the 'Purchase Price' (payment amount) for the SF Repo;
 - (v) APRA has provided the Reserve Bank with written confirmation that it does not object to the proposed Utilisation;
 - (vi) the CLF Participant has positive net worth in the opinion of the Reserve Bank, having consulted with APRA;
 - (vii) the aggregate 'Purchase Price' in respect of all Outstanding SF Repos would not exceed the Commitment of the Reserve Bank immediately following the Utilisation or the Purchase;
 - (viii) the execution, delivery and performance of the SF Repo will not violate any law, statute, regulation, ordinance, code, by-law, rule or other law applicable to the Reserve Bank or the CLF Participant;
 - (ix) all CLF Fees due and payable to the Reserve Bank by the CLF Participant have been paid;
 - (x) the CLF Participant satisfies the Reserve Bank's criteria for counterparty eligibility for the Reserve Bank's domestic market operations as set out, or referred to, in the CLF Operational Notes;
 - (xi) the CLF Participant holds and uses an account (such as an Exchange Settlement Account) with the Reserve Bank; and
 - (xii) no 'Event of Default' (or event which, with the giving of notice or the lapse of time or both, would constitute an 'Event of Default') has occurred or is continuing in respect of the CLF Participant under the Master Agreement.
- (b) In respect of the Condition Precedent in clause 7(a)(vi), the Reserve Bank is not obliged to form an opinion unless one full Settlement Day has elapsed since APRA provided the Reserve Bank with written confirmation that it does not object to the proposed Utilisation. Until that time, the Condition Precedent will be deemed to not be satisfied unless the Reserve Bank (in its absolute discretion) has determined otherwise.
- (c) Each Condition Precedent is for the benefit of the Reserve Bank.
- (d) The Reserve Bank may waive any or all the Conditions Precedent in its discretion.

- (e) The Reserve Bank will have no obligation to satisfy a Utilisation Request unless each Condition Precedent has been satisfied or waived by no later than 5.45 pm AEST/AEDT on the proposed 'Purchase Date'.
- (f) If each Condition Precedent to a Utilisation has been satisfied or waived at or before 5.45 pm AEST/AEDT on the proposed 'Purchase Date', the Reserve Bank may enter into the corresponding SF Repo with the CLF Participant at any time during the course of that Settlement Day.

8. EFFECT OF UTILISATION

8.1 Every SF Repo is a Utilisation

Any SF Repo between the CLF Participant and the Reserve Bank constitutes a Utilisation of the Committed Liquidity Facility by the CLF Participant, regardless of whether the Conditions Precedent to the SF Repo were satisfied.

8.2 Reserve Bank discretion

Nothing in these Terms and Conditions will prevent the Reserve Bank from entering into an SF Repo with the CLF Participant at its discretion (including entering into an SF Repo with the CLF Participant in circumstances where, immediately following the entry into the SF Repo, the aggregate Purchase Price of all Outstanding SF Repos at that time would exceed the then applicable Commitment of the Reserve Bank).

9. PRICING

- (a) The 'Pricing Rate' which will apply to a Utilisation on any day will be either the:
 - (i) Cash Rate Target; or
 - (ii) Cash Rate Target plus the Margin,as applicable on that day and as determined in accordance with the CLF Operational Notes.
- (b) The Reserve Bank may agree to apply a lower Pricing Rate to a Utilisation in its discretion.

10. CLF FEE

10.1 Payment of CLF Fee

- (a) In consideration of the Reserve Bank's Commitment, the CLF Participant must pay a line fee to the Reserve Bank calculated by reference to the Reserve Bank's Commitment to the CLF Participant.
- (b) The CLF Fee will be payable by the CLF Participant to the Reserve Bank at the times, in the manner and at the rate set out in the CLF Operational Notes.

10.2 Failure to pay CLF Fee

If the CLF Participant fails to pay a CLF Fee when due and such failure has not been remedied, the Reserve Bank may, without prejudice to the rights of the Reserve Bank under clause 12.3, by written notice to the CLF Participant bring forward the 'Repurchase Date' for any or all SF Repo(s) between the Reserve Bank and the CLF Participant to a Settlement Day which is on or after the date of the written notice.

11. REPRESENTATION AND WARRANTIES OF THE CLF PARTICIPANT

11.1 Representations and Warranties

Each CLF Participant represents and warrants to the Reserve Bank, without prejudice to any other representations and warranties it provides to the Reserve Bank, that:

- (a) it was duly authorised to execute and deliver each RITS Membership Document it has executed and delivered to the Reserve Bank and the RITS Regulations constitute a valid, binding and enforceable agreement between, among others, the CLF Participant and the Reserve Bank;
- (b) it was duly authorised to execute and deliver the CLF Commitment Deed, and it is duly authorised to enter into SF Repos and to perform its obligations in respect of the Committed Liquidity Facility, and it has taken all necessary action to authorise such execution, delivery and performance;
- (c) it enters into the Committed Liquidity Facility and any SF Repo as principal;
- (d) the person(s) that executed the CLF Commitment Deed on its behalf were, and any person(s) that represent it in providing a Utilisation Request or entering into an SF Repo are, duly authorised to do so on its behalf;
- (e) it has obtained all authorisations of any governmental or regulatory body required in connection with the Committed Liquidity Facility and any SF Repo and such authorisations are in full force and effect;
- (f) the execution, delivery and performance of the CLF Commitment Deed and any SF Repo under the Committed Liquidity Facility will not violate any law, statute, regulation, ordinance, code, by-law, rule or other law applicable to it or any agreement by which it is bound or by which any of its assets are affected;
- (g) it has satisfied itself and will continue to satisfy itself as to the tax implications of the Committed Liquidity Facility and any SF Repo it enters into; and
- (h) in connection with the Committed Liquidity Facility and each SF Repo:
 - (i) it is not relying on any advice (whether written or oral) of the Reserve Bank;
 - (ii) it has made and will make its own decisions regarding the entry into any SF Repo based upon its own judgment and upon advice from such professional advisers as it deems it necessary to consult; and
 - (iii) it understands the terms, conditions and risks of the Committed Liquidity Facility and is willing to assume (financially and otherwise) those risks.

11.2 Repetition

The representations and warranties in clause 11.1 are deemed to be made by the CLF Participant on the date that it executes the CLF Commitment Deed and will be deemed to be repeated by the CLF Participant on each date on which it:

- (a) pays a CLF Fee to the Reserve Bank;
- (b) submits a Utilisation Request; or
- (c) utilises the Committed Liquidity Facility.

11.3 No investigation

The Reserve Bank is entitled to assume the correctness of any representation or warranty made by the CLF Participant under or in respect of the Committed Liquidity Facility and the Reserve

Bank will not be required to conduct independent enquiries or to conduct searches of public registers to confirm the correctness of any such representation or warranty.

12. TERMINATION

12.1 Cancellation by the CLF Participant

The CLF Participant may cancel the Reserve Bank's Commitment in whole (but not in part) by providing the Reserve Bank with not less than one calendar month's written notice.

12.2 Cancellation by the Reserve Bank

The Reserve Bank may cancel the Reserve Bank's Commitment in whole (but not in part) by providing the CLF Participant with not less than twelve calendar month's written notice.

12.3 Cancellation following default

The Reserve Bank may cancel the Reserve Bank's Commitment in whole (but not in part) with immediate effect by written notice to the CLF Participant if:

- (a) the CLF Participant fails to pay the CLF Fee when due and such failure has not been remedied;
- (b) the CLF Participant repudiates or seeks to repudiate the terms of the Committed Liquidity Facility;
- (c) any representation made or deemed to be made by the CLF Participant under or in connection with the Committed Liquidity Facility is or proves to have been incorrect or misleading in any material respect when made or deemed to be made; or
- (d) the CLF Participant otherwise fails to comply with any provision of the Committed Liquidity Facility.

12.4 Termination of CLF

- (a) Subject to the remainder of this clause 12.4, the cancellation of the Reserve Bank's Commitment in whole will also constitute a termination of the Committed Liquidity Facility between the Reserve Bank and the CLF Participant.
- (b) These Terms and Conditions will, following a termination of the Committed Liquidity Facility, continue to apply to any Outstanding SF Repo(s) remaining as at the date of termination.
- (c) Any termination of the Committed Liquidity Facility will be without prejudice to the rights and liabilities of the Reserve Bank and the CLF Participant which have accrued prior to the date of termination.
- (d) The provisions of clause 13, clause 14 and clause 16 will continue in full force and effect after the termination of the Committed Liquidity Facility.

13. LIMITATION OF LIABILITY

13.1 Limitation

Without limiting any other provision of these Terms and Conditions or the RITS Regulations, the Reserve Bank will not be liable for any loss of the CLF Participant howsoever arising whether direct or consequential (including but not limited to loss of profits) or damage to persons or property arising out of:

- (a) any act or any failure or refusal to act (including without limitation any decision or calculation made) by the Reserve Bank, its officers, employees or agents in good faith or in reliance on:
 - (i) any act, failure to act, conduct or consent of the CLF Participant or any other person;
 - (ii) any instructions, information or document provided to the Reserve Bank, its officers, employees or agents by the CLF Participant or any other person; or
 - (iii) any failure of the Reserve Bank, its officers, employees or agents to receive any instructions, information or document from the CLF Participant or any other person;
- (b) the failure of the Reserve Bank, its officers, employees or agents to receive any instructions, information or document from the CLF Participant or any other person by the relevant due time or date for receipt by the Reserve Bank of such instructions, information or document or at all unless the failure has resulted from a negligent act or omission of the Reserve Bank, its officers, employees or agents;
- (c) any technological failure of any sort (including the failure of any communications, computer, software or electrical failure);
- (d) any fraud or forgery on the part of any person giving or purporting to give to the Reserve Bank any instructions;
- (e) the Reserve Bank acting on any communication or instruction received or purportedly received from the CLF Participant; or
- (f) the bona fide exercise of any discretion, right or power conferred upon the Reserve Bank, its officers, employees or agents by these Terms and Conditions.

13.2 Cap

Despite anything in these Terms and Conditions, the liability of the Reserve Bank to the CLF Participant in relation to any one event or any inter-related events, for claims under or in connection with these Terms and Conditions or the CLF Commitment Deed or any transaction under or in connection with them (whether or not in accordance with these Terms and Conditions) for any reason (including negligence) shall not exceed in aggregate A\$50,000,000.

14. INDEMNITY

- (a) The CLF Participant indemnifies the Reserve Bank against all claims made against, and all liability or loss of, and all costs and expenses reasonably incurred by, the Reserve Bank in any way arising from or in connection with:
 - (i) any act or any failure or refusal to act (including without limitation any decision or calculation made) by the Reserve Bank, its officers, employees or agents in good faith or in reliance on:
 - (A) any act, failure to act, conduct or consent of the CLF Participant or any other person;
 - (B) any instructions, information or document provided to the Reserve Bank, its officers, employees or agents by the CLF Participant or any other person; or
 - (C) any failure of the Reserve Bank, its officers, employees or agents to receive any instructions, information or document from the CLF Participant or any other person;
 - (ii) any technological failure of any sort (including the failure of any communications, computer, software or electrical failure) directly related to the CLF;

- (iii) the Reserve Bank acting upon any communication or instruction received or purportedly received from the CLF Participant; or
 - (iv) any representation and warranty of the CLF Participant being untrue when made or repeated.
- (b) However, this indemnity does not apply to the extent that such claims, liability, loss, costs and expenses were caused by fraud or wilful default on the part of the Reserve Bank.

15. ASSIGNMENT

The CLF Participant may not assign, charge or otherwise deal with (including any dealing with any interest in or the creation of any interest in) its rights or obligations under the Committed Liquidity Facility without the prior written consent of the Reserve Bank.

16. CONFIDENTIALITY

16.1 Confidentiality requirement

The Reserve Bank undertakes to:

- (a) take all proper and effective precautions to preserve the confidentiality of Confidential Information;
- (b) only supply or disclose Confidential Information in accordance with clause 16.2; and
- (c) inform the CLF Participant as soon as practicable if it becomes aware or suspects that any Confidential Information has been disclosed otherwise than in accordance with these Terms and Conditions.

16.2 Permitted disclosure

The Reserve Bank may supply or disclose Confidential Information:

- (a) with the prior written consent of the CLF Participant;
- (b) if ordered to do so by a court of competent jurisdiction or as otherwise required by law;
- (c) to its auditor or to its legal, financial, accounting or other advisers (in each case, on a confidential basis);
- (d) to the responsible Minister;
- (e) in response to a request by a House or a Committee of the Parliament of the Commonwealth;
- (f) for the purpose of including it in published statistical information or analysis (which may include publication of the Reserve Bank's Commitment to the CLF Participant); or
- (g) any person with responsibility for supervising, monitoring or administering any aspect of corporations, financial markets or financial institutions, in Australia or elsewhere (including, for the avoidance of doubt, APRA).

16.3 Confidential Information

In this clause 16, **Confidential Information** means information in respect of the CLF Participant's dealings with the Reserve Bank in respect of the Committed Liquidity Facility (including the details of any SF Repo between the CLF Participant and the Reserve Bank), but does not include information which is or becomes public knowledge otherwise than as a result of a breach of confidentiality by the Reserve Bank.

17. NOTICES

- (a) Every notice under these Terms and Conditions must be given by letter or by email.
- (b) A notice given by the CLF Participant by:
- (i) letter, must be signed by a CLF Authorised Signatory (either alone or jointly with another CLF Authorised Signatory, as indicated in the CLF Commitment Deed), two directors of the CLF Participant or a director and company secretary of the CLF Participant; or
 - (ii) email, must be sent from the email address of the CLF Participant specified in the CLF Commitment Deed or such other address as the CLF Participant has notified the Reserve Bank from time to time (including in any list of CLF Authorised Signatories).
- (c) A notice to the CLF Participant is to be sent to the registered office or email address of the CLF Participant specified in the CLF Commitment Deed, or to such other address as the CLF Participant has notified the Reserve Bank from time to time (including in any list of CLF Authorised Signatories).
- (d) A notice to the Reserve Bank is to be sent:
- (i) in the case of a letter, to:
Senior Manager
Market Operations
Domestic Markets Department
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001
 - (ii) in the case of an email, to: Dealingroom@rba.gov.au ,
or to such other address as is specified by the Reserve Bank in the CLF Operational Notes.
- (e) A notice will be effective:
- (i) if sent by post, on the second Settlement Day after the letter correctly addressed and stamped is put in the post;
 - (ii) if sent by courier or by hand, at the time it is actually received; and
 - (iii) if sent by email, when received in readable form,
- except that any notice that would otherwise become effective in accordance with paragraphs (i) to (iii) above after 5.45 p.m. in the place of receipt will be deemed only to become effective on the following Settlement Day.
- (f) A CLF Authorised Signatory will be a person specified as such by the CLF Participant in the CLF Commitment Deed, except that two directors or a director and company secretary of the CLF Participant may add or remove a CLF Authorised Signatory by notice to the Reserve Bank (provided, in the case of a new CLF Authorised Signatory, the notice is accompanied by a specimen signature).
- (g) The Reserve Bank may from time to time alter the requirements of this clause 17 in the CLF Operational Notes.

18. CLF OPERATIONAL NOTES

The Reserve Bank will publish on its website CLF Operational Notes which contain further details in respect of the Committed Liquidity Facility.

19. VARIATION

- (a) These Terms and Conditions and the CLF Operational Notes are subject to addition, modification, amendment or restatement at any time by the Reserve Bank without the consent of the CLF Participant.
- (b) Any addition, modification, amendment or restatement must be published by the Reserve Bank on its website and, subject to any express provision of these Terms and Conditions to the contrary, will be effective on and from the date nominated by the Reserve Bank at the time of publication or, if later, the date that is one month after the date of publication.
- (c) The Reserve Bank may notify the CLF Participant of any such addition, modification, amendment or restatement but it has no obligation to give any such notice.
- (d) The Reserve Bank will not be liable for any loss to any person howsoever arising whether direct or consequential (including but not limited to loss of profits) or damage to persons or property arising out of any addition, modification, amendment or restatement of these Terms and Conditions or the CLF Operational Notes.

20. GENERAL

20.1 Payments

If any amount becomes due for payment under these Terms and Conditions on a day which is not a Settlement Day, then the date for payment is the next Settlement Day.

20.2 GST

- (a) In addition to any amount payable by the CLF Participant under these Terms and Conditions in respect of a Taxable Supply, the CLF Participant must also pay to the Reserve Bank an amount equal to the GST Exclusive Consideration multiplied by the GST Rate, without deduction or set-off of any other amount. The CLF Participant must pay this additional amount at the same time and in the same manner as the amount is payable.
- (b) The Reserve Bank must issue a Tax Invoice to the CLF Participant for the GST on Taxable Supplies and must include in the Tax Invoice all particulars required by the GST Law for the CLF Participant to be entitled to claim an input tax credit for the equivalent amount of GST payable to the Reserve Bank.
- (c) In this clause 20.2:
 - (i) **GST** means:
 - (A) the same as in the GST Law; and
 - (B) any amount imposed as additional tax, interest, penalty, fine or other charge payable in respect of GST as defined in paragraph (A);
 - (ii) **GST Exclusive Consideration** means the consideration for any Taxable Supply;
 - (iii) **GST Law** means the same as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
 - (iv) **GST Rate** means the rate of GST under the GST Law;

- (v) **Supply** has the meaning given by the GST Law;
- (vi) **Taxable Supply** means any Supply made by the Reserve Bank in respect of which the Reserve Bank is required to pay GST under the GST Law; and
- (vii) **Tax Invoice** means a tax invoice complying with the requirements of the GST Law.

20.3 Waiver

- (a) Any failure, delay, relaxation or indulgence on the part of the Reserve Bank in exercising any power, right or remedy conferred upon it by these Terms and Conditions will not operate as a waiver of that power, right or remedy, nor will the exercise or any single or partial exercise of any power, right or remedy preclude any other or further exercise of such power, right or remedy or the exercise of any other power, right or remedy.
- (b) For the avoidance of doubt, the entry into one or more SF Repos by the Reserve Bank with the CLF Participant in circumstances where one or more of the Conditions Precedent have not been satisfied will not constitute a waiver by the Reserve Bank of those Conditions Precedent in respect of any subsequent Utilisation Request.

20.4 Entire Agreement

These Terms and Conditions, the CLF Commitment Deed, the Master Agreement, the CLF Operational Notes and the RITS Membership Documents constitute the entire agreement between the Reserve Bank and the CLF Participant with respect to their subject matter and they supersede all previous communications, representations, inducements, undertakings or arrangements between the Reserve Bank and the CLF Participant or their respective officers, employees or contractors with respect to their subject matter.

20.5 Severability

If a provision of these Terms and Conditions is or becomes illegal or void or otherwise unenforceable, that provision is severable from these Terms and Conditions and the remainder of these Terms and Conditions will remain in full force and effect.

20.6 Taxes

Other than to the extent expressly provided in these Terms and Conditions or the RITS Membership Documents, the CLF Participant will pay any taxes, duties or charges which arise in relation to the Committed Liquidity Facility.

20.7 Withholding

If the Reserve Bank is required (whether by law or otherwise) to withhold or deduct any amount from a payment made or to be made by the Reserve Bank under or in connection with the Committed Liquidity Facility so that the CLF Participant would not actually receive for its own benefit on the date of payment the full amount to be paid by the Reserve Bank, then:

- (a) the Reserve Bank must make the withholdings or deductions; and
- (b) the CLF Participant shall not in any circumstances have any right to recover from the Reserve Bank the amount of any such withholdings or deductions.

20.8 Costs and expenses

Other than to the extent expressly provided in these Terms and Conditions, the Reserve Bank and the CLF Participant will pay their own costs and expenses in connection with negotiation, preparation, execution and performance of the CLF Commitment Deed and these Terms and Conditions.

20.9 Force Majeure

The Reserve Bank will not be liable for any delay or failure to perform any of its obligations under or in respect of the Committed Liquidity Facility if such delay or failure is due to fire, earthquake, flood, war, riot, revolution or any other cause beyond the reasonable control of the Reserve Bank. The Reserve Bank will, if relevant, notify the CLF Participant of the event causing the failure or delay as soon as reasonably practicable.

20.10 Set off

- (a) The Reserve Bank may set off any money due to the Reserve Bank from the CLF Participant under the Committed Liquidity Facility against money due to the CLF Participant by the Reserve Bank under the Committed Liquidity Facility or any other agreement or deed between the parties.
- (b) All payments required to be made by the CLF Participant under these Terms and Conditions will be calculated without reference to any set off or counterclaim and are required to be made by the CLF Participant free and clear of, and without any deduction for or on account of, any set off or counterclaim.

20.11 Indemnities

Each indemnity in these Terms and Conditions is a continuing obligation, separate and independent from the other obligations of the Reserve Bank and the CLF Participant, and survives the termination of the Committed Liquidity Facility.

20.12 Relationship

- (a) Neither the Reserve Bank nor the CLF Participant will by reason of these Terms and Conditions, a CLF Commitment Deed or the CLF Operational Notes have a fiduciary relationship with, or be trustee for, the other.
- (b) The Reserve Bank is entitled to deal with the CLF Participant as principal and not as trustee, as agent or as acting in any other capacity. The Reserve Bank is not bound or compelled in any way to recognise any equitable, contingent, future, partial or other interest in any rights or entitlements of the CLF Participant (even when the Reserve Bank has notice of any such interest) except the absolute right of the CLF Participant to those rights and entitlements. The liability of the CLF Participant under the Committed Liquidity Facility will be in all cases that of principal, and not as agent or trustee, regardless of any dealings, understandings or agreements that the CLF Participant may have with any person other than the Reserve Bank, or any right, title or interest of such person.

20.13 Consents

Unless these Terms and Conditions expressly provide otherwise, a consent, determination or exercise of rights required or permitted to be given or made by a party under these Terms and Conditions may be exercised, not exercised, given or withheld by that party in its absolute discretion.

20.14 Governing Law and Jurisdiction

- (a) These Terms and Conditions are governed by and shall be construed in accordance with the law in force in New South Wales.
- (b) The Reserve Bank and the CLF Participant each:
 - (i) irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them; and

- (ii) waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

21. U.S. STAY REGULATIONS

- (a) This clause 21 applies at any time that the CLF Participant is a U.S. Covered Entity. If at any time the CLF Participant is not a U.S. Covered Entity, this clause 21 is of no force or effect.
- (b) In this clause 21:

Adhering Party has the meaning given to the term “Adhering Party” in the ISDA Protocol.

Affiliate has the meaning given in section 2(k) of the Bank Holding Company Act (12 U.S.C. 1841(k)) and section 225.2(a) of the Board's Regulation Y (12 CFR 225.2(a)).

CLF QFC means, in respect of the CLF Participant, each of the following:

- (i) the CLF Commitment Deed;
- (ii) these Terms and Conditions; and
- (iii) any SF Repo between the RBA and the CLF Participant.

Covered Bank has the meaning given to the term “covered bank” in the OCC Regulation.

Covered Entity has the meaning given to the term “covered entity” in the FRB Regulation.

Covered FSI has the meaning given to the term “covered FSI” in the FDIC Regulation.

Default Right means any:

- (i) right of a party, whether contractual or otherwise (including, without limitation, rights incorporated by reference to any other contract, agreement, or document, and rights afforded by statute, civil code, regulation, and common law), to liquidate, terminate, cancel, rescind, or accelerate such agreement or transactions thereunder, set off or net amounts owing in respect thereto (except rights related to sameday payment netting), exercise remedies in respect of collateral or other credit support or property related thereto (including the purchase and sale of property), demand payment or delivery thereunder or in respect thereof (other than a right or operation of a contractual provision arising solely from a change in the value of collateral or margin or a change in the amount of an economic exposure), suspend, delay, or defer payment or performance thereunder, or modify the obligations of a party thereunder, or any similar rights; or
- (ii) right or contractual provision that alters the amount of collateral or margin that must be provided with respect to an exposure thereunder, including by altering any initial amount, threshold amount, variation margin, minimum transfer amount, the margin value of collateral, or any similar amount, that entitles a party to demand the return of any collateral or margin transferred by it to the other party or a custodian or that modifies a transferee's right to reuse collateral or margin (if such right previously existed), or any similar rights, in each case, other than a right or operation of a contractual provision arising solely from a change in the value of collateral or margin or a change in the amount of an economic exposure.

FDIC Regulation means 12 C.F.R. §§ 382.1-7.

FRB Regulation means 12 C.F.R. §§ 252.2, 252.81-88.

ISDA Protocol means the ISDA 2018 U.S. Resolution Stay Protocol published by the International Swaps and Derivatives Association, Inc. on 31 July 2018 and available on the ISDA website (www.isda.org).

OCC Regulation means 12 C.F.R. §§ 47.1-8.

U.S. Covered Entity means a Covered Bank, Covered Entity or Covered FSI.

U.S. Special Resolution Regime means the Federal Deposit Insurance Act (12 U.S.C. 1811–1835a) and regulations promulgated thereunder and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381–5394) and regulations promulgated thereunder.

- (c) In the event that the CLF Participant becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of a CLF QFC (and any interest and obligation in or under, and any property securing, a CLF QFC) from the CLF Participant will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the CLF QFC (and any interest and obligation in or under, and any property securing, the CLF QFC) were governed by the laws of the United States or a state of the United States.
- (d) In the event that the CLF Participant or an Affiliate of the CLF Participant becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights with respect to a CLF QFC that may be exercised against the CLF Participant are permitted to be exercised by the RBA to no greater extent than the Default Rights could be exercised under the U.S. Special Resolution Regime if the CLF QFC was governed by the laws of the United States or a state of the United States.
- (e) Notwithstanding anything to the contrary in the ISDA Protocol and regardless of whether the RBA or the CLF Participant becomes an Adhering Party before or after or at the same time that this clause 21 becomes effective, the RBA and the CLF Participant agree (including for the purpose of clause 3(b) of the ISDA Protocol) that the ISDA Protocol shall not apply to these Terms and Conditions or any CLF QFC and, accordingly, that neither these Terms and Conditions nor any CLF QFC will be a “Protocol Covered Agreement” for the purposes of the ISDA Protocol.

SCHEDULE 1

[Date]

FROM:

Name of Applicant: [●] (“we”)

Place of Incorporation: [●]

Australian Company Number / Australian Registered Body Number: [●]

Australian Business Number: [●]

Registered Office Address: [●]

Telephone Number: [●]

Email Address: [●]

Principal Contact Name: [●]

Principal Contact Telephone: [●]

TO:

The Secretary

Reserve Bank of Australia

65 Martin Place

Sydney NSW 2000

(the “Reserve Bank”)

Dear Sir / Madam

COMMITTED LIQUIDITY FACILITY – CLF COMMITMENT DEED

We refer to the Terms and Conditions of the Committed Liquidity Facility made available by the Reserve Bank dated [●], as varied, amended and/or supplemented by the Reserve Bank from time to time (the “CLF Terms and Conditions”). Terms which are defined in the CLF Terms and Conditions, including by incorporation, have the same meaning when used in this Deed.

We are an ADI and a RITS Member and we wish to be a party to a Committed Liquidity Facility with the Reserve Bank on the terms and conditions set out in the CLF Terms and Conditions.

We:

- (a) request that, by countersigning this Deed at any time up to and including [●], the Reserve Bank agrees to enter into a Committed Liquidity Facility with us on the terms and conditions set out in the CLF Terms and Conditions;
- (b) agree that, upon the countersignature of this Deed by the Reserve Bank at any time up to and including [●], we will be bound by the terms and conditions of the Committed Liquidity Facility as set out in this Deed and the CLF Terms and Conditions;
- (c) represent and warrant each matter set out in clause 11 of the CLF Terms and Conditions;

- (d) list in the Annexure our CLF Authorised Signatory(s), including their specimen signature(s), telephone number(s) and email address(es);
- (e) confirm that each CLF Authorised Signatory is duly authorised to provide notices under the Committed Liquidity Facility on behalf of the CLF Participant [individually] or [jointly with another CLF Authorised Signatory]; and
- (f) enclose evidence of the authority of the individual(s) that have executed this Deed on our behalf and/or a legal opinion in respect of the authority of the individuals that have executed this Deed on our behalf.

This Deed may be executed in any number of counterparts. All counterparts taken together will constitute one instrument.

Each attorney which executes this Deed represents and warrants that they have no notice of the revocation of their power of attorney.

This Deed is governed by and will be construed according to the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of that place.

Yours sincerely,

Executed and Delivered as a Deed

[Execution block for the CLF Participant]

We confirm our agreement to the above:

SIGNED, SEALED AND DELIVERED by **RESERVE BANK OF AUSTRALIA** by its Attorney under Power:

sign here ►

print name
Secretary

in the presence of:

sign here ►

print name
General Counsel

Date:

ANNEXURE – CLF AUTHORISED SIGNATORY(S)

Each of the following is a CLF Authorised Signatory of the CLF Participant for the purposes of the Committed Liquidity Facility between the CLF Participant and the Reserve Bank:

Name	Title	Telephone number	Email address	Specimen Signature