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| ASF Data Access Deed - RMBS  [Name of Discloser]  **Alt[**ABN/ACN/ARBN**]** [number]  and  [Name of User]  **Alt[**ABN/ACN/ARBN**]** [number] | | |
|  | |  |
| Disclosure of Restricted Data relating to Residential Mortgage Backed Securities | | |

**THIS DEED** is made on [year]

BETWEEN:

1. **[Name of Party]** **Alt[**ABN/ACN/ARBN**]** [number] **Opt[**whose registered office is at [address]**]** (the **Discloser**); and
2. **[Name of Party]** **Alt[**ABN/ACN/ARBN**]** [number] **Opt[**whose registered office is at [address]**]** (the **User**).

*[or]*

1. **[Name of Party]** **Opt[**whose address is at [address]**]** (the **User**).

RECITALS:

1. Subject to the terms of this document, the Discloser wishes to make Restricted Data available to the User.
2. This document sets out the circumstances in which the User will be permitted to collect, Use and disclose the Restricted Data for a Permitted Purpose.
3. This document sets out the risk mitigants the User will have in place and maintain for the Use, management and protection of the Restricted Data.

THE PARTIES AGREE AS FOLLOWS:

1. Interpretation
   1. Definitions

The following definitions apply in this document.

**Approved Person** has the meaning given in clause 7.

**Group Member** means the User and its Related Bodies Corporate incorporated in Australia.

**Loan Level Data** means data that is identifiable to an individual loan.

**Permitted Purposes** means the purposes for which the User is permitted to Use the Restricted Data, as specified in Schedule 2.

**Privacy Act** means the *Privacy Act 1988*.

**RBA** means the Reserve Bank of Australia.

**Related Bodies Corporate** has the meaning given to it in the *Corporations Act 2001* (Cth).

**Representative** includes:

* + 1. all directors, officers, employees of the User or a Group Member;
    2. all secondees to the User and contractor equivalents of employees of the User or a Group Member;
    3. all professional advisers engaged by the User or a Group Member; and
    4. all independent service providers to the User or a Group Member that have been engaged by the User or that Group Member to provide a service in relation to the Use of the Restricted Data by or for the User or that Group Member.

**Restricted Data** means the financial information and other data made available to the User from time to time by the Discloser or by its agent and which:

* + 1. is Loan Level Data; and
    2. is either:
       1. identified by the Discloser or by its agent as financial information and data that is being disclosed to the User in accordance with the provisions of this document; or
       2. otherwise provided to the User in accordance with, and subject to the provisions of, this document, including in relation to an offering or proposed offering provided by the Discloser prior to the settlement of the offering or proposed offering.

**Restricted Data Delivery Date** means:

* + 1. in respect of Restricted Data obtained by the User from the Website, the date on which the User accessed the Website to obtain that Restricted Data; and
    2. in respect of Restricted Data not first obtained by the User from the Website, the date on which the particular Restricted Data was first provided to the User by or on behalf of the Discloser.

**RMBS** means residential mortgage-backed security.

**Use**, in connection with the Restricted Data, includes the activity or action of accessing, collecting, downloading, importing, storing, analysing, copying, maintaining, processing, or re-formatting or re-ordering that Restricted Data (and also includes adding to or removing Restricted Data in or from any medium).

**Website** means the [*set out a description of the secure website*] which may be owned or controlled by the Discloser or by its agent or service provider from time to time.

* 1. Rules for interpretation

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

* + 1. A reference to:
       1. a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
       2. a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
       3. a party to this document or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
       4. a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
       5. anything (including a right, obligation or concept) includes each part of it.
    2. A singular word includes the plural, and vice versa.
    3. A word which suggests one gender includes the other genders.
    4. If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
    5. If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

1. grant of licence
   * 1. Subject to the terms of this document, and while the User is an Approved Person, the Discloser:
        1. agrees to permit the User to have access to the Restricted Data; and
        2. grants to the User a non-exclusive licence to access and Use the Restricted Data for the Permitted Purposes.
     2. While the User is an Approved Person and only for the Permitted Purposes, the Discloser grants to the User a non-exclusive licence to all of the intellectual property rights subsisting in the Restricted Data that are held by the Discloser as at the applicable Restricted Data Delivery Date for the relevant Restricted Data.
     3. The User must not grant a sub-licence of its rights under this clause 2 to any person, without the written consent of the Discloser (which consent may be withheld in the sole and absolute discretion of the Discloser).
     4. Nothing in this document shall be construed as granting or conferring on the User any proprietary rights, licences or other rights in the Restricted Data, other than the rights expressly granted under this document.
2. access to the Restricted data
   * 1. The Restricted Data will be made available to the User, subsequent to the User entering into this document, and subject to the terms of this document.
     2. The Restricted Data will be made available on and through the Website, and in any such other manner as is determined by the Discloser, subject to the User being an Approved Person at the relevant time.
     3. Where there are any separate applicable Website terms and conditions for access to and use of the Website, these terms and conditions may be the separate terms and conditions of the operator of the Website, including the terms and condition of a third party that is operating the Website.
3. use of the Restricted data for permitted purposes only
   * 1. The User must only Use the Restricted Data, or any part of the Restricted Data, for a Permitted Purpose.
     2. The User must not permit any Restricted Data to be Used by any Representative for a purpose that is not a Permitted Purpose.
     3. The User (and its Representatives) must not take any steps or actions to seek to identify the identity of any individual to whom any part of the Restricted Data relates.
     4. The User must not take any steps or actions, and will take all reasonable steps to ensure that any Representative will not take any steps or action:
        1. to Use the Restricted Data in a way that may be reasonably expected to result (whether deliberately or inadvertently) in an individual being identified with, or connected to, any part of the Restricted Data; or
        2. to combine or compare some or all of the Restricted Data with any other information that is or becomes available to the User in any manner, with a view to creating or generating any additional information that may or will result (whether deliberately or inadvertently) in an individual being identified with, or connected to, any part of the Restricted Data.
     5. The User and the Representative must not knowingly, negligently or recklessly Use, or allow any other person to Use, the Restricted Data in a manner that would cause the Discloser to breach, or to be in breach, of the requirements of the Privacy Act.
     6. The User and the Representative must not Use, or allow any other person to Use, the Restricted Data for any improper, fraudulent or illegal activities (whether or not such activities comprise a Permitted Purpose).
     7. Subject to clause 4(h), the User must not use the Restricted Data in order to supply the Restricted Data, or any part of the Restricted Data, as a product or a service that is offered by the User. The User must also ensure that none of its related companies or other affiliates will use the Restricted Data in order to supply the Restricted Data, or any part of the Restricted Data, as a product or a service that is offered by such any such related company or affiliate, except where that company or affiliate operates under a separate agreement with the Discloser.
     8. If a Permitted Purpose, the User may sell or supply data or analysis derived from the Restricted Data as a product or service where that derived data does not contain Loan Level Data (i.e. non-aggregated Restricted Data).
4. USER management and protection of the Restricted Data
   * 1. The User must have and maintain appropriate controls for the Use, management and protection of the Restricted Data, or any part of the Restricted Data, including but not limited to:
        1. controls that limit the number of Representatives requiring access to Restricted Data [i.e. a “need to know” principle];
        2. ensuring that each Representative participates in all initial and ongoing training on the appropriate handling of confidential information and information regulated by the Privacy Act that is relevant to the functions and tasks being carried out by the Representative in connection with the Restricted Data;
        3. periodic review of Representative access levels;
        4. data handling controls relating to any the use, storage and destruction of the Restricted Data; and
        5. security arrangements and protocols to prevent any unauthorised access to the Restricted Data.
     2. The User must maintain a list of each Representative that will Use the Restricted Data. The User must provide the Discloser with a copy of the current list of each such Representative, and their individual levels of authority, upon the written request of the Discloser from time to time.
5. Disclosure of the restricted data by USER
   * 1. Subject to clause 6(b), the User and the Representative must not disclose any of the Restricted Data to any persons, except for a Permitted Purpose and as otherwise permitted by the terms of this document.
     2. Clause 6(a) does not prevent a disclosure by the User of Restricted Data to a Representative for a Permitted Purpose of the User in circumstances:
        1. where the Representative is given no personal rights over the Restricted Data and holds it solely on behalf of the User and as the agent of the User; or
        2. where the Representative is a service provider to the User, and not under the direct control of the User, the User has issued a direction in writing to the Representative under which the Representative is required:
           1. to protect, preserve and Use the Restricted Data that is disclosed to the Representative in like manner to the equivalent obligations and restrictions that are applicable to the User under this document;
           2. not to seek to identify the identity of any individual to whom any part of the Restricted Data relates; and
        3. where the User has taken all reasonable steps to satisfy itself that the Representative will have and apply equivalent controls to prevent any unauthorised access or disclosure of the Restricted Data while that Restricted Data is held or Used by the Representative.
     3. For the purposes of clause 6(b)(ii) the User must:
        1. retain a record of the direction issued to a Representative; and
        2. provide a copy of the record to the Discloser and evidence of the Representatives compliance with the direction, as reasonably requested by the Discloser from time to time.
     4. The obligations under this document do not apply to:
        1. disclosure of Restricted Data that is in the public domain as at the date of this document or in respect of Restricted Data that subsequently enters the public domain otherwise than through a breach by the User or its Representatives of any obligation under this document or other obligation of confidentiality owed to the Discloser;
        2. disclosure of Restricted Data which the User or its Recipient acquires from a third party entitled to disclose it; or
        3. disclosure of information that is not in whole or part derived from the Restricted Data.
     5. The User and the Representative must not knowingly, or due to negligence or recklessness on its part, disclose the Restricted Data in a manner that would, if it were the subject of an equivalent disclosure by the Discloser, cause the Discloser to be in breach of the requirements of the Privacy Act.
     6. The User must not permit any Restricted Data to be disclosed by a Representative, otherwise than in accordance with a Permitted Purpose of the User.
6. assessment of the user as an approved person
   * 1. Before the User is granted any access to the Restricted Data, or to maintain such access, the User must be assessed by the Discloser, or by its nominated agent or service provider, to be an Approved Person. The information provided in Schedule 1 and any other information or documents reasonably requested by the Discloser from the User from time to time may be used by the Discloser to assist in such assessment.
     2. For the purposes of this document, and subject to clause 7(h), an **Approved Person** means a User that has been assessed or identified by the Discloser (or by its nominated agent or service provider), in its sole and absolute discretion, as being a User that is likely to have the capacity, and the internal controls and processes, that will allow that User to Use Restricted Data in a manner consistent with the requirements that are to be applicable under this document.
     3. The User will cooperate with, and provide any documents and information to the Discloser as the Discloser reasonably requires to enable it to assess whether the User is, or continues to be, an Approved Person. Such assessment will occur on a frequency to be determined by the Discloser, but not more than bi-annually.
     4. A User may refuse to provide the information or documents reasonably required by the Discloser under clauses 7(a) and 7(c) where:
        1. the information or documents are subject to legal professional privilege;
        2. giving access to the information or documents would reveal commercially sensitive information about the User; or
        3. the information or documents are subject to confidentiality restrictions.
     5. The User acknowledges that a refusal to provide the documents and information to the Discloser as the Discloser reasonably requires may result in an assessment that the User is not an Approved Person.
     6. The Discloser will notify the User as soon as the User has been assessed to be an Approved Person, whether that assessment took place before or after the execution of this document.
     7. The User will notify the Discloser as soon as the User become aware that it is in breach of an obligation under this document or it is likely that it is, or will be, in breach of an obligation under this document.
     8. Where the User has been an Approved Person, the User will cease to be an Approved Person where the Discloser determines, acting reasonably and providing notice, that the User should no longer be an Approved Person including as a consequence of an actual breach by the User of an obligation under this document.
7. compliance REVIEW
   * 1. Where there is evidence of a breach or potential breach of the User's obligations under this document, the User must promptly provide all information, documents and assistance to the Discloser as the Discloser may reasonably require in order for the Discloser to assess and verify the User's compliance with its obligations, or extent of any breach, under this document.
     2. Where the User has terminated their rights and licences under this document in accordance with clause 10(c), the provisions of this clause 8 will not apply.
8. warranties
   * 1. The User acknowledges that the Restricted Data is a subset of the financial data that is provided to the RBA by or on behalf of the Discloser, in order to allow the Discloser to meet the eligibility requirements set by the RBA for any applicable repurchase agreement affecting the relevant RMBS.
     2. The User acknowledges that:
        1. The Restricted Data, where it is made available to the User, is not a complete disclosure of the Discloser’s residential home loan portfolio, or of that of a related company of the Discloser; and
        2. in making the Restricted Data available to the User, the Discloser will use best endeavours to ensure the accuracy of the Restricted Data but gives no warranty or assurance as to the complete accuracy of that Restricted Data in every particular.
     3. The User warrants that all information and documents provided by it to the Discloser in Schedule 1, in accordance with Clause 7, Clause 8 or otherwise pursuant to its obligations under this document are true, accurate and complete in all material respects and acknowledges that the Discloser has relied and will rely on upon the ongoing accuracy of such information and documents in granting Approved Person status to the User under the terms of this document.
     4. Despite clause 9(b) above, any separate rights, assurances or warranties that are held by the User, or that are provided to the User by the Discloser under any separate document or agreement, will not be affected or diminished by the matters or acknowledgement set out in clause 9(b) and, where any such separate rights, warranties or assurances exist, they will override the matters set out in clause 9(b).
9. revocation of the licence
   * 1. The Discloser may, acting reasonably, revoke the User's rights and licences under clause 2 in respect of the Restricted Data including as a consequence of any actual breach by the User of an obligation under this document. The Discloser may do so at any time by providing 7 days' notice in writing to the User.
     2. Where the Website is operated by an agent or service provider of the Discloser, and where the Discloser withdraws its consent to the continued provision of any Restricted Data through that Website to the User, the Discloser will, where applicable:
        1. tell the User when the Restricted Data will be no longer available at the Website; and
        2. give advice to the User as to the alternate arrangements (if any) that will thereafter apply to the provision of the Restricted Data by the Discloser under this document.
     3. The User may terminate their rights and licences under clause 2 by written notice to the Discloser, subject to:
        1. the survival and continuing effect of clause 11 of this document; and
        2. the User's return or destruction of the documents as set out in clause 12.
10. Disclosures required by law
    * 1. Subject to clause 11(b), the User may disclose Restricted Data that the User is required to disclose by law or by order of any court or tribunal of competent jurisdiction, or by any government agency, stock exchange or other regulatory body and such disclosure will be treated as a disclosure for a Permitted Purpose.
      2. If the User is required to make a disclosure under clause 11(a), the User must:
         1. except where prohibited by law, take all reasonable steps to notify the Discloser, in writing, immediately if it anticipates that it may be required to disclose any of the Restricted Data;
         2. consult with and follow any reasonable directions from the Discloser to minimise disclosure; and
         3. if disclosure cannot be avoided, only disclose Restricted Data to the extent necessary to comply with its legal obligations, and use reasonable efforts to ensure that any Restricted Data disclosed is kept confidential.
11. USER's return or destruction of documents
    * 1. In the event of any breach by the User of an obligation under clause 4, 5 or 6 of this document, a revocation of the licence under clause 10(a), or a termination of the license under clause 10(c), the User must:
         1. deliver to the Discloser all data, documents and other materials containing, recording or referring to Restricted Data; and
         2. erase or destroy in all electronic and other intangible records containing, recording or referring to Restricted Data,

which are in the possession, power or control of the User.

* + 1. Clause 12(a) shall not apply to the User strictly to the extent that any such Restricted Data is:
       1. required to be retained by the User by law or for regulatory compliance purposes; or
       2. stored as part of automatic IT back-up in a manner that makes the Restricted Data impossible to deliver to the Discloser or erase or destroy in accordance with clause 12(a) above.
    2. The User must:
       1. comply with the terms of this document in relation to any Restricted Data retained under clause 12(b); and
       2. deliver, erase or destroy any Restricted Data retained under clause 12(b) in accordance with clause 12(a) as soon as reasonably possible.

1. general
   * 1. (**survival**) Clauses 3, 4, 5, 6 and 9 survive termination of this document.
     2. (**governing law**) This document is governed by the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document. The User irrevocably waives:
        1. any objection to the venue of any proceedings on the ground that they have been brought in an inconvenient forum; and
        2. any immunity from set off, suits, proceedings and execution to which it or any of its property may now or in the future be entitled under any applicable law.
     3. (**election and waiver**) The exercise of a right does not prevent any further exercise of that right or of any other right. Neither the exercise of a right nor a delay in the exercise of a right operates as an election or variation of the terms of this document.
     4. (**rights cumulative**) Any right that the Discloser has under this document is in addition to, and does not replace or limit, any other right that the Discloser has under general law.

**EXECUTED** as a deed.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

|  |  |  |
| --- | --- | --- |
| THE COMMON SEAL of [NAME OF PARTY], the fixing of which was witnessed by: |  |  |
|  |  |  |
| Signature of director |  | Signature of director/secretary |
|  |  |  |
| Name |  | Name |

|  |  |  |
| --- | --- | --- |
| signed, sealed and delivered for [NAME OF PARTY] under power of attorney in the presence of: |  |  |
|  |  | Signature of attorney |
|  |  |  |
| Signature of witness |  | Name |
|  |  |  |
| Name |  | Date of power of attorney |
|  |  |  |
| Address of witness |  |  |

**SCHEDULE 1 – USER INFORMATION**

The User Information requested in this Schedule 1 assists the Discloser to assess whether the User is an Approved Person pursuant to Clause 7 and the appropriate level of due diligence required in relation to certain privacy related matters based upon the risk factors inherent to the User.

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| Key contact  Name of the entity (including ABN and ACN):  Address of the entity’s registered office:  Key contact name:  Title:  Email:  Phone number: |

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| 1. Which of the following best describes the User?    1. Fund / Asset manager (approximate ABS/RMBS AUM A$\_\_\_\_\_\_\_million)    2. Authorised Deposit-Taking Institution    3. Government body or agency    4. Academic / researcher    5. Other (please describe): | |
| 1. If available, please provide the website where additional information about the User may be available | |
| 1. Which of the following best describes the primary purpose for seeking access to the data?    1. Interested in asset-backed securities for investment purposes or    2. For professional or academic research purposes    3. Other: | |
| 1. Third party use and data distribution    1. Will Restricted Data (in un-aggregated format) be included in any commercial products or provided to any third parties?    2. Will any outsourced data or service providers have access to the Restricted Data or to systems hosting the Restricted Data? If yes, please provide details of the provider and the arrangements in place to maintain confidentiality of the Restricted Data. | Yes / No  Yes / No |
| 1. Residency    1. Is the User’s primary place of business in Australia?    2. Is it likely that the Restricted Data will be made available to Approved Persons, outsourced data or service providers or third parties outside Australia? | Yes / No  Yes / No |
| 1. Is the User covered by the Privacy Act? | Yes / No |

|  |  |
| --- | --- |
| 1. Does the User have:    1. policies and procedures that will apply to the receipt, analysis, storage, disclosure and destruction of the Restricted Data to ensure that the handling of the data is consistent with the terms of the [Deed]?    2. network security controls to prevent unauthorised access to the Restricted Data and data leakage?   Non-exhaustive examples of such policies and procedures may include IT security policies, data retention policies and policies regarding the handling of confidential information. | Yes / No |
| 1. Has the User ever materially breached the Privacy Act or any similar privacy related laws or regulations? Please provide a description of any breaches. | Yes / No |
| 1. Does the User have active Data Access Agreement(s) in place with other issuers?   If yes, has there been a breach or revocation of licence under such agreement(s) (active or no longer active)? | Yes / No  Yes / No |

**SCHEDULE 2 – PERMITTED PURPOSES**

**PERMITTED PURPOSES** [*To be included in the document where the User is a market data provider or cash flow model provider, or to be treated in like manner.*]

The following are the Permitted Purposes that are applicable to the User.

* Use of the Restricted Data (or any part) for any of the following internal purposes of the User:
  + - 1. analysis;
      2. research; or
      3. any other related and internal purpose.
* Use of the Restricted Data (or any part) in order to provide reports or other information to the clients or customers of the User (including potential clients or customers of the User), or to the public at large, by the provision or publication of aggregated information about or concerning any RMBS that is the subject of that Restricted Data, in circumstances where the information provided by the User to any person, or published by the User, does not contain any Loan Level Data.
* Use of the Restricted Data (or any part) about or concerning any RMBS in order to provide or publish any report or analysis about or concerning that particular RMBS, in circumstances where the report or rating provided or published by the User does not contain any Loan Level Data.
* Use of the Restricted Data (or any part) for any other purpose agreed to in writing by the Discloser.

**PERMITTED PURPOSES** [*To be included in the document where the User is an investor in RMBS, or a potential investor (including asset managers on behalf of investors), or to be treated in like manner.*]

The following are the Permitted Purposes that are applicable to the User.

* Use of the Restricted Data (or any part) for any of the following internal purposes of the User:
  + - 1. analysis;
      2. research; or
      3. any other related and internal purpose relating to the investment or potential investment by the User in any RMBS,

including in relation to:

* + - 1. any potential investment in a RMBS to which any particular Restricted Data relates; or
      2. any ongoing evaluation of the performance of a RMBS to which any particular Restricted Data relates.
      * Use of the Restricted Data (or any part) in order to provide reports or other information to the clients or customers of the User (including potential clients or customers of the User), or to the public at large, by the provision or publication of aggregated information about or concerning any RMBS that is the subject of that Restricted Data, in circumstances where the information provided by the User to any person, or published by the User, does not contain any Loan Level Data.
      * Use of the Restricted Data (or any part) for any other purpose agreed to in writing by the Discloser.

**PERMITTED PURPOSES** [*To be included in the document where the User is a trustee.*]

The following are the Permitted Purposes that are applicable to the User.

* Use of the Restricted Data (or any part) for any of the following internal purposes of the User:
  + - 1. analysis;
      2. any other related and internal compliance purpose relating to the management or operation of any RMBS; and
      3. any ongoing evaluation of the performance of the trustee or a RMBS to which any particular Restricted Data relates.
      * Use of the Restricted Data (or any part) for any other purpose agreed to in writing by the Discloser.

**PERMITTED PURPOSES** [*To be included in the document where the User is a researcher, academic or to be treated in like manner.*]

The following are the Permitted Purposes that are applicable to the User.

* Use of the Restricted Data (or any part) for any of the following internal purposes of the User:
  + - 1. analysis;
      2. research;
      3. any other related internal research purpose.
* Use of the Restricted Data (or any part) in order to provide reports or other information to the public by the provision or publication of research or reports that are limited to the publication of only aggregated information about or concerning any RMBS that is the subject of that Restricted Data, in circumstances where the information published or disclosed by the User to any person does not contain Loan Level Data.
  + Use of the Restricted Data (or any part) for any other purpose agreed to in writing by the Discloser.