

Constitution

NPP Australia Limited ACN 601 428 737 (“Company”)

A public company limited by shares

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Constitution

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Constitution

1 Interpretation

1.1 Definitions

In this Constitution unless the contrary intention appears:

ADI means an Authorised Deposit-taking Institution as defined in the Banking Act 1959 (Cwlth).

Alternate Director means a person appointed as an alternate director under article 10.10.

APCA means Australian Payments Clearing Association Limited (ACN 055 136 519), as that name may be changed from time to time.

Banding and Governance Rules means the banding and governance rules applicable from time to time, the variation of which may occur in accordance with the Shareholders' Agreement. The initial Banding and Governance Rules are set out in the Shareholders' Agreement.

Basic Infrastructure means the network, switching and addressing components of the NPP, as further defined in the Build Contract.

Build Contract means the Master Infrastructure and Services Deed to be entered into between the Company and the Vendor for the design, build and operation of a Basic Infrastructure.

Build Period means the period from and including the date on which the Company executes the Build Contract to and excluding the date on which the Basic Infrastructure has been finally accepted by the Company in accordance with the Build Contract.

Business means the establishment and operation of the NPP.

Business Day means a day other than a Saturday, Sunday or a public holiday in Sydney.

Committee means a committee of Directors constituted under article 9.6.

Company means NPP Australia Limited (ACN 601 428 737), as that name may be changed from time to time.

Constitution means this constitution, and a reference to an article is a reference to an article of this constitution.

Controller has the meaning given in the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cwlth).

Director means a person holding office as a director of the Company, and where appropriate includes an Alternate Director.

Directors means all or some of the directors acting as a board.

Independent Chairperson means the independent chairperson appointed in accordance with article 10.5.

Independent Director means the independent director appointed in accordance with the Shareholders' Agreement.

Initial Operating Period means the period from and including the day following the end of the Build Period ("**Start Date**") to and including the day 2 years after the Start Date.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent); or
- (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; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act; or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

Joining Period means the period from and including the date on which the Build Contract is executed to and including the final day of the Initial Operating Period, subject to extension in accordance with the Shareholders' Agreement.

Member means a person entered in the Register as a holder of Shares.

NPP means the new payments platform developed and built, or to be developed and built, under the Build Contract which will involve the supply of services by the Company and:

- (a) facilitates on a 24x7 basis near real-time settlement of payment transactions in Australian dollars without having to specify full destination account details and providing more complete remittance information, such settlement to be effected through the RBA;
- (b) is accessible to all ADIs (and other approved entities) on an equitable basis;

- (c) is efficient, flexible and scalable and has high levels of reliability and security; and
- (d) supports ongoing innovation in payment services including through enablement of multiple 'overlay' services' tailored to particular payment needs.

Ordinary Directors' Resolution means a resolution of the Directors which is approved by Directors (who are not disqualified from voting on that resolution), who together comprise not less than 66% of the Directors who are not disqualified from voting on that resolution, and who are present and voting on that resolution.

Ordinary Members' Resolution means a resolution of the Members which is approved by Members (irrespective of the class held) present and voting (who are not disqualified from voting on that resolution) who between them hold more than 66% of the total number of Shares held by all of the Members who are not disqualified from voting on that resolution.

Ordinary Share means an ordinary Share, having the rights set out in this Constitution.

Preference Share means a preference Share, having the rights set out in Schedule 1.

RBA means the Reserve Bank of Australia.

Register means the register of Members of the Company under the Corporations Act and, if appropriate, includes a branch register.

Registered Office means the registered office of the Company.

Related Body Corporate has the meaning given in the Corporations Act.

Representative means a person appointed to represent a Member at a general meeting of the Company in accordance with the Corporations Act.

RTP System Proposal means the paper entitled 'Strategic Review of Innovation in the Payments System – Real-Time Payments Committee Proposed Way Forward' dated 8 February 2013 and published by APCA as the Administrator on behalf of the Real-Time Payments Committee.

Secretary means a person appointed under article 11.1 as a secretary of the Company and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

Share means a share in the capital of the Company.

Shareholders' Agreement means the agreement entitled "NPPA Shareholders' Agreement" entered into on or around 24 September 2014, between the Company, APCA and each Member that has executed an Accession Agreement (as defined in the Shareholders' Agreement).

Special Majority Members' Resolution means a resolution of the Members which is approved by Members (irrespective of the class

held) present and voting (who are not disqualified from voting on that resolution) who between them hold more than 75% of the total number of Shares held by all of the Members who are not disqualified from voting on that resolution.

Steering Committee means the steering committee established in June 2013 to oversee the development of the NPP.

Transfer means sell, transfer, assign or otherwise dispose of, create or deal with any legal or equitable interest in a Share.

Vendor means S.W.I.F.T. SCRL (VAT BE 0413330856).

1.2 Interpretation

Headings are for convenience only and do not affect interpretation.

In this Constitution unless the contrary intention appears:

- (a) words importing any gender include all other genders;
- (b) the word “person” includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) a reference to a document including this Constitution includes any variation or replacement of it;
- (d) the singular includes the plural and vice versa;
- (e) a reference to legislation includes regulations and other instruments under it and any variation or replacement of any of them;
- (f) a power, an authority or a discretion given to a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (g) “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including any representation of words in a physical document or in an electronic communication or form or otherwise;
- (h) a reference to dollars, A\$ or \$ is a reference to Australian dollars;
- (i) the word “law” includes common law, principles of equity and legislation, and a reference to legislation includes regulations and other instruments under it and any variation or replacement of any of them;
- (j) the meaning of general words is not limited by specific examples introduced by “including”, “for example” or “such as” or similar expressions; and
- (k) the word “present” in the context of a person being present at a meeting includes participating using technology approved by the Directors in accordance with this Constitution.

1.3 Corporations Act

In this Constitution, unless the contrary intention appears:

- (a) a word or expression defined or used in the Corporations Act has the same meaning when used in this Constitution in a similar context; and
- (b) “section” means a section of the Corporations Act.

1.4 Replaceable rules not to apply

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and do not apply to the Company.

1.5 Inconsistency with Shareholders’ Agreement

If there is an inconsistency between an article in this Constitution and a clause in the Shareholders’ Agreement, the Shareholders’ Agreement shall prevail to the extent of the inconsistency.

For the avoidance of doubt, an inconsistency between an article of this Constitution and a clause in the Shareholders’ Agreement will only be considered to exist if the subject matter of the particular article or clause, or the action to be taken under a particular article or clause is dealt with in both this Constitution and the Shareholders’ Agreement. If this Constitution is silent on any particular subject matter or action, then that silence will not be taken to constitute an inconsistency between this Constitution and any Shareholders’ Agreement.

2 Objects

2.1 Objects

The objects of the Company are to:

- (a) establish and operate the NPP in a manner that promotes the public interest in the NPP by:
 - (i) ensuring its safe, reliable and efficient operation;
 - (ii) facilitating fair access to the NPP as mutually owned utility infrastructure; and
 - (iii) ensuring ongoing investment in the NPP to meet the changing needs of financial institutions and users of the Australian payments system; and
- (b) without limiting paragraph (a), carry on the business of the Company, including substantial compliance with the RTP System Proposal in the operating period.

For so long as there is a Steering Committee, the objects of the Company also include having regard to the advice and recommendations of the Steering Committee from time to time until such time as the Steering Committee determines that the Company is in a position to undertake oversight of the development of the NPP and that the Steering Committee should be dissolved. For the avoidance of doubt, the Company may at any time decline to act in accordance with the advice and recommendations of

the Steering Committee from time to time.

2.2 Steering Committee

The Directors will assume the role of the Steering Committee in the oversight of the establishment of the NPP following the dissolution of the Steering Committee.

3 Share capital

3.1 Directors to issue Shares

Subject to the Shareholders' Agreement, the issue of Shares is under the control of the Directors who may:

- (a) issue and cancel Shares;
- (b) determine whether any issued Shares are part of an existing class of Shares or a new class of Shares;
- (c) grant options over unissued Shares; and
- (d) settle the manner in which fractions of a Share, however arising, are to be dealt with,

subject to the Corporations Act, this Constitution and any special rights conferred on the holders of any Shares or class of Shares.

Subject to the Corporations Act, the Company may only issue fully paid Shares.

3.2 Characteristics of Members

Shares may not be held by natural persons or jointly by two or more persons.

The Company may only accept offers to subscribe for Preference Shares in compliance with the Shareholders' Agreement.

3.3 Preference Shares

The Company may only issue Preference Shares on the terms set out in this Constitution (including Schedule 1) and in compliance with the Shareholders' Agreement.

3.4 Variation of class rights

Subject to this Constitution, the Shareholders' Agreement and the terms on which any Shares are issued, the rights attaching to Shares in a class of Shares may only be varied or cancelled by a Special Majority Members' Resolution and:

- (a) by a special resolution (as defined in the Corporations Act) passed at a meeting of Members entitled to vote and holding Shares in that class; or
- (b) with the written consent of holders of at least 75% of the issued Shares of that class.

3.5 Class meetings

Subject to the terms on which any Shares are issued, the provisions of this Constitution relating to general meetings apply so far as they are capable of application and with any necessary changes to every separate meeting of the holders of a class of Shares except that:

- (a) a quorum is constituted by at least two persons who, between them, hold or represent one-third of the issued Shares of the class (unless only one person holds all of the Shares of the class, in which case that person constitutes a quorum); and
- (b) any holder of Shares of the class, present in person or by proxy, or attorney or Representative, may demand a poll.

3.6 Redemption in accordance with terms of issue of Shares

The terms of article 3.4 and paragraph 11 of Schedule 1 do not apply and consent is not required for a redemption of any Shares or variation of rights attaching to any Shares in compliance with the terms of issue of those Shares.

3.7 No variation

The rights attaching to Shares in a class of Shares will not be taken to be varied by:

- (a) the issue of further Shares of that class; or
- (b) the issue of any Shares of any other class; or
- (c) the conversion of Shares or other securities to new Shares or securities,

which rank equally with, or in priority to, the Shares in the relevant class of Shares, unless expressly provided by their respective terms of issue or the Corporations Act.

3.8 Non-recognition of interests

Except as required by law, the Company is not required to recognise:

- (a) a person as holding a Share on any trust; or
- (b) any other interest in any Share or any other right in respect of a Share except an absolute right of ownership in the registered holder,

whether or not it has notice of the trust, interest or right.

4 Lien

4.1 Lien on Share

To the extent permitted by law, the Company has a first and paramount lien on every Share for:

- (a) all money which the Company is required by law to pay, and has paid, in respect of that Share;
- (b) reasonable interest on the amount due from the date it becomes due until payment; and
- (c) reasonable expenses of the Company in respect of the default on payment.

4.2 Lien on distributions

A lien on a Share under article 4.1 extends to all distributions for that Share, including dividends.

4.3 Exemption from article 4.1

The Directors may at any time exempt a Share wholly or in part from the provisions of article 4.1.

4.4 Company's rights to recover payments

A Member must reimburse the Company on demand in writing for all payments the Company makes to a government or taxing authority in respect of the Member or the Member's Shares or any distributions on the Member's Shares, including dividends, where the Company is either:

- (a) required by law to make the relevant payment; or
- (b) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxing authority that the Company is required by law to make the relevant payment.

The Company is not obliged to advise the Member in advance of its intention to make the payment.

4.5 Reimbursement is a debt due

The obligation of the Member to reimburse the Company is a debt due to the Company on written demand for reimbursement by the Company to the Member.

5 Transfer of Shares

5.1 Restrictions on Transfers

A Member ("**Original Member**") may not Transfer its Shares other than to a Related Body Corporate of the Original Member ("**New Member**"). If the New Member ceases to be a Related Body Corporate of the Original Member, the New Member must Transfer all Shares held by it to the Original Member, or a Related Body Corporate of the Original Member, within two Business Days of the New Member ceasing to be a Related Body Corporate of the Original Member.

5.2 Forms of instrument of transfer

Subject to this Constitution (including article 5.1) and the Shareholders' Agreement, a Share is transferable by any method of transfer required or permitted by the Corporations Act.

5.3 Execution and delivery of transfer

If a duly completed instrument of transfer:

- (a) is used to transfer a Share in accordance with article 5.2; and
- (b) is left for registration at the share registry of the Company, accompanied by any information that the Directors reasonably require to show the right of the transferor to make the transfer,

the Company must, subject to the powers vested in the Directors by this Constitution, register the transferee as the holder of the Share.

5.4 Effect of registration

A transferor of a Share remains the holder of the Share transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Share.

5.5 Company to retain instrument of transfer

The Company must retain every instrument of transfer which is registered for the period required by any applicable law.

5.6 Directors' power to refuse to register

The Directors must:

- (a) refuse to register a transfer of Shares which does not comply with the Shareholders' Agreement or this Constitution; and
- (b) register any transfer of Shares which complies with the Shareholders' Agreement and this Constitution.

6 General meetings

6.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Corporations Act and the Shareholders' Agreement.

6.2 Convening a general meeting

The Directors may convene and arrange to hold a general meeting of the Company whenever they think fit and must do so if required to do so under the Corporations Act.

6.3 Use of technology at general meetings

The Company may hold a meeting of Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

6.4 Notice of general meeting

Notice of a general meeting must be given in accordance with article 16 and the Corporations Act.

6.5 Calculation of period of notice

In computing the period of notice under article 6.4, both the day on which the last notice to Members is given or taken to be given and the day of the meeting convened by it are to be disregarded.

6.6 Cancellation or postponement of a meeting

Where a general meeting (including an annual general meeting) is convened by the Directors they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This article 6.6 does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members or to a meeting convened by a court.

6.7 Notice of cancellation or postponement of a meeting

Notice of cancellation or postponement or change of place of a general meeting must state the reason for cancellation or postponement and be given:

- (a) to each Member; and
- (b) to each other person entitled to be given notice of a general meeting.

6.8 Contents of notice of postponement of meeting

A notice of postponement of a general meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

6.9 Number of clear days for postponement of meeting

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days' notice of the general meeting required to be given by this Constitution or the Corporations Act.

6.10 Business at postponed meeting

The only business that may be transacted at a postponed general meeting is the business specified in the original notice convening the meeting.

6.11 Proxy, attorney or Representative at postponed meeting

Where, by the terms of an instrument appointing a proxy or attorney or an appointment of a Representative:

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its Registered Office written notice to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

6.12 Non-receipt of notice

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

6.13 Director entitled to notice of meeting

A Director and any person entitled to attend meetings of Directors as an observer is entitled to receive notice of and to attend all general meetings and all separate meetings of the holders of any class of Shares and is entitled to speak at those meetings.

6.14 Circulating resolutions

The Company may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Without limitation, the document may be executed on behalf of a Member by a Representative of the relevant Member.

Separate copies of the document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

The resolution is passed when the last Member signs.

7 Proceedings at general meetings

7.1 Number for a quorum

The quorum for a general meeting is 75% of all Members (excluding those who are disqualified from voting at the general meeting).

In determining whether a quorum is present, each individual attending as a proxy, attorney or Representative is to be counted, except that:

- (a) where a Member has appointed more than one proxy, attorney or Representative, only one is to be counted; and
- (b) where an individual is attending both as a Member and as a proxy, attorney or Representative, that individual is to be counted only once.

7.2 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairperson of the meeting (on the chairperson's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

7.3 If quorum not present

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

7.4 Adjourned meeting

At a meeting adjourned under article 7.3(b), the quorum is 75% of all Members (excluding those who are disqualified from voting at the general meeting). If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

7.5 Appointment of chairperson of general meeting

The Independent Chairperson is entitled to preside as chairperson at a general meeting.

7.6 Absence of chairperson at general meeting

If a general meeting is held and the Independent Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the following may preside as chairperson of the meeting (in order of precedence):

- (a) the Independent Director; or
- (b) if the Independent Director is unable or unwilling to act or no Independent Director has been appointed at the relevant time, then a Member chosen by a simple majority of the Members present in person or by proxy, attorney or Representative.

7.7 Conduct of general meetings

The chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairperson considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairperson under this article is final.

7.8 Adjournment of general meeting

The chairperson of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place, but:

- (a) in exercising the discretion to do so, the chairperson may, but need not, seek the approval of the Members present in person or by proxy, attorney or Representative; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chairperson, a vote may not be taken or demanded by the Members present in person or by proxy, attorney or Representative in respect of any adjournment.

7.9 Notice of adjourned meeting

Notice of an adjourned meeting must be given as in the case of an original meeting.

7.10 Special Majority Members' Resolution

Each of the matters listed in Schedule 2 requires a Special Majority Members' Resolution.

7.11 Ordinary Members' resolutions

Subject to article 7.10 and the Corporations Act, all other Members' resolutions must be passed by Ordinary Members' Resolution.

7.12 No casting vote for chairperson

If there is an equality of votes, either on a show of hands or on a poll, the chairperson of the general meeting is not entitled to a casting vote in addition to any votes to which the chairperson is entitled as a Member or proxy or attorney or Representative.

7.13 Voting on show of hands

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn. A declaration by the chairperson 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 the Company, is conclusive evidence of the fact. Neither the chairperson nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of or against the resolution.

7.14 Poll

If a poll is effectively demanded:

- (a) it must be taken in the manner and at the date and time directed by the chairperson and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a chairperson or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

7.15 Entitlement to vote

At a meeting of Members, each Shareholder has one vote per Share held by it.

7.16 Validity of vote in certain circumstances

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a person votes as a proxy, attorney or Representative, a vote cast by that person is valid even if, before the person votes, the Member revokes the appointment or authority.

7.17 Objection to voting qualification

An objection to the right of a person to attend or vote at the meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairperson of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

8 The Directors

8.1 Number and election of Directors

The number, appointment and selection or election of Directors from time to time is to be determined in accordance with the Shareholders' Agreement and subject to the Corporations Act. As of the first day of the Joining Period, the maximum number of Directors is ten.

8.2 Office held until conclusion of meeting

A retiring Director holds office until the conclusion of the meeting.

8.3 Directors' fees and expenses

The Independent Chairperson and the Independent Director may be remunerated for their services as agreed from time to time by the Directors.

Subject to the above, a Director is not entitled to receive Directors' fees.

8.4 Additional or special duties

If a Director at the request of the Directors performs additional or special duties for the Company, the Company may remunerate that Director as determined by the Directors.

8.5 Expenses

A Director is entitled to be reimbursed out of the funds of the Company such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company.

8.6 Director's interests

Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:

- (a) hold any office or place of profit in the Company, except that of auditor;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into any contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees of the Company or

Directors or persons dependent on or connected with them;

- (e) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors;
- (g) sign or participate in the execution of a document by or on behalf of the Company;
- (h) do any of the above despite the fiduciary relationship of the Director's office:
 - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement; and
- (i) exercise the voting power conferred by securities in any entity held by the Company, as they determine including in circumstances where a Director may be interested in the exercise, such as a resolution appointing a Director as an officer of the entity or providing for the payment of remuneration to officers of the entity.

A reference to the Company in this article 8.6 is also a reference to each Related Body Corporate of the Company.

8.7 Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) 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;
- (b) resigns from the office by notice in writing to the Company;
- (c) is not present personally or by Alternate Director at meetings of the Directors for a continuous period of six months without leave of absence from the Directors; or
- (d) is removed from office by resolution under section 203D of the Corporations Act.

9 Powers and duties of Directors

9.1 Directors to manage Company

The business of the Company is to be managed by the Directors, who may exercise all such powers of the Company as are not, by the Corporations

Act or by this Constitution or the Shareholders' Agreement, required to be exercised by the Company in general meeting.

9.2 Specific powers of Directors

Without limiting the generality of article 9.1, the Directors may exercise all the powers of the Company to borrow or raise money.

9.3 Appointment of attorney

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.

9.4 Provisions in power of attorney

A power of attorney granted under article 9.3 may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

9.5 Signing of documents

The Directors may determine the manner in which and persons by whom documents may be signed, or otherwise executed.

9.6 Committees

The Directors may delegate any of their powers, other than powers required by law to be dealt with by Directors as a board, to a Committee or Committees consisting of one or more of their number as they think fit.

9.7 Powers delegated to Committees

A Committee to which any powers have been delegated under article 9.6 must exercise those powers in accordance with any directions of the Directors.

9.8 Delegation of Directors' powers

The Directors may delegate any of their powers to any persons they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

9.9 Interests of holding company

The Directors are authorised to act in the best interests of any company of which the Company is a wholly-owned subsidiary in the circumstances contemplated by section 187 of the Corporations Act.

10 Proceedings of Directors

10.1 Directors' meetings

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

The Directors may agree the dates for meetings of Directors for each calendar year, of which there must be at least 4. Any changes or additions to the agreed dates must be determined by the Directors.

10.2 Director may convene a meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

10.3 Use of technology for Directors' meetings

A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting.

10.4 Questions decided by Ordinary Directors' Resolution

All Directors' resolutions must be decided by Ordinary Directors' Resolution.

10.5 Independent Chairperson

The Independent Chairperson is to be a person selected and appointed as a Director from time to time, by the Directors, provided that person is considered by the Directors to be independent in accordance with the criteria specified in article 10.7.

The Independent Chairperson automatically ceases to be the Independent Chairperson if the other Directors consider that such person is no longer independent in accordance with those criteria (other than the criteria that they are not currently a Director).

10.6 Substitute Independent Chairperson

If the Independent Chairperson is not present within 30 minutes after the time appointed for the holding of a meeting of the Directors or is unable or unwilling to act, the following may preside as chairperson of the meeting (in order of precedence):

- (a) the Independent Director; or
- (b) if the Independent Director is unable or unwilling to act or no Independent Director has been appointed at the relevant time, then a Director elected or selected by the Directors present at their meeting.

10.7 Criteria for independence

A person may be considered independent by the Directors if:

- (a) they are not currently a Director or Secretary;
- (b) they are not currently, and were not within the last two years, employed by, or a material professional adviser or material consultant to, a Member or the Company or a Related Body Corporate of a Member;
- (c) they are not a material supplier or customer, or otherwise associated with a material supplier or customer, of a Member or the Company, or a Related Body Corporate of a Member or the Company;
- (d) they do not have a substantial holding in a Member or the Company or a Related Body Corporate of a Member or the Company within the meaning of the Corporations Act;
- (e) they do not have an interest or any business or other relationship which could, or could reasonably be perceived to, materially interfere with their ability to act in the best interests of the Company; and
- (f) the Directors determine that they are independent in character and judgment.

10.8 Votes of Directors and chairperson

At a meeting of Directors, each Director (including the Independent Chairperson) has one vote, other than the Executive Director (as defined in the Shareholders' Agreement) who is not entitled to vote.

The observer from the RBA that may attend meetings of Directors outside of the Build Period is not entitled to vote at such meetings.

10.9 Director's obligations

Without limiting the obligations of each at law, in making decisions, each Director may consider the interests of any Member or group of Members who appointed, elected or selected them (as applicable).

10.10 Appointment of Alternate Director

Subject to the Corporations Act, each Director may appoint and remove an Alternate Director.

10.11 Alternate Director's powers

An Alternate Director may exercise all the powers of the related Director and, subject to the Corporations Act, may perform all the duties of that Director except to the extent that that Director has exercised or performed them.

Alternate Directors can observe but not vote at meetings where their appointing Director is present.

10.12 Alternate Director responsible for own acts and defaults

While acting as a Director, an Alternate Director:

- (a) is an officer of the Company and not the agent of the appointor; and
- (b) is responsible to the exclusion of the appointor for the Alternate Director's own acts and defaults.

10.13 Alternate Director and remuneration

An Alternate Director is not entitled to receive from the Company any remuneration.

10.14 Quorum for Directors' meeting

At a meeting of Directors, the number of Directors whose presence in person or by proxy is necessary to constitute a quorum is two-thirds of the total number of Directors (rounded up to the nearest whole number).

10.15 Continuing Directors may act

The continuing Directors may act despite a vacancy in their number.

10.16 Chairperson of Committee

The members of a Committee constituted pursuant to article 9.6 may elect one of their number as chairperson of their meetings. If a meeting of a Committee is held and:

- (a) a chairperson has not been elected; or
- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be chairperson of the meeting.

10.17 Meetings of Committee

A Committee constituted pursuant to article 9.6 may meet and adjourn as it thinks proper.

10.18 Determination of questions

Questions arising at a meeting of a Committee are to be determined by a two-thirds majority of votes of the members of the Committee present and voting. The chairperson of the meeting has a casting vote, unless only two members of the Committee are present and entitled to vote on the question.

10.19 Circulating resolutions

The Directors may pass a resolution without a Directors' meeting being held if all of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

10.20 Validity of acts of Directors

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment, or election or selection, or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed, elected or selected or had duly continued in office and was qualified and entitled to vote.

11 Secretary

11.1 Appointment of Secretary

The Company must have at least one Secretary who is to be appointed by the Directors.

11.2 Suspension and removal of Secretary

The Directors may suspend or remove a Secretary from that office.

11.3 Powers, duties and authorities of Secretary

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

12 Seals

12.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

12.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

13 Inspection of records

13.1 Inspection by Members

Subject to the Corporations Act, the Directors may determine whether, to what extent, at what time and places and under what conditions the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors).

13.2 Right of a Member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

14 Dividends and reserves

14.1 Payment of dividend

Subject to the Corporations Act, this Constitution and the Shareholders' Agreement and the terms of issue or rights of any Shares with special rights to dividends, the Directors may declare or determine that a dividend is payable, fix the amount and the time for payment and authorise the payment or crediting by the Company to, or at the direction of, each Member entitled to that dividend.

14.2 No interest on dividends

Interest is not payable by the Company on a dividend.

14.3 Calculation and apportionment of dividends

Subject to the rights of any persons entitled to Shares with special rights as to dividend and to the terms of issue of any Shares to the contrary, all sums that the Company determines are to be distributed among the Members as dividends are divisible among the Members so that, on each occasion on which a dividend is paid:

- (a) the same sum is paid on each Share on which all amounts payable have been paid; and
- (b) the sum paid on a Share on which all amounts payable have not been paid is the proportion of the sum referred to in paragraph (a) that the amount paid on the Shares bears to the total of the amounts paid and payable on the Share.

To determine the amount paid on a Share, exclude any amount credited as paid on a Share to the extent that it exceeds the value (ascertained at the time of issue of the Share) of the consideration received for the issue of the Share.

All dividends are to be apportioned and paid proportionately to the amounts paid on the Shares during any portion or portions of the period for which the dividend is paid, but, if any Share is issued on terms providing that it will rank for dividend as from a particular date, that Share ranks for dividend accordingly.

14.4 Deductions from dividends

The Directors may deduct from any dividend payable to, or at the direction of, a Member any sums presently payable by that Member to the Company in relation to Shares in the Company.

14.5 Payments in respect of Shares

A dividend, interest or other money payable in cash in respect of Shares may be paid using any payment method chosen by the Company.

14.6 Unclaimed dividends

Unclaimed dividends may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed moneys.

15 Capitalisation of profits

15.1 Capitalisation of reserves and profits

The Directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members; and
- (b) may, but need not, resolve to apply the sum in the way mentioned in article 15.2, for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

15.2 Applying a sum for the benefit of Members

The way in which a sum may be applied for the benefit of Members under article 15.1 is in paying up in full unissued Shares to be issued to Members as fully paid.

15.3 Implementing the resolution

The Directors may do all things necessary to give effect to the resolution under article 15.1 and, in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

- (a) make cash payments in cases where Shares become issuable in fractions;
- (b) authorise any person to make, on behalf of all or any of the Members entitled to any further Shares on the capitalisation, an agreement with the Company providing for:
 - (i) the issue to them, credited as fully paid up, of any further Shares; or
 - (ii) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application

of their respective proportions of the sum resolved to be capitalised,

and any agreement so made is effective and binding on all the Members concerned;

- (c) fix the value of specified assets; or
- (d) vest property in trustees.

16 Service of documents

16.1 Document includes notice

In this article 16, a reference to a document includes a notice and a notification by electronic means.

16.2 Form of document

Unless expressly stated otherwise in this Constitution, all notices, certificates, statements, demands, appointments, directions and other documents referred to in this Constitution must be in writing.

16.3 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by delivering it or sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to an electronic address nominated by the Member; or
- (d) by notifying the Member by an electronic means nominated by the Member that:
 - (i) the document is available; and
 - (ii) how the Member may use the nominated access means to access the document.

16.4 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and, in either case, is taken to have been given and received on the day after the day of its posting.

16.5 Electronic address

A document sent to an electronic address:

- (a) is taken to be effected by properly addressing and transmitting the electronic transmission; and
- (b) is taken to have been given and received on the day after the date of its transmission.

16.6 Electronic means

A document made available by electronic means is taken to have been given and received on the day after the date of transmission of the notification specifying that the document is available and how it can be accessed.

16.7 Evidence of service

A certificate signed by a Director or a Secretary stating that a document was sent, delivered or given to a Member personally, by post or electronic means on a particular date is evidence that the document was sent, delivered or given on that date and by that means.

16.8 Persons entitled to Shares

A person who by operation of law or other means whatsoever becomes entitled to any Share is absolutely bound by every document given in accordance with this article 16 to the person from whom that person derives title prior to registration of that person's title in the Register.

17 Winding up

17.1 Distribution of assets

If the Company is wound up, the liquidator may, with the sanction of a Special Majority Members' Resolution, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as the liquidator considers fair on any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

17.2 Powers of liquidator to vest property

The liquidator may, with the sanction of a Special Majority Members' Resolution, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any Shares or other securities in respect of which there is any liability.

17.3 Shares issued on special terms

Articles 17.1 and 17.2 do not prejudice or affect the rights of a Member holding Shares issued on special terms and conditions.

18 Indemnity and insurance

18.1 Indemnity

To the maximum extent permitted by law, the Company will indemnify any current or former Director or Secretary of the Company out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) 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; and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

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

18.2 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 Director or Secretary of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

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

18.3 Contract

The Company may enter into an agreement with a person referred to in articles 18.1 and 18.2 with respect to the matters covered by those articles. An agreement entered into pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

Constitution

Schedule 1 - Terms of Preference Shares

The Company may issue Preference Shares under article 3.3 on the following terms.

1 Issue price

The issue price of each Preference Share is A\$1,000 (“**Issue Price**”).

2 Class

The class of each Preference Share is to be designated on issue.

3 Ranking

Each Preference Share ranks equally with each other Preference Share (irrespective of their class).

4 Dividend rights and priority of payment

Each Preference Share confers on the holder a right to receive a dividend in accordance with article 14.1 (“**Dividend**”).

The amount of any Dividend declared on Preference Shares in one class may differ from the amount of any Dividend declared on Preference Shares in another class.

The amount of any Dividend declared and the way it is distributed must be equitable, in the opinion of the Board. In reaching its judgement, the Board may have regard to, amongst other things, the number of Preference Shares held in each class, and the aggregate equity funding provided by each Preference Shareholder.

Any Dividend:

- (a) is non-cumulative; and
- (b) will rank for payment equally with all other Preference Shares (irrespective of their class) and in priority to all Shares of any other class of Shares other than Preference Shares.

5 Entitlement to payment of capital sum

Each Preference Share confers on its holder the right in a winding up to payment of A\$0.01 equally with all other Preference Shares (irrespective of their class) and in priority to all Shares of any other class of Shares other than Preference Shares.

A Preference Share does not confer on its holder any right to participate in the profits or property of the Company except as set out in this Schedule 1.

6 Bonus issues and capitalisation of profits

A Preference Share does not confer on its holder the right to participate in a bonus issue or capitalisation of profits, unless, and to the extent that, the Directors determine.

7 Redemption

7.1 Preference Shares are Redeemable

Preference Shares are only Redeemable in accordance with this paragraph 7.

Redemption of the Preference Shares may only occur if:

- (a) the Company is not Insolvent immediately before or after giving effect to the Redemption; and
- (b) the Redemption does not result in any breach the Corporations Act.

7.2 Redemption in respect of over-subscriptions and changing of Bands

This paragraph 7.2 applies only during the Joining Period (but excluding the day on which the Build Contract is executed).

Subject to the Corporations Act, the Board may determine from time to time that, to the extent that High Band Shareholders have subscribed for, or are obliged to subscribe for, Preference Shares with an aggregate issue price of:

- (a) more than 70% of the aggregate issue price of all Shares that have been issued at that time, the Company will apply the proceeds of any Additional Issuance of Preference Shares to Redeem the Preference Shares of the High Band Shareholders, on a pro rata basis, until such time that, immediately following the Redemption, High Band Shareholders hold Preference Shares, or have held Preference Shares that have been Redeemed pursuant to paragraphs 7.3 or 7.4 below, with an aggregate issue price of no less than 70% of the aggregate issue price of all Shares that have been issued at that time; and
- (b) less than or equal to 70% of the aggregate issue price of all Shares that have been issued at that time, the Company will apply the proceeds of any Additional Issuance of Preference Shares to Redeem Preference Shares of all Preference Shareholders on a pro rata basis.

The redemption amount for each Preference Share subject to any such Redemption will be the Issue Price.

7.3 Redemption on insolvency of holder

If a holder of the Preference Share becomes Insolvent:

- (a) that holder is required to notify the Company that it is Insolvent; and
- (b) the Company is required to Redeem (or alternatively buy-back and cancel) all of the Preference Shares held by that holder for the redemption amount (or buy-back price) of A\$0.01 per Share, irrespective of the issue price paid for the Preference Share.

7.4 Redemption at holder's election

Subject to the following, on request from the holder of a Preference Share after the Build Period, the Company must Redeem some or all of the Preference Shares held by that holder. The redemption amount for each Preference Share subject to any such Redemption will be A\$0.01.

7.5 Notice of Redemption

The Company must give notice of any Redemption of Preference Shares ("**Redemption Notice**") to each holder of the Preference Shares to be Redeemed at least 5 Business Days before the Redemption Date (or such shorter period as may be agreed between the Company and the holder).

7.6 Contents of Redemption Notice

Each Redemption Notice must state:

- (a) the date on which the Redemption is to occur ("**Redemption Date**");
- (b) if less than all of the Preference Shares held by the relevant holder are being Redeemed, the proportion and/or number of those Preference Shares being Redeemed;
- (c) that the holders of the Preference Shares Redeemed will be paid the relevant redemption amount;
- (d) whether the redemption amount is payable by way of Redemption, buy back, reduction of capital or cancellation of the relevant Preference Shares or any combination of them; and
- (e) the place where the certificates for the Preference Shares may be submitted and the method of payment of the redemption amount to holders of the Preference Shares Redeemed.

7.7 Effect of Redemption

On the Redemption Date all rights or restrictions on the Preference Share Redeemed will no longer have effect upon payment of the redemption amount.

7.8 Buy back

If the Redemption involves a buy back of the Preference Share, the Redemption Notice will, subject to the Corporations Act, constitute a buy back offer for the redemption amount payable on the Redemption Date and the holder will be deemed to have accepted that buy back offer for the

Preference Share to which the Redemption Notice relates on the date the Redemption Notice is given and, subject to compliance with the Corporations Act, will be deemed to have sold the Preference Share to the Company on the Redemption Date for a price per Preference Share equal to the redemption amount.

7.9 Payment of redemption amount

The Company must pay the redemption amount to the holder of the Preference Share on its Redemption. All redemption amounts payable for Preference Shares Redeemed at the same time must be paid by the Company at the same time.

7.10 Restriction on Redemption

If the Company is prohibited by law from paying the full redemption amount for a Preference Share being Redeemed, the Company must:

- (a) pay as much as it may lawfully pay towards the redemption amount; and
- (b) continue to pay all funds of the Company that it may lawfully apply towards the redemption amount until the redemption amount is fully paid.

7.11 Certificates

If the Company Redeems a Preference Share without having received the certificate for the Preference Share, the holder of the Preference Share must deliver the certificate to the Company as soon as practicable after the Redemption Date.

8 Voting rights

8.1 Subject to paragraph 8.2, at a meeting of Members, each holder of Preference Shares has one vote per Preference Share held by it.

8.2 If a holder of Preference Shares:

- (a) does not commence live operations in NPP within three years from NPP going live or from the holder of Preference Shares acquiring those shares (whichever is the later); or
- (b) is suspended as an NPP Participant for a period of three or more years; or
- (c) is terminated as an NPP Participant,

then all voting right attaching to the holder's Preference Shares under this paragraph 8 will be suspended until such time as: in the case of paragraph (a), the holder commences live operations; in the case of paragraph (b), the suspension is revoked or in the case of paragraph (c), the holder is readmitted as an NPP Participant in accordance with the regulations for the NPP.

9 Meeting

9.1 Subject to paragraph 9.2, each Preference Share confers on its holder the same rights as those conferred by the Constitution upon the holders of Ordinary Shares in relation to receiving notices (including notices of general meetings), reports, balance sheets and audited accounts and of attending and being heard at all general meetings of the Company.

9.2 If a holder of Preference Shares' voting rights have been suspended in accordance with paragraph 8.2, then all of the holder's rights set out in paragraph 9.1 will also be suspended for the duration of the period of such suspension.

10 Amendment to the terms

Subject to complying with all applicable laws, the Company may, without the consent of holders of Preference Shares, amend or add to the terms of the Preference Shares if, in the opinion of the Company, the amendment or addition is:

- (a) of a formal, minor or technical nature;
- (b) to correct a manifest error; or
- (c) made to comply with any applicable law.

11 Variation of rights

- (a) Subject to paragraph 10 of this Schedule 1 and to paragraph (b), the rights attaching to a Preference Share may only be varied or cancelled by a Special Majority Members' Resolution.
- (b) A variation or cancellation of rights attaching to one or more (but not all) classes of Preference Shares (each such class being an 'affected class') approved by a Special Majority Members' Resolution shall only be effective in relation to an affected class if the variation or cancellation is approved:
 - (i) by a special resolution (as defined in the Corporations Act) passed at a meeting of Members holding Preference Shares in that affected class; or
 - (ii) with the written consent of holders of at least 75% of all issued Preference Shares of that affected class.

Clause 11
amended by
Special Majority
Members'
Resolution on
27/01/15

12 Further issue of Preference Shares

If the Company issues new Preference Shares that rank equally with existing Preference Shares, the issue will not be taken to vary the rights attached to the existing Preference Shares unless otherwise determined by the Directors in the terms of issue of the existing Preference Shares.

13 Deductions from payments

13.1 Withholding

The Company may make from any money payable in respect of any Preference Share (including a redemption amount) any deduction or withholding for or on account of tax or any other amount which the Company is required by law to make.

13.2 No gross up

The Company is not required to make any additional payment by way of gross-up or otherwise with respect to any deduction or withholding under paragraph 13.1 above.

14 Set off

A holder of Preference Shares has no right to set off any amount owing by it to the Company against any claim owing to it by the Company in respect of its Preference Shares.

15 Definitions

In this Schedule 1 (unless the context otherwise requires):

- (a) **“Additional Issuance”** means any issuance of Preference Shares:
 - (i) to a Subsequent Member; or
 - (ii) to a Member which that Member was obliged to subscribe for in accordance with the Shareholders’ Agreement merely as a result of the Band in which the class of Shares subscribed for by that Member being reclassified (or such reclassification being requested) in accordance with the Shareholders’ Agreement, but excluding any Preference Shares that the Member would have been obliged to subscribe for but for that reclassification;
- (b) **“Dividend”** has the meaning given in paragraph 4 of this Schedule 1;
- (c) **“Issue Price”** has the meaning given in paragraph 1 of this Schedule 1;

- (d) **“Redeem”** for a Preference Share means to redeem, buy back, reduce the capital of or cancel the Preference Share (or any combination of such activities) and **“Redeemed”**, **“Redeemable”** and **“Redemption”** have corresponding meanings;
- (e) **“Redemption Date”** means the date for Redemption of a Preference Share as notified under paragraph 7.6 of this Schedule 1;
- (f) **“Redemption Notice”** means a notice from the Company of Redemption of a Preference Share given under paragraph 7.5 of this Schedule 1;
- (g) **“Subsequent Member”** means a person who becomes a Member after the first day of the Joining Period and is not a Related Body Corporate of a person who was a Member as of that date; and
- (h) all other words and phrases used in this Schedule 1 which are not defined in the remainder of this Constitution have the same meaning as given to them in the Shareholders’ Agreement

Constitution

Schedule 2 – Matters requiring a Special Majority Members’ Resolution

The matters requiring a Special Majority Members’ Resolution are:

- (a) **(business change)** a fundamental change in the nature or scale of the Business;
- (b) **(equity structure)** other than an issue or redemption of Shares in accordance with this Constitution and the Shareholders’ Agreement, any corporate action which alters the equity structure of the Company such as the issuing of new Shares or the granting of an option to subscribe for Shares;
- (c) **(rights attaching to Shares)** any alteration to rights conferred by Shares;
- (d) **(changes to Constitution)** changes to the Constitution, its repeal or the adoption of a new Constitution;
- (e) **(number of Directors)** any change to the number of Directors including the maximum number of Directors, other than in accordance with this Constitution and the Shareholders’ Agreement;
- (f) **(composition of board)** the manner of appointing, electing, selecting, removing or replacing any Director (including the Executive Director, as that term is defined in the Shareholders’ Agreement);
- (g) **(winding-up)** any proposal to cease to carry on the Business or a substantial part of the Business of the Company or to wind-up or dissolve the Company or to appoint a liquidator or administrator to the Company or to take advantage of any law providing for the relief of debtors in adverse financial circumstances;
- (h) **(name change)** changing the name of the Company;
- (i) **(merger or amalgamation)** merging or amalgamating the Company with any other entity;
- (j) **(variation or waiver)** a variation or waiver of any provision of this Constitution;
- (k) **(sale)** any sale, purchase or reconstruction, including by way of any buy-back of shares or capital reduction, by the Company which would result in a change in the level of the Company’s ownership of any equity or shares or any trading business, including the Business;
- (l) **(new issues)** any further issue of Shares other than an issue of Preference Shares in accordance with the Constitution, the Shareholders’ Agreement and the Corporations Act;
- (m) **(dividend)** the declaration, making and payment of a dividend or other distribution to Members;

- (n) **(change to material contracts)** termination of the Build Contract, or any material variation of the Build Contract;
- (o) **(banding of Members)** any replacement or variation of the Banding and Governance Rules applicable from time to time. The initial Banding and Governance rules are set out in Schedule 1 to the Shareholders' Agreement; and
- (p) **(characteristics of Preference Shareholders)** any change to the characteristics of Preference Shareholders.

NPP Australia Limited Constitution Amendment Certificate

Version	Date	Comment/Amendment
Execution Version	24/09/2014	Adopted by resolution in writing of sole shareholder to repeal existing Constitution and adopt new Constitution.
Version 2	27/01/2015	Schedule 1, Item 11 - amended by Special Majority Members' Resolution to provide that a proposed variation or cancellation of rights attaching to a class of Preference Shares pursuant to paragraph 11 of Schedule 1 to the Constitution is subject to the holder's consent.
Version 3	25/10/16	Schedule 1 – Paragraph 8 Voting Rights and Paragraph 9 Meeting - amended by Special Majority Members' Resolution to provide for the voting rights and the right to attend meetings and receive notices associated with a Preference Share be suspended in certain specified circumstances and that the rights of all classes of issued Preference Shares as outlined in paragraphs 8 and 9 be varied as provided in Schedule 1, paragraph 11.