

CONSTITUTION

- of -

AUSTRALIAN PAYMENTS NETWORK LIMITED

A Company limited by Guarantee

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-of-

AUSTRALIAN PAYMENTS NETWORK LIMITED

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CONSTITUTION

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AUSTRALIAN PAYMENTS NETWORK LIMITED A Company limited by guarantee

1 PRELIMINARY

1.1 Introduction

- (a) The name of the Company is Australian Payments Network Limited.
- (b) The Company is limited by guarantee.

1.2 Definitions

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

“**ADI**” means an Authorised Deposit-taking Institution as defined in the Banking Act 1959 of Australia.

“**Alternate Director**” means a person appointed as alternate director in accordance with Article 7.5 (Alternate Directors).

“**Amendment Date**” means 1 January 2014 (the effective date of amendments to this Constitution - version 3).

“**Appointed Director**” means a Director appointed by an Appointing Member.

“**Appointing Member**” means a Member which satisfies the criteria set out in Article 2.5 (Appointing Members).

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

“**APS**” means a payment system (as defined in the Payment Systems (Regulation) Act 1998 of Australia) operating in Australia.

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

“**Auditor**” means the auditor for the time being of the Company.

“**Australian Cash Distribution and Exchange System (Clearing System 5) (CS5)**” and “**ACDES**” means the Framework established for the purposes of co-ordinating, facilitating and protecting the conduct and settlement of wholesale cash exchanges between ACDES Framework Participants and for the exchange of financial data.

“**Australian Paper Clearing System (Clearing System 1) (CS1)**” and “**APCS**” means the Framework established for the purpose of co-ordinating, facilitating and protecting the conduct and settlement of paper based payment instructions between APCS Framework Participants and for the exchange of financial data.

“**Board**” means all or some of the Directors acting as a board on the basis of the voting entitlements set out in Article 7.4 (Directors’ voting entitlements).

"Board Charter" means the charter approved by the Board setting out procedures for the convening and conduct of meetings of Directors and the passing of resolutions by Directors.

"Building Society" means an ADI whose name appears in the list of ADIs on the APRA website under the heading "Building Societies".

"Building Society Member" means an Electing Member which is:

- (a) (i) a Building Society, which has not elected to be treated as a Credit Union Member during the Grandfathering Period; or
- (ii) a Member which formerly had a consent from APRA to use the words "building society" in its name and now operates as a bank and has a consent from APRA to use the word "bank" in its name, which has not elected to be treated as a Credit Union Member or an Electing Member during the Grandfathering Period; or
- (b) (i) a Credit Union;
- (ii) a Member which formerly had a consent from APRA to use the words "credit union" in its name and now operates as a bank and has a consent from APRA to use the word "bank" in its name; or
- (iii) a Member whose name appears in the list of ADIs on the APRA website under the heading "Other ADIs" and described as a company which provides services to building societies and credit unions,

which has elected to be treated as a Building Society Member during the Grandfathering Period.

"Bulk Electronic Clearing System (Clearing System 2) (CS2)" and **"BECS"** means the Framework established for the purpose of co-ordinating, facilitating and protecting the conduct and settlement of bulk electronic exchanges between BECS Framework Participants and for the exchange of financial data.

"Chief Executive Officer" means the person appointed as chief executive officer in accordance with Article 7.13 (Chief Executive Officer).

"Committee of Management" means a committee established in accordance with Article 10.2 (Committees of Management).

"Community of Interest Network (Infrastructure System 1) (IS1)" and **"COIN"** means the Framework established for the purpose of providing and managing the infrastructure for the exchange of payments and payments-related traffic between COIN Framework Participants.

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

"Constitution" means this constitution as amended, and a reference to a particular Part or a particular Article has a corresponding meaning.

“Constitutional Corporation” has the same meaning as in the Payment Systems and Netting Act 1998 of Australia.

“Consumer Electronic Clearing System (Clearing System 3) (CS3)” and **“CECS”** means the Framework established for the purpose of co-ordinating, facilitating and protecting the conduct and settlement of low-value electronic exchanges (including without limitation Automatic Teller Machine transactions and point of sale transactions) between CECS Framework Participants and for the exchange of financial data.

“Corporations Act” means the Corporations Act 2001 of Australia.

“Credit Union” means an ADI whose name appears in the list of ADIs on the APRA website under the heading “Credit Unions”.

“Credit Union Member” means an Electing Member which is:

- (a) (i) a Credit Union, which has not elected to be treated as a Building Society Member during the Grandfathering Period; or
- (ii) a Member which formerly had a consent from APRA to use the words “credit union” in its name and now operates as a bank and has a consent from APRA to use the word “bank” in its name, which has not elected to be treated as a Building Society Member or an Electing Member during the Grandfathering Period, or
- (b) (i) a Building Society;
- (ii) a Member which formerly had a consent from APRA to use the words “building society” in its name and now operates as a bank and has a consent from APRA to use the word “bank” in its name; or
- (iii) a Member whose name appears in the list of ADIs on the APRA website under the heading “Other ADIs” and described as a company which provides services to building societies and credit unions,

which has elected to be treated as a Credit Union Member during the Grandfathering Period.

“Director” means a director for the time being of the Company and, where appropriate, includes an Alternate Director.

“Elected Director” means a Director elected by the Electing Members and, during the Grandfathering Period, includes a Director appointed by the Building Society Members, the Credit Union Members or the Mutuals Group.

“Electing Member” means a Member which satisfies the criteria set out in Article 2.7 (Electing Members).

“Framework” means a framework (including, but not limited to, a code, system or network) administered or operated under the auspices of the Company in accordance with the relevant Regulations, which relates to the enabling of competition and innovation, the promotion of efficiency, or the control and

management of risk, in the Australian payments system, and includes, without limitation, any of the following:

- (a) a framework which relates to the exchange and distribution of money in Australia, including the Australian Cash Distribution and Exchange System (CS5);
- (b) an APS that is a Recognised APS, including:
 - (i) the Australian Paper Clearing System (CS1);
 - (ii) the Bulk Electronic Clearing System (CS2);
 - (iii) the Consumer Electronic Clearing System (CS3); and
 - (iv) the High-Value Clearing System (CS4);
- (c) an APS that is not a Recognised APS; and
- (d) a framework which otherwise relates to the operation or administration of an APS, including the Community of Interest Network (IS1) and the Issuers and Acquirers Community.

“Framework Participant” means a Constitutional Corporation which in accordance with the relevant Regulations is a participant in a Framework.

“Governance Transition Period” means the period commencing on the Amendment Date and expiring on 30th June 2014.

“Grandfathering Period” means the period which commences on the Amendment Date and expires on the date determined in accordance with paragraph 2(a)(i) of Schedule 3 and a reference to:

- (a) the first phase of the Grandfathering Period means the period described in paragraph 1(a) of Schedule 3; and
- (b) the second phase of the Grandfathering Period means the period described in paragraph 1(b) of Schedule 3.

“High-Value Clearing System (Clearing System 4) (CS4)” and **“HVCS”** means the Framework established for the purpose of co-ordinating, facilitating and protecting the conduct and settlement of various types of high-value exchanges between HVCS Framework Participants and for the exchange of financial data.

“Independence Criteria” means the criteria approved by the Board for nomination, and eligibility for appointment, as an Independent Director.

“Independent Director” means a Director appointed in accordance with Article 5.6 (Independent Directors).

“Issuers and Acquirers Community” and **“IAC”** means the Framework established to coordinate, implement and administer effective rules, regulations, standards, operational policies and procedures for Australian card payments between IA Framework Participants.

“Member” means a Constitutional Corporation for the time being entered in the Register as a Voting Member or an Operator Member of the Company and which has not ceased to be a Member in accordance with this Constitution.

“Mutuals Group” means, during the second phase of the Grandfathering Period, Building Society Members and Credit Union Members re-classified together as a group.

“New Governance Director” means a Director whose term of office commences after the Amendment Date and before the expiry of the Governance Transition Period.

“Operator Member” means a Member that satisfies the criteria set out in Article 2.11 (Operator Members).

“Part” means a Part of this Constitution.

“Payment Stream” is a grouping of one or more Recognised APSs which have common characteristics, as determined by the Board.

“Payment System Market Share” or **“PSMS”** means in relation to a Member, the Member’s share of transactions in all Recognised APSs, determined in accordance with Part 8 (Payment System Market Share) and Schedule 1.

“Pre-Transition Director” means a Director in office immediately before the Amendment Date.

“Recognised APS” means an APS that has been recognised by the Board according to the Recognition Criteria whether or not:

- (a) such APS is operated by, or under the auspices of, the Company; or
- (b) the operator or administrator of such APS is a Member.

“Recognition Criteria” means the criteria approved by the Board for the recognition of an APS as a Recognised APS.

“Register” means the register of Members of the Company to be kept under the Corporations Act and where appropriate includes a branch register.

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

“Regulations” means rules, regulations, procedures and by-laws prescribed in accordance with Article 10.7 (Regulations of a Framework) for the use and operation of, or participation by users in, a Framework.

“Related Body Corporate” has the same meaning as in the Corporations Act.

“Representative” means a person appointed to represent a corporate Member at any meeting of the Company in accordance with the Corporations Act.

“Reserve Bank” means the Reserve Bank of Australia.

“Schedule” means a schedule to this Constitution.

“**Secretary**” means a person appointed by the Board in accordance with Article 11.1 (Appointment of Secretary) and, where appropriate, includes an Assistant Secretary appointed by the Board in accordance with Article 11.4 (Assistant Secretary) or another person appointed by the Board to perform all or any of the duties of secretary of the Company.

“**Territory**” means the Australian Capital Territory or such other state or territory in which the Company is registered.

“**Voting Members**” means Appointing Members, Electing Members and the Reserve Bank.

1.3 Interpretation

In this Constitution:

- (a) words importing any gender include all other genders;
- (b) the word “**person**” includes a firm, a Constitutional Corporation, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) the singular includes the plural and vice versa;
- (d) a reference to a document (including this Constitution) includes any variation or replacement of it, and a reference to a document having been approved by the Board is a reference to that document as approved from time to time;
- (e) 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;
- (f) the meaning of general words is not limited by specific examples introduced by “**including**”, “**for example**” or “**such as**” or similar expressions;
- (g) a power, an authority or a discretion given to a Director, the Board, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (h) the word “**present**” in the context of a person being present at a meeting includes participating using technology approved, or consented to, in accordance with this Constitution;
- (i) a reference to dollars or \$ is a reference to Australian dollars;
- (j) a “**chair**” appointed in accordance with this Constitution may be referred to as a chairperson, chairman, chairwoman or as chair, as appropriate; and
- (k) headings are inserted for convenience and do not affect the interpretation of this Constitution.

1.4 All communications or documents must be in writing

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

In this Constitution, “**writing**” and “**signing**” includes printing, typing and other modes of reproducing words or a person’s signature, as the case may be, in a visible form including any representation of words or a person’s signature, as the case may be, in a physical document, in a communication given by electronic means or in a document in electronic form.

1.5 Application of Corporations Act

- (a) Words or expressions defined or used in the Corporations Act have, unless the contrary intention appears, the same meaning when used in this Constitution in a similar context.
- (b) An expression used in a particular part or division of the Corporations Act that is given by that part or division a special meaning for the purposes of that part or division has, in any part of this Constitution that deals with the matter dealt with by that part or division, unless the contrary intention appears, the same meaning as in that part or division.
- (c) The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and, accordingly, do not apply to the Company.

1.6 Limited liability

- (a) The liability of the Members is limited.
- (b) Every person who is a Member of the Company undertakes to contribute to the assets of the Company, in the event of the Company being wound up while such person is a Member, or within one year after such person ceases to be a Member, for:
 - (i) payment of:
 - (A) the debts and liabilities of the Company (contracted before such person ceases to be a Member); and
 - (B) the costs, charges and expenses of winding up; and
 - (ii) the adjustment of the rights of the contributories among themselves.
- (c) The amount to be contributed in the event of the Company being wound up is as follows:
 - (i) in the case of an Operator Member, \$1,000; and
 - (ii) in the case of a Voting Member, \$10,000.

1.7 Distribution on a winding up

If, on the winding-up or dissolution of the Company, there remains, after satisfaction of all its debts and liabilities, any property whatsoever, such property must be transferred to another company or institution determined by the Voting Members as having objects similar to the objects of the Company and whose constitution prohibits the distribution of its income and property among its members in a similar manner to this Constitution (or, in default of such determination, by application to the Supreme Court of the Territory).

1.8 Objects

The Company is established:

- (a) to enable competition and innovation, promote efficiency, and control and manage risk in the Australian payments system, and to generate and collate ideas and information to support that objective; and
- (b) to facilitate industry collaboration, self-regulation and system-wide standards, and to co-ordinate the operation of effective payment systems.

1.9 Capacity

The Company has the legal capacity of a natural person and, without limiting the generality of the foregoing, has, both within and outside the Territory, power to:

- (a) issue debentures of the Company;
- (b) grant a floating charge on property of the Company;
- (c) give any other security for a debt, liability or obligation of the Company or of any other person;
- (d) procure the Company to be registered or recognised as a body corporate in any place outside Australia; and
- (e) do any other act that it is authorised to do by any law.

1.10 Registered office

The registered office of the Company is to be in Sydney.

1.11 Governance Transition Period

- (a) Each Constitutional Corporation which was a member of the Company immediately before the Amendment Date is:
 - (i) deemed to be admitted as a Voting Member and the Board will determine whether the Constitutional Corporation (except in the case of the Reserve Bank) is an Appointing Member or an Electing Member according to the eligibility criteria in Articles 2.5 (Appointing Members) and 2.7 (Electing Members); and

- (ii) bound by this Constitution (as amended on the Amendment Date) and any other rules, by-laws, policies or other standards prescribed by the Board in accordance with this Constitution.
- (b) Subject to Article 5.12 (Retirement and Removal of Directors) and notwithstanding Article 5.9 (Term of office), every Pre-Transition Director and each Secretary in office immediately before the Amendment Date continues in office until not later than the expiry of the Governance Transition Period.
- (c) During the Governance Transition Period the Pre-Transition Directors must do all things necessary to ensure that the New Governance Directors are appointed or elected, as the case may be, by the expiry of the Governance Transition Period.
- (d) During the Governance Transition Period and until the relevant New Governance Directors are appointed or elected, the voting entitlement of:
 - (i) the Appointed Directors will be exercised by the Pre-Transition Directors who, before the Amendment Date, were appointed by the Appointing Members;
 - (ii) two Elected Directors will be exercised by the Pre-Transition Directors who, before the Amendment Date, represented the Building Society Members and the Credit Union Members;
 - (iii) the other Elected Directors will be exercised by the Pre-Transition Directors who, before the Amendment Date, represented the Other Banks Electoral Group and the Retail Banks Electoral Group (each within the meaning of this Constitution as applied before the Amendment Date);
 - (iv) Independent Directors will be exercised by the person who was the chair immediately before the Amendment Date; and
 - (v) the Reserve Bank will be exercised by the person who represented the Reserve Bank immediately before the Amendment Date.
- (e) During the Governance Transition Period a Member's PSMS will be determined in accordance with Part 8 (Payment System Market Share) and Schedule 1 for the purpose of determining a Voting Member's entitlement to vote, and a Director's voting entitlement.

1.12 Amendment of Constitution

An amendment to this Constitution is only effective if it is:

- (a) approved by the Board prior to being submitted to Voting Members in accordance with this Constitution; and
- (b) approved in accordance with Section 136 of the Corporations Act.

2 MEMBERSHIP

2.1 Membership

Subject to this Constitution, the Members are:

- (a) the Constitutional Corporations the Board admits to membership as Appointing Members, Electing Members and Operator Members; and
- (b) the Constitutional Corporations that are deemed to be Voting Members in accordance with Article 1.11(a) (Governance Transition Period).

2.2 Membership application

- (a) A Constitutional Corporation may apply to become a Member by submitting to the Secretary a properly completed application in the form and manner prescribed by the Board, supported by any evidence the Board requires to demonstrate eligibility for membership as set out in Article 2.5 (Appointing Members), 2.7 (Electing Members) or Article 2.11 (Operator Members), as the case may be.
- (b) By completing an application form, if accepted, the applicant agrees to be bound by this Constitution and any other rules, by-laws, policies or other standards prescribed by the Board.

2.3 Admission as a member

- (a) After receipt of an application for membership, the Board must consider the application and, if the applicant satisfies the eligibility criteria, admit the applicant to membership and determine whether the applicant is an Appointing Member, an Electing Member or an Operator Member.
- (b) The Secretary must, within a reasonable time, notify the applicant of the decision of the Board.
- (c) If the Board decides that an applicant does not satisfy the eligibility criteria, no Director or other officer of the Company is required to give reasons for that decision.

2.4 Register of Members

- (a) Upon admission as a Member, that person's details will be recorded in the Register by a Director or the Secretary.
- (b) A Member must promptly notify the Company of any change in the Member's details which are recorded in the Register.

2.5 Appointing Members

An Appointing Member:

- (a) is determined by the Board to be a participant in three or more Recognised APSs from different Payment Streams;
- (b) has been admitted by the Board to membership of the Company after making an application for membership in accordance with Article 2.2 (Membership application); and
- (c) has a PSMS greater than 5%.

2.6 Rights of Appointing Members

An Appointing Member:

- (a) has the right to appoint a Director as set out in Article 5.4 (Appointed Directors);
- (b) has the right to attend and speak at general meetings and at any meetings of Appointing Members;
- (c) has the voting entitlement determined in accordance with Article 4.10 (Entitlement to vote);
- (d) must comply with determinations of the Board made in accordance with this Constitution; and
- (e) must pay the fees set out in Article 2.21 (Fees for Voting Members).

2.7 Electing Members

An Electing Member:

- (a) is determined by the Board to be a participant in at least one Recognised APS;
- (b) has been admitted by the Board to membership of the Company after making an application for membership in accordance with Article 2.2 (Membership application); and
- (c) is neither an Appointing Member nor the Reserve Bank nor an Operator Member.

2.8 Rights of Electing Members

An Electing Member:

- (a) has the right to participate in the election of Directors as set out in Article 5.5 (Elected Directors);
- (b) has the right to attend and speak at general meetings and at any meetings of Electing Members;

- (c) has the voting entitlement determined in accordance with Article 4.10 (Entitlement to vote);
- (d) must comply with determinations of the Board made in accordance with this Constitution; and
- (e) must pay the fees set out in Article 2.21 (Fees for Voting Members).

2.9 Re-classification of Electing Members and Appointing Members

The Board may re-classify an Electing Member as an Appointing Member if that Member satisfies the eligibility requirements of an Appointing Member (set out in Article 2.5 (Appointing Members) as a result of a calculation of that Member's PSMS determined in accordance with Article 8.1 (Annual determination of a Voting Member's PSMS) and Schedule 1.

The Board may re-classify an Appointing Member as an Electing Member if that Member no longer satisfies the eligibility requirements of an Appointing Member.

2.10 Rights of the Reserve Bank as a Member

The Reserve Bank is a Voting Member and:

- (a) has the right to appoint a Director;
- (b) has the right to attend and speak at general meetings;
- (c) has the voting entitlement determined in accordance with Article 4.10 (Entitlement to vote);
- (d) must comply with determinations of the Board made in accordance with this Constitution; and
- (e) must pay the fees set out in Article 2.21 (Fees for Voting Members).

2.11 Operator Members

An Operator Member is an operator or administrator (other than the Company) of:

- (a) a Recognised APS; or
- (b) another facility which relates to the payment or circulation of money in Australia (such as a purchased payment facility, as defined in the Payment Systems (Regulation) Act 1998 of Australia),

which has been admitted by the Board to membership of the Company as an Operator Member after making an application for membership in accordance with Article 2.2 (Membership application).

2.12 Rights of Operator Members

An Operator Member:

- (a) has the opportunity for engagement with the Company as set out in the charter for engagement with Operator Members determined by the Board;
- (b) has no right to participate in the appointment or election of Directors;
- (c) has the right to attend and speak at general meetings;
- (d) has no right to vote at general meetings; and
- (e) must pay the fees set out in Article 2.24 (Fees for Operator Members).

2.13 Income, property and profits

- (a) All income, property and profits of the Company must be applied towards the promotion of the Objects.
- (b) A Member may not share in any distribution of profits of the Company or in a distribution on a winding up or dissolution of capital of the Company.
- (c) No part of the income or property of the Company may be paid or transferred to a Member, provided that this Article does not prevent payment in good faith to a Member for goods or services provided in the ordinary course of business.

2.14 Member liability limited to guarantee

The liability of a Member to contribute on a winding up or dissolution of the Company is limited to the amount specified in Article 1.6 (Limited liability).

2.15 No transfer of membership

A Member may not sell, transfer or dispose of their interests in the Company to another Member or a third party.

2.16 Right to receive notices

A Member:

- (a) is entitled to receive all notices, annual reports and audited profit and loss accounts and audited balance sheets required to be distributed by the Company to members of a company limited by guarantee by the Corporations Act or any other applicable law; and
- (b) has all other rights conferred on Members by:
 - (i) this Constitution; or
 - (ii) on members of a company limited by guarantee by the Corporations Act or any other applicable law.

2.17 Termination of Membership

A Member ceases to be a Member on:

- (a) resignation in accordance with Article 2.18 (Written notice of resignation);
- (b) becoming insolvent or making an arrangement or composition with creditors generally;
- (c) being wound-up, dissolved or otherwise ceasing to exist;
- (d) that Member ceasing to be a Constitutional Corporation;
- (e) that Member no longer satisfying any other eligibility criteria which entitled the Member to become a Member;
- (f) the automatic termination of that person's membership in accordance with Article 2.25 (Non-payment of fees); or
- (g) the Board terminating the person's membership in accordance with this Constitution.

2.18 Written notice of resignation

A Member may, by notice to the Company, resign membership with immediate effect or with effect from a specified date occurring not more than 6 months after the service of the notice.

2.19 Members who are Related Bodies Corporate

If two or more Members are or become Related Bodies Corporate those Members are deemed to be a single entity for the purposes of determining rights to appoint, or participate in the election of, Directors and voting rights and, accordingly a reference to a Member for those purposes is deemed to be a reference to the Member and its Related Bodies Corporate acting jointly.

2.20 Rights before termination not affected

Any termination of the membership of a Member in accordance with Article 2.17 (Termination of Membership) shall not affect any right or liability arising under this Constitution as a result of any act, matter or thing occurring prior to the date such termination takes effect.

2.21 Fees for Voting Members

Voting Members must pay to the Company the fees set out below in the manner and amount and at the times determined by the Board:

- (a) annual Base Corporate Fee. An equal amount is charged to each Voting Member; and
- (b) periodic Proportionate Corporate Fee based on the operating costs (actual or budgeted) of the Company for the period. The amount charged to a Voting Member is the proportion of the aggregate Proportionate Corporate Fee for that period equal to that Voting Member's PSMS expressed as a percentage.

The Company must provide the Voting Members with 30 days' notice of the fees payable.

2.22 Fees for Framework Participants

The Company will charge Framework Participants the fees set out below in the manner and amount and at the times determined by the Board:

- (a) annual Framework (Recognised APS) Fee – charged to the Tier 1A members of APCS, Tier 1 members of BECS and Framework Participants of each other Framework which is a Recognised APS. The fee for Framework Participants of one such Framework may be different from the fee for Framework Participants of another such Framework. Each payer within any one Framework is charged an equal amount;
- (b) annual Framework (Non-APS) Fee – charged to the Framework Participants of each Framework which is not a Recognised APS. The fee for Framework Participants of one such Framework may be different from the fee for Framework Participants of another such Framework; and
- (c) special project funding – the Board may, in its discretion, charge Framework Participants of a Framework an amount to fund projects of that Framework which have been recommended for funding by the Committee of Management of that Framework.

The Company must provide the Framework Participants with 30 days' notice of the fees payable.

2.23 Voting Members who are Framework Participants

A Voting Member who is also a Framework Participant will be charged the fees set out in Articles 2.21 (Fees for Voting Members) and 2.22 (Fees for Framework Participants).

2.24 Fees for Operator Members

Operator Members must pay to the Company an annual fee determined by the Board. The Company must provide the Operator Members with 30 days' notice of the fee payable.

2.25 Non-payment of fees

- (a) If any of the fees referred to in Articles 2.21 (Fees for Voting Members) or 2.24 (Fees for Operator Members) remain unpaid by a Member for 60 days after they become due and payable, the Board may give not less than 30 days' notice to that member that their membership will be terminated if the fees are not paid by the date specified in the notice. If the fees remain unpaid by that date, the Member's membership automatically terminates and the Member ceases to be a Member. The Board may, but need not, reinstate a Member whose membership is terminated if the Member pays all overdue amounts and is otherwise still eligible for membership.
- (b) The Regulations of a Framework may make provisions relating to the termination of a Framework Participant for non-payment of any of the fees referred to in Article 2.22 (Fees for Framework Participants).

- (c) If any fee referred to in Article 2.21 (Fees for Voting Members), 2.22 (Fees for Framework Participants) or 2.24 (Fees for Operator Members) remains unpaid by a Member (or Framework Participant, as the case may be) for 60 days after it becomes due and payable, the Member (or Framework Participant, as the case may be) has no right to be present at, be counted among the quorum for, or vote, whether in person or by proxy, attorney or Representative, at a general meeting of the Company (or a meeting of Framework Participants, as the case may be).

3 GENERAL MEETINGS

3.1 Annual general meeting

The Company must hold annual general meetings in accordance with the Corporations Act.

3.2 General meeting

The Board may convene a general meeting of the Company when it thinks fit and must convene and arrange to hold a general meeting if required to do so under the Corporations Act.

3.3 Use of technology at general meetings

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

3.4 Notice of meeting

Except where the Corporations Act permits shorter notice, at least 21 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) of a general meeting must be given to each Member (and each other person entitled to receive notices under this Constitution or the Corporations Act).

3.5 Contents of notice

A notice of general meeting must:

- (a) set out the place, day and the hour of the meeting, and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
- (b) state the general nature of the meeting's business;

- (c) state that:
 - (i) a Voting Member which is entitled to attend and cast a vote at the meeting has a right to appoint a proxy;
 - (ii) a proxy need not be a Member; and
 - (iii) a Voting Member which is entitled to cast two or more votes may appoint separate proxies in respect of separate votes which the Voting Member is entitled to cast;
- (d) if a special resolution is to be proposed, set out an intention to propose the resolution and state the resolution; and
- (e) comply with any other requirements of the Corporations Act.

3.6 Non-receipt of notice

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

3.7 Postponement or cancellation of meeting

- (a) Where a general meeting (including an annual general meeting) is convened by the Board, they may cancel the meeting or postpone it to a date and time determined by them.
- (b) Written notice of cancellation or postponement of a general meeting must be given to each Member (and each other person entitled to receive notices under this Constitution or the Corporations Act) and must specify the reason for cancellation or postponement.
- (c) A notice postponing the holding of a general meeting must specify:
 - (i) a date, time and place for the holding of the postponed meeting; and
 - (ii) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the postponed meeting in that manner.
- (d) A notice postponing the holding of a general meeting must be given in accordance with Article 3.4 (Notice of meeting) and must be no less than the number of clear days' notice of the general meeting required to be given by the Corporations Act.
- (e) The only business that may be transacted at a general meeting, the holding of which is postponed, is the business specified in the notice convening the general meeting.
- (f) The accidental omission to give notice of the cancellation or postponement of a meeting to, or the non-receipt of any such notice by, any Member or person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.

- (g) Where the terms of appointment of a proxy, attorney or Representative, refer to a specific meeting to be held on or before a specified date and the meeting is postponed or adjourned or changed to another venue, then the appointment confers authority to attend and vote at the postponed or adjourned meeting or at the new venue. This Article applies unless the terms of appointment specify to the contrary.

4 PROCEEDINGS AT GENERAL MEETINGS

4.1 Representation of Member

- (a) At any meeting of the Company a Voting Member may vote in person or by:
 - (i) a proxy;
 - (ii) attorney; or
 - (iii) a Representative.
- (b) Unless the contrary intention appears, a reference to a Voting Member in this Part 4 (Proceedings at general meetings) includes a proxy, attorney or a Representative of a Voting Member.

4.2 Quorum

No business may be transacted at any general meeting unless a quorum is present comprising Voting Members which are entitled to cast not less than 75% of the maximum number of votes which could be cast on a poll if all Voting Members were present at that meeting.

4.3 Requirement for a quorum

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 chair of the meeting (on the chair's own motion or at the request of a Voting Member) declares otherwise.

4.4 Failure to achieve quorum

- (a) Where a meeting is convened on the requisition of Members in accordance with the Corporations Act and a quorum is not present within 30 minutes from the time appointed for the meeting, the meeting must be dissolved.
- (b) Where a meeting is convened in any manner other than as specified in paragraph (a) and a quorum is not present within 30 minutes from the time appointed for the meeting:
 - (i) the meeting must be adjourned to such day, time and place as the Board determines or if no determination is made by the Board to the same day in the next week at the same time and place; and

- (ii) if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting the meeting must be dissolved.

4.5 Appointment and powers of the chair of general meeting

- (a) If the Board have appointed a chair of meetings of Directors, that person is entitled to preside as chair at every general meeting of the Company.
- (b) Where a general meeting is held and:
 - (i) a chair has not been appointed; or
 - (ii) the appointed chair is not present within 15 minutes from the time appointed for the commencement of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be the chair of the meeting or, if no Director is present or if all Directors present decline to take the chair, the Voting Members present must elect a person representing a Voting Member as the chair of the meeting.

- (c) The chair of the general meeting:
 - (i) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
 - (ii) may require the adoption of any procedure which is in the chair's opinion necessary or desirable for a proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
 - (iii) may, having regard where necessary to Sections 250S and 250T of the Corporations Act, terminate discussion or debate on any matter whenever the chair considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chair in accordance with this Article is final.

4.6 Adjournment of general meeting

- (a) The chair may adjourn any business to a later time at the same meeting, or to an adjourned meeting at any time and any place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) Unless required by the chair, a vote may not be taken or demanded by the Members in respect of any adjournment.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.

- (d) Except as provided by paragraph (c), it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.
- (e) A demand for a poll 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.
- (f) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

4.7 Voting at general meeting

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 (before or on the declaration of the result of the show of hands) demanded by:

- (a) the chair; or
- (b) a Voting Member.

Unless a poll is properly demanded and that demand is not withdrawn:

- (i) a declaration by the chair 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; and
- (ii) neither the chair 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.

4.8 Passing of resolutions

Subject to any requirements of the Corporations Act, a resolution (other than special resolution) is taken to be passed if 75% or more of the maximum number of votes which could be cast on a poll if all Voting Members were present at that meeting are cast in favour of the resolution.

A special resolution is passed if it is passed in accordance with the Corporations Act.

4.9 Poll

If a poll is properly demanded:

- (a) it must be taken in such manner and, subject to paragraph (b), either at once or after an interval or adjournment or otherwise as the chair directs, and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) a poll demanded on the election of a chair or on a question of adjournment must be taken immediately;
- (c) the demand for a poll 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.

4.10 Entitlement to vote

The entitlement of a Voting Member to vote in a general meeting is determined in accordance with Part II of Schedule 2.

4.11 Objection to voting qualification

An objection to the qualification of a Voting Member to attend or vote at a general meeting or adjourned general meeting:

- (a) may not be raised, except at that meeting or adjourned meeting;
- (b) must be made before the vote objected to is given or tendered;
- (c) must be referred to the chair of the meeting, whose decision is final; and
- (d) a vote not disallowed under such an objection is valid for all purposes.

4.12 Appointment of proxy, attorney or Representative

An instrument appointing a proxy, attorney or Representative:

- (a) must be, in any form permitted by the Corporations Act and signed by or on behalf of the Member making the appointment;
- (b) need not appoint a Member;
- (c) may specify the manner in which the proxy, attorney or Representative is to vote in respect of a particular resolution and, where the instrument so provides, the person concerned is not entitled to vote on the resolution except as specified in the instrument;
- (d) is deemed to confer authority to demand or join in demanding a poll; and
- (e) is deemed to confer authority to vote on a show of hands or on a poll.

4.13 Deposit of proxy and other instruments

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

4.14 Validity of vote in certain circumstances

In the absence of notice to the Company received before the commencement of a meeting, a vote cast in accordance with the terms of an instrument of proxy or power of attorney at the meeting is valid even if, before the person votes, the Member had revoked the appointment or power of attorney.

4.15 Persons entitled to notice of, attend and speak at meetings of Members

- (a) Notice of every general meeting and meeting of all or any of the Members must be given in a manner authorised by Article 15.1 (How communications are given) and in accordance with this Constitution and the Corporations Act to:
 - (i) every Member entitled to attend the relevant meeting;
 - (ii) every Director and Alternate Director; and
 - (iii) the Auditor.
- (b) Every person entitled to receive notice of a general meeting, and the Secretary, is entitled to attend and speak at the meeting.
- (c) No other person is entitled to receive notices of general meetings, or attend and speak at general meetings, except as required by the Corporations Act or the order of a court of competent jurisdiction.
- (d) Nothing in this Article 4.15 prevents other persons from being invited by the Company to attend or speak at a meeting.

4.16 Unanimous resolution of Voting Members

Subject to the provisions of the Corporations Act, a resolution signed by all the Voting Members is as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Voting Members.

4.17 Class meetings

Subject to the provisions of the Corporations Act, the provisions of Parts 3 (General meetings) and 4 (Proceedings at general meetings) apply, with any necessary adaptations, to meetings of any class of Members required to be convened under the Corporations Act or any other applicable law, subject to the following modifications:

- (a) no Member may requisition a meeting of all or any class of Members;
- (b) in the case of Appointing Members, a quorum is constituted by Appointing Members present which are entitled to cast not less than 50% of the maximum number of votes which could be cast on a poll if all Appointing Members were present at that meeting;

- (c) in the case of Electing Members, a quorum is constituted by Electing Members present which are entitled to cast not less than 50% of the maximum number of votes which could be cast on a poll if all Electing Members were present at that meeting;
- (d) in the case of Operator Members, a quorum is constituted by at least 50% of the Operator Members;
- (e) subject to any requirements of the Corporations Act, a resolution is taken to be passed if 50% or more of the maximum number of votes which could be cast on a show of hands or a poll (as applicable) if all Members of the relevant class were present at that meeting are cast in favour of the resolution;
- (f) a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chair of the meeting or a Member of the relevant class;
- (g) if a poll is demanded:
 - (i) in the case of a meeting of Appointing Members or Electing Members, each Member has the same number of votes it would have at a general meeting as specified in Article 4.10 (Entitlement to vote); and
 - (ii) in the case of a meeting of Operator Members, each Member has one vote; and
- (h) whether on a show of hands or a poll, the chair of the meeting does not have a casting vote.

5 DIRECTORS

5.1 Number of Directors

Except as required by the Corporations Act, there is no minimum or maximum number of Directors.

5.2 Qualification of Directors

A Director is not required to be a Member of the Company.

5.3 Composition of the Board

The Board will consist of:

- (a) subject to paragraph 3 of Schedule 3, an equal number of Appointed Directors and Elected Directors;
- (b) three Independent Directors, appointed as set out in Article 5.6 (Independent Directors), one of whom is the chair;
- (c) one Director appointed by the Reserve Bank; and
- (d) the Chief Executive Officer.

5.4 Appointed Directors

- (a) An Appointed Director is appointed by an Appointing Member.
- (b) Each Appointing Member (which has paid all fees due and owing to the Company at the time of appointment) may appoint and remove one Director.
- (c) The appointment must be accompanied by any supporting documents the Board requires.

5.5 Elected Directors

Subject to paragraph 3 of Schedule 3:

- (a) the Elected Directors are elected by the Electing Members; and
- (b) an Electing Member:
 - (i) may nominate a person as a candidate for election as a Director by nomination in the form approved by the Board;
 - (ii) may vote in a ballot of candidates to elect the Elected Directors, provided the Electing Member has paid all fees due and owing to the Company at the time of voting; and
 - (iii) in the ballot, is entitled to exercise the number of votes determined by reference to that Member's relative proportional entitlement to vote in a general meeting, with any necessary adaptations.

5.6 Independent Directors

- (a) The Independent Directors are appointed by the Board.
- (b) Each candidate must:
 - (i) satisfy the Independence Criteria; and
 - (ii) consent to the nomination.
- (c) The Board will assess the independence of the Independent Directors at least once each year, and on disclosure by an Independent Director of any new interests or relationships.
- (d) At the request of the Board, a committee of the Board (including a Committee of Management) may prepare a short-list of candidates or provide recommendations to assist the Board in relation to this Article.

5.7 Maintaining equal numbers of Appointed and Elected Directors

Subject to paragraph 3 of Schedule 3, where changes to the Board are required to maintain the balance between the number of Appointed Directors and Elected Directors as a result of a re-classification of Voting Members in accordance with Article 2.9 (Re-classification of Electing Members and Appointing Members) following a determination of PSMS:

- (a) the changes to the Board will become effective at the annual general meeting following that determination of PSMS;
- (b) where an Electing Member is reclassified as an Appointing Member and thereby attains the right to appoint an Appointed Director, then:
 - (i) that Member (if it has paid all fees due and owing to the Company at the time of appointment) may appoint a person its Appointed Director in accordance with Article 5.4 (Appointed Directors);
 - (ii) if an Elected Director is an officer or employee of, or was nominated as a candidate for election as a Director by, that Member, that Elected Director automatically vacates office; and
 - (iii) the Board must arrange for a vote of the remaining Electing Members to take place to elect such number of additional Elected Directors to ensure that, subject to paragraph 3 of Schedule 3, there is an equal number of Appointed Directors and Elected Directors; and
- (c) where an Appointing Member is reclassified as an Electing Member, and thereby loses the right to appoint an Appointed Director, then:
 - (i) that Appointed Director automatically vacates office; and
 - (ii) subject to paragraph 3 of Schedule 3, the Board must arrange for a vote of the Electing Members to take place to select an Elected Director to vacate office.

5.8 Nomination and Election Processes

The Board or, at the request of the Board, a committee of the Board may determine:

- (a) processes for considering nominations of candidates for appointment as Independent Directors; and
- (b) processes for the election of, vacation of office by, or conduct of elections for, Elected Directors by all or some of the Electing Members in accordance with this Constitution, including the nomination of candidates and the method of voting.

5.9 Term of office

- (a) The term of office of a Director expires at the conclusion of the third annual general meeting of the Company following the Director's appointment.
- (b) A Director whose term of office expires in accordance with paragraph (a) is eligible to be re-appointed or re-elected, as the case may be, subject to paragraph (c).

- (c) A person may not serve as a Director for more than 12 years (in aggregate, either continuously or in broken periods) without the consent of a majority (by number) of the other Directors. For the purpose of this Article, a person's term in office before the Amendment Date is not taken into account.
- (d) The Chief Executive Officer may only hold office as a Director for a period not exceeding the term of employment.

5.10 Remuneration of Directors

The Directors may be paid such remuneration as is determined by the Company in general meeting. That remuneration is deemed to accrue from day to day.

The Directors may also be paid all travelling and other expenses properly incurred by them in connection with the business of the Company, including in attending and returning from:

- (a) meetings of the Directors or any committee of the Board (including a Committee of Management); or
- (b) general meetings or any other meetings of all or any of the Members.

5.11 Director's interests

- (a) Subject to the Independence Criteria and the other provisions of this Constitution, and to complying with the provisions of the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
 - (i) hold any office or place of profit (other than that of Auditor) in the Company.
 - (ii) be or become a director of or otherwise hold office or a place of profit in any other company promoted by the Company or in which the Company may be interested as vendor, shareholder or otherwise;
 - (iii) contract or make any arrangement with the Company whether as vendor, purchaser, broker, solicitor or accountant or other professional person or otherwise;
 - (iv) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connected with them;
 - (v) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
 - (vi) despite having an interest in a document, sign or participate in the execution of a document by or on behalf of the Company;
 - (vii) do any of the above despite the fiduciary relationship of the Director's office:

- (viii) without any liability to account to the Company for any benefit accruing to the Director; and
- (ix) without affecting the validity of any contract or arrangement.

A reference to the Company in this Article is also a reference to any Related Body Corporate of the Company.

- (b) Each Director must disclose his or her interests to the Company in accordance with the Corporations Act and the Secretary must record any such declaration in the minutes of the relevant meeting.
- (c) A Director may only vote in respect of any contract or proposed contract or arrangement in which he or she has a material interest (other than an interest arising merely as a director or employee of a Member) if he or she has first disclosed his or her interest to the Directors in accordance with the Corporations Act. If a Director is not permitted to vote in accordance with this Article, but does so vote, then his or her vote may not be counted although he or she may be counted in the quorum present at any Directors' meeting at which such contract or arrangement is considered.
- (d) Subject to the Corporations Act, the restrictions contained in paragraph (c) may be suspended or relaxed to any extent and either prospectively or retrospectively by the Company in general meeting.

5.12 Retirement and Removal of Directors

In addition to the circumstances in which the office of a Director becomes vacant by virtue of 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 office by notice to the Company;
- (c) is absent without the consent of the Board from meetings of the Directors held during a period of 6 months;
- (d) in the case of an Appointed Director:
 - (i) is removed by the Appointing Member entitled to appoint and remove that person as a Director by notice; or
 - (ii) is required to resign because the Appointing Member entitled to appoint and remove that person as a Director ceases to be an Appointing Member;
- (e) in the case of an Elected Director:
 - (i) is removed by a vote of the Electing Members as required by Article 5.7(c)(ii) (Maintaining equal numbers of Appointed and Elected Directors);

- (ii) is an officer or employee of, or was nominated as a candidate for election as a Director by, an Electing Member which is re-classified as an Appointing Member and thereby attains the right to appoint an Appointed Director; or
- (iii) who:
 - (A) was an officer or employee of an Electing Member at the time of election, ceases to be an officer or employee of that Electing Member or any other Electing Member; or
 - (B) held a professional position at the time of election, ceases to practise in that profession,

unless the Board determines, in its discretion, that the cessation is unlikely to impair the Elected Director's capacity to perform their duties as an Elected Director;
- (f) in the case of the Director appointed by the Reserve Bank, is removed by the Reserve Bank by notice;
- (g) in the case of an Independent Director, ceases to satisfy the Independence Criteria;
- (h) in the case of a Director appointed by Building Society Members, Credit Union Members or the Mutuels Group during the Grandfathering Period:
 - (i) is required to resign because the Director's appointor no longer satisfies the threshold requirement to appoint a Director as set out in paragraph 1(b) and 2(a) of Schedule 3; or
 - (ii) is removed by the Director's appointor, by notice;
- (i) is removed from office by the Company by a special resolution; or
- (j) dies.

5.13 Vacancies

- (a) To fill a casual vacancy in the office of an:
 - (i) Appointed Director or a Director appointed by the Reserve Bank, Building Society Members, Credit Union Members or the Mutuels Group, the relevant appointor may appoint a person to replace the retiring or removed Director;
 - (ii) Elected Director, the Board must arrange for a vote of the Electing Members to take place no later than the date of the next general meeting to elect a new Elected Director to replace the retiring or removed Elected Director, and the voting entitlement of the retiring or removed Elected Director is re-allocated equally among the remaining Elected Directors until the election of Electing Members is held;

- (iii) Independent Director, the Board must appoint by no later than the date of the next general meeting a replacement Independent Director in accordance with this Constitution, and the voting entitlement of the retiring or removed Independent Director is re-allocated equally among the remaining Independent Directors until a replacement is appointed.
- (b) A person who is appointed as a Director in accordance with paragraph (a) in place of the retiring or removed Director only holds office for the remaining term of the removed or retiring Director. Such a person is eligible for re-appointment as a Director, subject to Article 5.9 (Term of office).

6 POWERS AND DUTIES OF DIRECTORS

6.1 Directors not to sell without approval

The Directors must not:

- (a) sell or dispose of the Company's main undertaking or sell, dispose of or discontinue the operations of a Framework; or
- (b) create or allow to exist any bill of sale (as defined in any statute), mortgage, charge, lien, pledge, hypothecation or other security interest (other than a lien arising by operation of law) on the whole or any part of the Company's present or future property,

without either:

- (c) the prior approval of the Company in general meeting and (in the case of a sale, disposal of or discontinuance of the operations of a Framework) approval of the Framework Participants of that Framework in accordance with the relevant Regulations; or
- (d) such sale, disposal, discontinuance or security interest being subject to ratification by the Company in general meeting and (in the case of a sale, disposal of or discontinuance of the operations of a Framework) approval of the Framework Participants of that Framework in accordance with the relevant Regulations.

6.2 Directors to manage Company

Subject to:

- (a) the Corporations Act;
- (b) Article 6.1 (Directors not to sell without approval); and
- (c) any other provision of this Constitution,

the business of the Company is managed by the Directors, who may exercise all such powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

6.3 Specific powers of Directors

Without limiting the generality of Article 6.2 (Directors to manage Company) but subject to Article 6.1 (Directors not to sell without approval), the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

6.4 Delegation of powers

- (a) This Article does not apply to Committees of Management – see Part 10 (Australian Payments Network Limited Frameworks).
- (b) The Board may delegate any of the powers of the Directors, other than powers required by law to be dealt with by the Directors as a board, to a committee consisting of at least one of their number and such other persons as they think fit.
- (c) Any delegation of powers in accordance with this Article may be subject to such conditions or restrictions as the Board thinks fit and the Board may revoke, withdraw, alter or vary the delegation of any of those powers.
- (d) The powers of delegation expressly or impliedly conferred by this Article are conferred in substitution for, and to the exclusion of, the power conferred by Section 198D of the Corporations Act.
- (e) A committee to which any powers of the Board have been delegated in accordance with this Article must exercise those powers in accordance with any directions of the Board.

6.5 Proceedings of committees

Provisions of this Constitution that apply to meetings and resolutions of Directors apply, as far as they can, with any necessary changes, to meetings and resolutions of a committee to which any powers of the Board have been delegated in accordance with Article 6.4 (Delegation of powers).

6.6 Appointment of attorney

- (a) The Board may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

6.7 Minutes

- (a) The Directors must cause minutes to be made of all proceedings of general meetings, meetings of all or any Members and meetings of

Directors, including the names of the Directors present at those meetings, and cause those minutes to be entered in the minute book as soon as practicable.

- (b) The minutes must be signed as a true and correct record of the relevant meeting by the chair of the next succeeding meeting of Directors following confirmation or amendment of those minutes at that next succeeding meeting of Directors.

6.8 Execution of Company cheques etc.

All cheques and other negotiable instruments of the Company must be executed in the manner and by the persons that the Board determines.

7 PROCEEDINGS OF DIRECTORS' MEETINGS

7.1 Directors' meetings

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may, and the Secretary must on the requisition of a Director, convene a meeting of the Directors.
- (c) Meetings of Directors will be convened and conducted, and resolutions of Directors will be passed, in accordance with the Board Charter. However, the validity of acts done at any meeting of Directors, resolutions passed by Directors or acts done by any person acting as a Director in accordance with this Constitution (disregarding this paragraph) and applicable law are not affected by any non-compliance with the Board Charter.

7.2 Voting

Any question arising in a meeting of Directors is to be answered in the affirmative if more than 60% of the maximum number of votes which could be cast on a poll if all Directors entitled to vote were present at that meeting are cast in favour of the question. Any such decision is for all purposes deemed a decision of the Board and the Directors.

7.3 Use of technology for Directors' meetings

A Directors' meeting may be called or held using any technology consented to by all the Directors by which they are able simultaneously to hear each other and to participate in discussion notwithstanding they (or one or more of them) are not physically present in the same place.

In accordance with Section 248D of the Corporations Act:

- (a) the consent may be a standing one; and
- (b) a Director may only withdraw their consent within a reasonable period before the meeting.

The Board should also take all reasonable steps to ensure that all Directors participating in a meeting are able to see the content of all documents referred

to in the meeting (or received copies of the documents within a reasonable period before the meeting).

7.4 Directors' voting entitlements

Directors' voting entitlements are determined in accordance with Part I of Schedule 2.

7.5 Alternate Directors

- (a) Subject to the Corporations Act, a Director (other than an Independent Director) may appoint a person to be an Alternate Director to act in the place of the Director, either for a stated period or until the happening of a specified event, whenever the Director is unable to attend to duties as a Director whether by absence or illness or otherwise.
- (b) An Alternate Director present at any meeting of Directors has the same number of votes as each Director for which he or she is an Alternate Director if the appointor Director is not present at the meeting. If an Alternate Director is also a Director, the Alternate Director also has the number of votes such person is entitled to in that capacity.
- (c) An Alternate Director may be removed or replaced in the same manner as the Director for whom he or she acts as an Alternate Director.
- (d) An Alternate Director is entitled to notice of all meetings of the Directors and is entitled to attend those meetings. An Alternate Director is not entitled to speak at meetings of the Directors unless the Director for whom the Alternate Director acts as the alternate is not present or unless invited to do so by the chair of that meeting.
- (e) In the absence of the Director for whom an Alternate Director acts as the alternate, that Alternate Director may exercise any powers which that Director may exercise (except the power to appoint an alternate Director) and in the exercise of any such power by the Alternate Director he or she is an officer of the Company and is not deemed to be an agent of that Director, and is responsible to the exclusion of the appointor Director for his or her own acts and defaults.
- (f) An Alternate Director is not required to be a Member of the Company.
- (g) An Alternate Director is subject in all respects to the conditions attaching to the Directors generally, including without limitation the payment of remuneration in accordance with Article 5.10 (Remuneration of Directors).

- (h) The appointment of an Alternate Director may be terminated by the appointor Director even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor Director ceases to be a Director.
- (i) An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice signed by the appointor Director and delivered to the Company.
- (j) An Alternate Director is not to be taken into account separately from the appointor Director in determining the number of Directors.

7.6 Quorum for Directors' meetings

At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is:

- (a) such number of Directors, at least one of whom must be an Independent Director, who are entitled to cast not less than 75% of the maximum number of votes which could be cast on a poll if all Directors entitled to vote were present at that meeting; or
- (b) such greater number as is determined by the Board.

7.7 Remaining Directors may act

In the event of a vacancy in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, only for the purpose of convening a general meeting of the Company.

7.8 Chair and deputy chair

- (a) The Board must appoint an Independent Director as chair of the Company.
- (b) The Board may remove a person appointed in accordance with this Article from the office of chair and appoint another to that office instead.
- (c) Subject to paragraph (b), the chair's term of office expires on the day three calendar years after the date of his or her appointment. A chair whose term of office expires in accordance with this paragraph (c) may be re-appointed.
- (d) The Board may elect one of their number as deputy chair of the Company and may determine the period for which the deputy chair is to hold office.
- (e) The deputy chair is, in the chair's absence, entitled to exercise any of the powers and obliged to carry out any of the obligations of the chair which are granted to, or imposed upon, the chair in accordance with this Constitution.

- (f) Where a meeting of Directors is held and:
- (i) a chair has not been elected or appointed as provided by paragraph (a); or
 - (ii) the chair is not present within 15 minutes from the time appointed for the commencement of the meeting or is unable or unwilling to act,
- and:
- (iii) a deputy chair has not been elected as provided by paragraph (d); or
 - (iv) the deputy chair is not present within 15 minutes from the time appointed for the commencement of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chair of the meeting.

7.9 Chair's entitlement to vote

- (a) The chair is entitled to vote and may exercise the number of votes an Independent Director may exercise in accordance with Article 7.4 (Directors' voting entitlements), but does not have a casting vote.
- (b) A Director elected as deputy chair in accordance with Article 7.8(d) (Chair and deputy chair), or as chair of a meeting in accordance with Article 7.8(f) (Chair and deputy chair), remains entitled to exercise the number of votes that person may exercise in accordance with Article 7.4 (Directors' voting entitlements) when acting in that capacity but does not have a casting vote.

7.10 Unanimous resolution by Directors

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 Directors if the wording of the resolution and statement is identical in each copy.

The resolution is passed when the last Director signs.

7.11 Directors' meetings defined

A meeting of Directors means:

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

- (b) the Directors communicating with each other by any technological means consented to in accordance with Article 7.3 (Use of technology for Directors' meetings),

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

7.12 Validity of acts of Directors

All acts done by any meeting of the Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that:

- (a) there was some defect in the appointment of a person to be a Director or to act as a Director; or
- (b) that a person so appointed was disqualified;

as valid as if the person had been duly appointed and were qualified to be a Director.

7.13 Chief Executive Officer

- (a) The Board must appoint a person to the office of Chief Executive Officer either for a fixed term or, without limitation, as to period of appointment (but not for life), and may remove a person so appointed and appoint another instead.
- (b) The Chief Executive Officer may be appointed a non-voting Director of the Company.
- (c) The Chief Executive Officer may, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Board determines.
- (d) The Board may, on such terms and conditions and with such restrictions as they think fit, confer on the Chief Executive Officer any of the powers exercisable by the Board.
- (e) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Board.
- (f) The Board may withdraw or vary any of the powers so conferred on the Chief Executive Officer.

8 PAYMENT SYSTEM MARKET SHARE

8.1 Annual determination of a Voting Member's PSMS

The Company must determine, at least annually, but no later than one month before the date of the annual general meeting of the Company, the PSMS for each Voting Member in accordance with this Part 8 (Payment System Market Share) and Schedule 1.

8.2 Re-determination of PSMS

The Company may re-determine the PSMS for Voting Members in the event of the admission or resignation of a Voting Member or a change in the capacity in which a Voting Member is entitled to be a Member of the Company.

8.3 Notification of PSMS

The Secretary must notify each Voting Member of each determination or re-determination of that Member's PSMS.

The Secretary must notify all Directors of any determination or re-determination of a Voting Member's PSMS which alters the voting entitlements of Directors under Article 7.4 (Directors' voting entitlements).

8.4 Purpose of determination of PSMS

The PSMS of Voting Members is determined for the purpose of:

- (a) classifying Voting Members (other than the Reserve Bank) as Electing Members and Appointing Members;
- (b) determining voting entitlement of Voting Members in accordance with Part II of Schedule 2;
- (c) allocating the funding burden between Voting Members; and
- (d) determining the voting entitlement of Appointed Directors, Elected Directors and the Director appointed by the Reserve Bank in accordance with Part I of Schedule 2.

9 RECOGNISED APS

The Board may:

- (a) determine and review the Recognition Criteria; and
- (b) decide whether an APS (including a new Framework which is an APS established under Part 10 (Australian Payments Network Limited Frameworks)) meets the Recognition Criteria, and make a determination that an APS is a Recognised APS;
- (c) determine the Payment Stream in which that Recognised APS will be included; and
- (d) determine criteria for identifying whether a person is a participant in a Recognised APS.

10 AUSTRALIAN PAYMENTS NETWORK LIMITED FRAMEWORKS

10.1 Directors' powers to establish Frameworks

Subject to this Constitution, the Board may:

- (a) establish a new Framework, which may or may not be an APS;

- (b) establish any new class of Framework Participants in a Framework and prescribe the qualifications, rights, restrictions and obligations of Framework Participants in that class; and
- (c) vary or abrogate the qualifications, rights, restrictions or obligations of Framework Participants (other than any right or liability arising as a result of any act, matter or thing occurring prior to the date such variation or abrogation takes effect) in any new or existing class of Framework Participants in a Framework.

10.2 Committees of Management

- (a) In addition to any committee to which any powers of the Board have been delegated in accordance with Article 6.4 (Delegation of powers), the Board must establish a committee of management in respect of each Framework.
- (b) The Board may delegate to each Committee of Management such of the powers of the Directors, other than powers required by law to be dealt with by the Directors as a board, as are necessary, desirable or expedient to enable that Committee of Management to properly perform its obligations under this Constitution or the Regulations for the relevant Framework.
- (c) Any delegation of powers in accordance with this Article may be subject to such conditions or restrictions as the Board thinks fit and the Board may revoke, withdraw, alter or vary the delegation of any of those powers.
- (d) The powers of delegation expressly or impliedly conferred by this Article on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by Section 198D of the Corporations Act.
- (e) Provisions of this Constitution that apply to meetings and resolutions of Directors apply, as far as they can, with any necessary changes, to meetings and resolutions of a committee to which any powers of the Board have been delegated in accordance with this Article.

10.3 Composition of Committees of Management

Each Committee of Management will consist of:

- (a) if the Board so elects, one person appointed by the Board, being either a Director entitled to vote at a meeting of Directors or an Alternate Director; and
- (b) such other persons elected, appointed or selected in accordance with the relevant Regulations.

10.4 Chair of Committee of Management

The person (if any) appointed to a Committee of Management by the Directors under Article 10.3(a) (Composition of Committees of Management) shall act as chair of the meetings of that Committee of Management. Failing any such appointment, the Directors must select a member of the relevant

Committee of Management to act as chair at its meetings. The Directors must determine the period for which a person selected as chair of a Committee of Management is to hold that office.

10.5 Removal of members of a Committee of Management

The Board may remove any person as a member of a Committee of Management without giving any reason for such removal.

10.6 Directions to a Committee of Management

A Committee of Management to which any powers have been delegated in accordance with Article 10.2 (Committees of Management) must exercise the powers delegated in accordance with any directions of the Board. The Board must consult with a Committee of Management before issuing any directions regarding the exercise of powers which have been delegated to that Committee of Management. A power so exercised is deemed to have been exercised by the Board and the Directors.

10.7 Regulations of a Framework

The Company must prescribe the Regulations for the use and operation of, or participation by, Framework Participants in each Framework.

In addition, the Regulations must expressly provide that the Company does not acquire any financial assets (other than in respect of fees and charges payable by Framework Participants in the relevant Framework) or incur any liabilities as a result of the operation or management of a Framework.

10.8 Amendment of Regulations

- (a) The Regulations for a Framework may be amended if:
 - (i) the relevant Committee of Management recommends the amendments;
 - (ii) a meeting of the Framework Participants in the Framework approves the amendments; and
 - (iii) the Board approves the amendments.
- (b) The amendments cannot become effective before they are approved by the Board.

10.9 No liability

Neither the Company nor any officer of the Company nor any member of a Committee of Management shall incur any liability to a Member by reason of, or in relation to, the prescribing of Regulations.

10.10 Compliance

The Regulations of a Framework may include provisions for:

- (a) the indemnification of the Company and its officers, members of the relevant Committee of Management, participants in the Framework and others; and
- (b) to the extent permitted by applicable law, the payment of fines and penalties,

for breach of the Regulations by any person bound by the Regulations.

11 SECRETARY

11.1 Appointment of Secretary

There must be at least one Secretary of the Company who may be appointed by the Board for such term, at such remuneration and on such conditions as they think fit.

11.2 Suspension and removal of Secretary

The Board has power to suspend or remove the Secretary.

11.3 Powers and duties of Secretary

The Board may vest in the Secretary such powers, duties and authorities as they may determine and the Secretary must exercise all such powers and authorities subject at all times to the control of the Board.

11.4 Assistant Secretary

The Board may appoint, suspend or remove an Assistant Secretary.

12 COMMON SEALS

The Company may have a common seal and a duplicate common seal.

13 INSPECTION OF RECORDS

13.1 Inspection by Members

Except as otherwise required by the Corporations Act, the Board may determine whether and to what extent, and at what times 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.

13.2 Right of a Member to inspect

A Member does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting.

14 RESERVES

- (a) The Board may set aside out of the profits of the Company such sums as they think proper as reserves, to be applied, at the discretion of the Board, for any purpose for which the profits of the Company may be properly applied.
- (b) Pending any such application, the reserves may, at the discretion of the Board, be used in the business of the Company or be invested in such investments as the Board think fit.
- (c) The Board may carry forward so much of the profits remaining as they think fit without transferring those profits to a reserve.

15 COMMUNICATIONS

15.1 How communications are given

A notice or other communication may be given by the Company to any Member or other person receiving it under this Constitution:

- (a) personally; or
- (b) by delivering or sending it by post to the address shown in the register or the address supplied by that Member or person to the Company for the giving of notices or other communications; or
- (c) by sending it to the fax number or electronic address supplied by the Member or that person to the Company for the giving of notices or other communications; or
- (d) by publishing it on the Company's extranet or website in a manner accessible by the Member or the person receiving the notice or other communication, accompanied by an electronic communication to the recipient advising of the publication.

15.2 When received

- (a) Where a notice or other communication is sent by post to an address in Australia, service of it is deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice or other communication, and it is deemed to have been served on the business day after the date of its posting.
- (b) Where a notice or other communication is sent by fax, service of it is deemed to be effected by properly addressing the facsimile transmission and transmitting it and to have been served on the business day following its dispatch.
- (c) Where a notice or other communication is sent by electronic mail or published on the Company's extranet or website, it is deemed to have been served on the business day following its dispatch or publication.

15.3 Evidence of service

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

16 INDEMNITY

16.1 Indemnity

To the maximum extent permitted by law, every person who is or has been a Director or Secretary of the Company is entitled to be indemnified 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) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and
- (c) all reasonable 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;

unless:

- (d) the Company is forbidden by statute 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 would, if given, be made void by statute.

16.2 Insurance

To the maximum extent permitted by law, 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 statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

17 ACCOUNTS

The Board must cause the accounts and records of the Company to be maintained and, if required, audited in accordance with the requirements of the Corporations Act.

SCHEDULE 1

PSMS CALCULATION

1. Collection of data: Part 8 (Payment System Market Share)

- (a) Subject to paragraph 4 below, the Company must collect data in relation to the volume and value of each Voting Member's annual transaction activity on a national basis, based on groupings of one or more Recognised APSs which have common characteristics (each a "Payment Stream") as follows:
 - (i) Paper Payment Stream;
 - (ii) Low Value Payment Stream;
 - (iii) Cards Payment Stream;
 - (iv) High Value Payment Stream; and
 - (v) such other Payment Streams determined by the Board.
- (b) The Board must determine the method of collecting the data.
- (c) In this Schedule, "**Total Payment System**" means the total transaction activity on a national basis in all Recognised APSs.

2. Weightings: Part 8 (Payment System Market Share)

- (a) The volume and value of each Voting Member's transactions in each Payment Stream will be weighted, with volume weighted at 65% and value weighted at 35%.
- (b) Each Voting Member's measure of relative significance in a Payment Stream is then aggregated using a weighting that corresponds to each Payment Stream's relative significance in the Total Payment System as determined by the Board, using the same weightings for volume and value.
- (c) A Voting Member's PSMS is derived from:
 - (i) the Voting Member's market share within each Payment Stream; and
 - (ii) the weightings determined in accordance with paragraphs (a) and (b) above,

in the manner set out in paragraph 3 below.

3. Calculation of PSMS: Part 8 (Payment System Market Share)

- (a) A Voting Member's PSMS is calculated by adding together all of the Voting Member's weighted Stream Market Shares ("**SMS**") according to the following formula:

$$\text{PSMS} = (\text{SMS1} * \text{SW1}) + (\text{SMS2} * \text{SW2}) + \dots + (\text{SMSn} * \text{SWn})$$

where:

"**SMSn**" means the Voting Member's SMS in Payment Stream number "n", calculated in accordance with paragraph(b) below; "**SWn**" means the percentage weight of Payment Stream number "n" within the Total Payment System, calculated in accordance with paragraph (c) below.

- (b) A Voting Member's SMS is calculated by adding together the Voting Member's weighted percentage of total stream volume and weighted percentage of total stream value according to the following formula:

$$\text{SMS} = (\text{Vol} \% * 0.65) + (\text{Val} \% * 0.35)$$

where:

"**Vol%**" means the percentage of the total volume of annual transaction activity in the Payment Stream attributable to the Voting Member; and

"**Val%**" means the percentage of the total value of annual transaction activity in the Payment Stream attributable to the Voting Member.

- (c) The percentage weight of each Payment Stream within the Total Payment System ("**SW**") is calculated by adding together the Payment Stream's weighted percentage of Total Payment System volume and weighted percentage of Total Payment System value according to the following formula:

$$\text{SW} = (\text{SVol} \% * 0.65) + (\text{SVal} \% * 0.35)$$

where:

"**SVol%**" means the percentage of annual Total Payment System volume of activity taking place within the Payment Stream; and

"**SVal%**" means the percentage of annual Total Payment System value of activity taking place within the Payment Stream.

4. PSMS during Governance Transition Period: Article 1.11(e) (Governance Transition Period)

During the Governance Transition Period the data to be used for the calculation of PSMS is for the 12 month period January to December 2012, supplemented with May 2013 data.

SCHEDULE 2

VOTING ENTITLEMENTS

PART I Directors' voting entitlements: Article 7.4 (Directors' voting entitlements)

Directors are entitled to exercise a total of 1,000 votes allocated as follows (rounding to the nearest whole vote):

1. Each Director (other than the Chief Executive Officer) has the number of votes ("DTV") given by the formula:

$$DTV = BV + AV$$

where:

"BV" equals the number of base votes calculated in accordance with paragraphs 3 and 4 below; and

"AV" equals the number of additional votes (if any) calculated in accordance with paragraphs 5 and 6 below.

2. The Chief Executive officer does not have a vote.
3. Independent Directors have, in aggregate, 150 base votes divided equally amongst them, and do not have additional votes.
4. The Appointed Directors, Elected Directors and the Director appointed by the Reserve Bank have, in aggregate, 450 base votes, with each such Director having the number of base votes given by the formula:

$$BV = 450 / ND$$

where ND is the total number of those Directors.

5. If a Director's PSMS is greater than 5%, the Director has the number of additional votes given by the formula:

$$AV = 400 * (DS-5%) / (ADS - (5%*NAD))$$

where:

DS is the Director's PSMS;

ADS is the total PSMS of all Directors with PSMS greater than 5%; and

NAD is the number of those Directors.

6. For the purposes of paragraph 5:
 - (a) an Appointed Director's PSMS is the PSMS of the Appointing Member;
 - (b) the PSMS of the Director appointed by the Reserve Bank is the PSMS of the Reserve Bank; and

- (c) an Elected Director's PSMS is the total PSMS of the Elected Director's constituency of Electing Members divided by the number of Directors for that constituency.

PART II Voting Members' voting entitlements: Article 4.10 (Entitlement to vote)

Voting Members in general meeting are entitled to exercise a total of 1,000 member votes ("MV") allocated as follows (rounding to the nearest whole vote):

7. An Appointing Member in general meeting has votes calculated as follows:

$$MV = DTV / 0.85$$

where DTV is the total votes of the director appointed by the Appointing Member.

8. The Reserve Bank in general meeting has votes calculated as follows:

$$MV = RBTv / 0.85$$

where RBTv is the total votes of the Director appointed by the Reserve Bank.

9. An Electing Member in general meeting has votes calculated as follows:

$$MV = DTV / 0.85 * MS / DS$$

where:

DTV is the total votes of all Directors for the Member's constituency,

MS is the PSMS of the member,

DS is the total PSMS of all Members in that constituency.

PART III Constituencies

10. For the avoidance of doubt, during:

- (a) the first phase of the Grandfathering Period, the Building Society Members, the Credit Union Members and the other Electing Members are each a separate constituency;
- (b) the second phase of the Grandfathering Period, the Mutuals Group and the other Electing Members are each a separate constituency; and
- (c) the period following the end of the Grandfathering Period, the Electing Members are a single constituency.

SCHEDULE 3

GRANDFATHERING ARRANGEMENTS

1 Grandfathering Period: Building Society Members and Credit Union Members

During the Grandfathering Period:

- (a) whilst the Building Society Members have a PSMS of 1% or more and the Credit Union Members have a PSMS of 1% or more (the first phase of the Grandfathering Period):
 - (i) Building Society Members are entitled collectively to appoint one Director;
 - (ii) Credit Union Members are entitled collectively to appoint one Director;
 - (iii) the number of Directors the other Electing Members are entitled to elect, is reduced by two, as compared to the number of Directors if the Grandfathering Period had already expired;
 - (iv) at meetings of Directors, the Director appointed by the Building Society Members has the voting entitlement set out in Article 7.4 (Directors' voting entitlements);
 - (v) at meetings of Directors, the Director appointed by the Credit Union Members has the voting entitlement set out in Article 7.4 (Directors' voting entitlements);
- (b) if either the PSMS of the Building Society Members collectively, or the PSMS of Credit Union Members collectively, is determined to be less than 1% (the second phase of the Grandfathering Period):
 - (i) the Building Society Members and the Credit Union Members will be re-classified together as the Mutuels Group;
 - (ii) Building Society Members lose the right to appoint a Director;
 - (iii) Credit Union Members lose the right to appoint a Director;
 - (iv) the Mutuels Group is entitled collectively to appoint one Director whilst the Mutuels Group has a PSMS of 1% or more;
 - (v) as a result, the number of Directors the other Electing Members are entitled to elect, is only reduced by one, as compared to the number of Directors if the Grandfathering Period had already expired;
 - (vi) the Board must arrange for a vote of the other Electing Members to take place to elect such number of additional Elected Directors as is required by this Constitution; and

- (vii) at meetings of Directors, the Director appointed by the Mutuels Group has the voting entitlement set out in Article 7.4 (Directors' voting entitlements); and
- (c) the changes to the Board required as a result of changes to PSMS during the Grandfathering Period will become effective at the annual general meeting following the relevant determination of PSMS.

2 Expiry of Grandfathering Period

- (a) If the PSMS of the Mutuels Group is determined to be less than 1%:
 - (i) the Grandfathering Period expires;
 - (ii) the Mutuels Group loses the right to appoint a Director;
 - (iii) as a result, all the Electing Members are entitled to elect one additional Director;
 - (iv) each member of the Mutuels Group is re-classified as an Electing Member and has the same rights as all other Electing Members; and
 - (v) the Board must arrange for a vote of the Electing Members to take place to elect such number of additional Elected Directors as is required by this Constitution.
- (b) After the expiry of the Grandfathering Period:
 - (i) the PSMS of a Building Society Member will not be determined collectively with other Building Society Members;
 - (ii) the PSMS of a Credit Union Member will not be determined collectively with other Credit Union Members;
 - (iii) each Building Society Member and Credit Union Member must meet the same eligibility requirements as other Electing Members and may only be re-classified as an Appointing Member if it satisfies the eligibility requirements of an Appointing Member set out in Article 2.5 (Appointing Members) as a result of a calculation of that Member's PSMS.

3 Composition of Board during Grandfathering Period

During the Grandfathering Period, for the purpose of satisfying the requirement to maintain an equal number of Appointed Directors and Elected Directors on the Board:

- (a) the Directors appointed by the Building Society Members, Credit Union Members or the Mutuels Group are regarded as Elected Directors; and
- (b) the number of Directors the Electing Members (other than the Building Society Members and Credit Union Members) are entitled to elect, is reduced for each Director appointed by the Building Society Members, Credit Union Members or the Mutuels Group.