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ENERGY INDUSTRIES SUPERANNUATION SCHEME PTY LIMITED

ACN 077 947 285

CONSTITUTION

relating to
proprietary company limited by shares

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Corporations Act 2001 (Cth)

A Proprietary Company Limited by Shares

**Constitution of Energy Industries Superannuation Scheme Pty Ltd ACN
077 947 285 ("Company")**

1. NATURE OF COMPANY

Proprietary company

- 1.1 The Company is a proprietary company limited by shares. It must not raise money from the public.

Number of Shareholders

- 1.2 The Company must always have at least one Shareholder, but no more than 50. In calculating the number of Shareholders:

1.2.1 joint holders of shares are counted as one Shareholder in relation to those shares; and

1.2.2 a person is not counted if he or she became a Shareholder while employed by the Company or a subsidiary of the Company.

- 1.3 Objects of the company

1.3.1 The Company must exercise its powers under this Constitution and the Corporations Act only for the purpose of its functions, powers and duties as Trustee under the Energy Industries Superannuation Scheme Trust Deed between the Treasurer of the State of New South Wales and the company, dated 30 June 1997, as amended.

2. SHARE CAPITAL

2.1 Authorised capital

The capital of the company is \$1,000,000 divided into one million shares of \$1.00 each made up of:

(a) 500,000 Employer Class Shares made up of

(i) 125,000 "A" Class Shares;

(ii) 125,000 "B" Class Shares;

(iii) 125,000 "C" Class Shares;

(iv) 125,000 "D" Class Shares;

(b) 500,000 Member Class Shares made up of:

(i) 125,000 "E" Class Shares;

(ii) 125,000 "F" Class Shares;

- (iii) 125,000 “G” Class Shares;
- (iv) 125,000 “H” Class Shares.

2.2 Classes of shares

Shares of all classes rank equally except as specifically set out in this Constitution.

3. ISSUE OF SHARES

Power to issue shares

- 3.1 Shares in the Company may only be issued with the approval of at least a two thirds majority of all Shareholders.
- 3.2 A majority of Employer Class Shareholders shall approve of the proposed issue of any class of Employer Class Share. Employer Class Shares may only be issued to persons (or their Nominee) who in the opinion of a majority of the Employer Class Shareholders represent the interests of Employers.
- 3.3 A majority of Member Class Shareholders shall approve of the proposed issue of any class of Member Class Share. Member Class Shares may only be issued to persons (or their Nominee) who in the opinion of a majority of the Member Class Shareholders represent the interests of Members.
- 3.4 No class of Employer Class Share or Member Class Share shall be issued unless there is a vacancy in the office of director.
- 3.5 Shares may be issued either at a premium, at par or, in accordance with the Corporations Law, at a discount and at the times determined by the Shareholders in accordance with clauses 3.1, 3.2, 3.3, and 3.4.

Shares with special rights

- 3.6 Subject to the Corporations Act and any special rights conferred on the holders of any shares or class of shares, the Directors may issue classes of shares as they think fit with preferred, deferred or other special rights or restrictions, and with such rights to dividend, voting, return of capital or otherwise and at such price as the Directors think fit.

Recognition of interests in shares

- 3.7 Except where this Constitution or the Corporations Act states otherwise, the only interest in shares that the Company must recognise is the Shareholder's absolute right to the whole of the share. The Company will not recognise that a person holds a share on trust for someone else. Nor will it recognise a contingent, future or partial interest in, or right in respect of, any share or part of a share. This clause 3.7 applies regardless of whether the Company has notice of the relevant trust, interest or right.

Entitlement to certificates

- 3.8 The Company must give a Shareholder, if requested by the Shareholder, free of charge, a share certificate signed by or on behalf of the Company. If shares are jointly owned, it is sufficient to give a share certificate to one of the joint Shareholders.

Issue of certificates to joint holders

- 3.9 The company is not bound to issue more than one certificate in respect of a share or shares held jointly by several persons.
- 3.10 Delivery of a certificate for a share to one of several joint holders is sufficient delivery to all such holders.

Rights and obligations of joint holders

- 3.11 If several persons are jointly entitled to a share or shares:
- 3.11.1 in the absence of an express direction from those persons to the contrary, the Company may enter the names of those persons as Shareholders in the Register in the order in which their names appear on the application for shares or the instrument of transfer or the notice of death or bankruptcy given to the Company to establish those persons' entitlement to the share or shares;
 - 3.11.2 it is a sufficient discharge of any of the Company's obligations to those persons if the Company discharges that obligation in relation to the first named holder of the share or shares in the Register;
 - 3.11.3 any one of those persons may give effectual receipts for any dividend or return of capital payable to those persons; and
 - 3.11.4 those persons are jointly and severally liable to pay all calls, interest and other amounts in respect of the share or shares.

4. VARIATION OF CLASS RIGHTS

Form of consent

- 4.1 If at any time share capital is divided into different classes of shares, the rights attached to a class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied:
- 4.1.1 with the consent in writing of the holders of 75% of the issued shares of that class; or
 - 4.1.2 with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class.

Separate general meeting

- 4.2 The provisions of these clauses relating to general meetings, with all necessary changes required by the context of this clause, apply to every separate general meeting.

5. LIEN ON SHARES

Company's lien over partly paid shares

- 5.1 If a Shareholder has not fully paid the allotment price of any share or owes money to the Company, the Company has a first and paramount lien over all shares registered for that Shareholder alone (except fully paid shares). This lien is for the amount outstanding, even if

it is not immediately payable. This lien takes priority over all other rights in the share and extends to dividends payable on the share. However, the Directors can decide that a share is completely or partly exempt from this clause.

Company may sell partly paid shares

- 5.2 The Directors may sell any shares over which the Company has a lien if all of the following conditions are met:
- 5.2.1 the money owing in respect of the lien is payable immediately;
 - 5.2.2 the Company gives a notice to the registered holder, or the person entitled to the share, demanding immediate payment; and
 - 5.2.3 the money is not paid within 14 days after that notice is given.

Effect of sale of shares over which Company has lien

- 5.3 If the Directors sell shares over which the Company has a lien, the Directors must authorise the transfer of those shares to the purchaser. The Directors must register the purchaser as the Shareholder. The purchaser has no responsibility to oversee the Company's use of the purchase money, and his or her right to the shares is not affected by any irregularity in the sale.

Proceeds of sale

- 5.4 The Company may retain from the proceeds of the sale an amount up to the amount outstanding on the shares. It must pay any excess to the person who was entitled to the shares immediately before the sale. The Company retains a lien over the shares for any amount that still remains unpaid on the shares, whether it is immediately payable or not.

Company's right to recover payments

- 5.5 A Shareholder must pay to the Company on written demand an amount equal to all payments the Company makes to a government or taxation authority in respect of the Shareholder, the death of the Shareholder or the Shareholder's shares or any distributions made in respect of the Shareholder's shares (including dividends) where the Company is either:
- 5.5.1 obliged by law to make the relevant payment; or
 - 5.5.2 advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxation authority that the Company is obliged by law to make the relevant payment.

The Company does not need to notify the Shareholder in advance of its intention to make a payment pursuant to this clause.

6. CALLS ON SHARES

Payments due on fixed dates

- 6.1 If shares are issued on the basis that the Shareholder must make payments on fixed dates, the happening of one of those dates is regarded as a call on that date, and all the rules relating to calls apply.

Power to make calls

- 6.2 If a Shareholder has not paid the full price of shares, and the money is not payable at fixed times, the Directors may pass a resolution requiring the Shareholder to pay a certain amount (known as a call) in relation to the shares. The date of a call is the date that the Directors made the resolution.
- 6.3 The Directors may revoke or postpone a call before payment is received.

Payment by instalments

- 6.4 The Directors may require a call to be paid in instalments.

Notice of call

- 6.5 If the Directors make a call, they must notify the affected Shareholder in writing at least 14 days before the payment is due. The notification must specify each of the following:
- 6.5.1 the amount, time and date of the payment; and
- 6.5.2 the rate of interest, if any, payable by the Shareholder if the call is not paid in full by the date of the payment.

The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, a Shareholder does not invalidate the call.

Effect on joint holders

- 6.6 The owners of a share that is held jointly are jointly and severally liable to pay all calls in respect of that share. This means that the Company may recover the call amount from any one or more of the joint holders, but must not obtain more than the amount of the call from those joint holders.

Late payment of call

- 6.7 If a Shareholder does not pay a call on the day it is due, the Directors may choose to charge interest and the Shareholder's shares may be liable to forfeiture. If they do charge interest, they must decide on an appropriate interest rate, not exceeding 12% per annum.

Pre-payment of calls

- 6.8 If a Shareholder owes the Company money on shares but no call has yet been made, the Shareholder and the Directors may agree that the Shareholder lend some or all of this money to the Company. The Company must pay the Shareholder interest on the money lent until a call is made. The Directors and the Shareholder must agree on an interest rate. If the interest rate is more than 12% per annum, it must be approved by a general meeting of the Company.

7. FORFEITURE OF SHARES

Notice of default

- 7.1 If a Shareholder fails to pay a call or another amount that is payable on shares on the due date, the Directors may notify the Shareholder that they require payment of the amount, together

with any interest that has accrued, on or before a specified date. The date must be at least 14 days after the Shareholder receives the notice.

Forfeiture of shares

- 7.2 If the notice pursuant to clause 7.1 states that the shares in respect of which the amount is due may be forfeited if payment is not made on time, and the amount is not paid on time, the Directors may resolve that the Shareholder has forfeited those shares. They must do so before the amount is paid.

Effect of forfeiture

- 7.3 If the Directors resolve that a Shareholder has forfeited shares, the Shareholder loses title to the shares and any entitlement to dividends declared but not paid by the date of the resolution. The Shareholder must still pay the full amount payable on the shares at the date of forfeiture, plus any interest (at a rate of no more than 12% per annum) that the Directors choose to impose. The Shareholder's liability in this respect is reduced to the extent of any payment the Company receives in relation to the shares.

Evidence of forfeiture

- 7.4 A statutory declaration signed by a Director or Secretary stating that the person making the declaration is a Director or Secretary, and specifying that particular shares in the Company have been forfeited on a particular date, is satisfactory evidence of their forfeiture.

Cancelling forfeiture

- 7.5 The Directors may cancel a forfeiture on any terms at any time before the sale.

Sale of forfeited shares

- 7.6 The Directors may sell forfeited shares or dispose of them in some other way. The Company is entitled to the money from the sale. The Company may transfer the shares to the purchaser or person to whom they are disposed of, and register him or her as the Shareholder. That person has no responsibility to oversee the Company's use of the purchase money, and his or her right to the shares is not affected by any irregularity in the forfeiture or any proceedings relating to the disposal of the shares.

8. TRANSFER OF SHARES

Form of transfer

- 8.1 A Shareholder may transfer shares to another person by completing a written transfer document, in a common form or a form approved by the Directors and permitted by the Corporations Act, signed by or on behalf of the transferor and transferee.

Registration of transfer

- 8.2 To have a transfer registered by the Company, the transferor or transferee must give the completed transfer form and the relevant share certificates to the Company. The Directors may require additional evidence of the transferee's entitlement to be registered before registering the transfer.

- 8.3 The transferee becomes the holder of the shares when the transfer is duly stamped (if required by law) and the transferee's name is entered in the Register in respect of the shares. The Company may retain the transfer document.

Shareholders' power to refuse registration

- 8.4 Transfers of shares of a class of Employer Class Shares shall be approved by a majority of Employer Class Shareholders. Employer Class shares may only be transferred to persons (or their Nominee) who in the opinion of a majority of the Employer Class Shareholders represent the interests of Employers.
- 8.5 Transfers of shares of a class of Member Class Shares shall be approved by a majority of Member Class Shareholders. Member Class Shares may only be transferred to persons (or their Nominee) who in the opinion of a majority of the Member Class Shareholder represent the interests of Members.
- 8.6 Shareholders may refuse to approve a transfer of shares not being a transfer the subject of clause 8.4 or 8.5 and they are not bound to give their reasons for so doing.
- 8.7 A transfer from an Appointor to a Nominee, a transfer from a Nominee to another Nominee and a transfer from a Nominee to an Appointor does not require the approval of any Shareholder.
- 8.8 The Company shall register the transferee as the holder of the shares comprised in any transfer, after which the validity of the transfer may not be impeached by any person, and in the case of a purchase, the purchaser is not bound to see to the application of the purchase money.
- 8.9 A transferee must be registered as the holder of the shares where:
- (a) a majority of Shareholders in the relevant class approve of the transfer in accordance with the requirements under clause 8.4 or 8.5;
 - (b) the transfer is from an Appointor to a Nominee, or from a Nominee to another Nominee and or from a Nominee to an Appointor.

Notification of refusal to register

- 8.10 If in exercise of their rights under these clauses the Shareholders refuse to register a transfer of a share, they must give written notice of the refusal to the person who lodged the transfer within 2 months after the date on which the transfer was lodged with the Company.

Closure of register

- 8.11 The Directors may suspend registration of shares at any time for any reason. However, the total period of suspension must not exceed 30 days in any one year.

8.12 Loss of Eligibility

- 8.12.1 If a Shareholder or, in the case of a Nominee, his or her Appointor ceases to represent the interests of Employers, then that Shareholder shall cease to be eligible to hold its shares and shall be bound on a request in writing of a majority of the Employer Directors transfer all its shares to such person or persons (or

their Nominee) as may be nominated by the Employer Directors as representing the interests of the Employers.

- 8.12.2 If a Shareholder or, in the case of a Nominee, his or her Appointor ceases to represent the interests of Members, then that Shareholder shall cease to be eligible to hold its shares and shall be bound on a request in writing of a majority of the Member Directors of the Company to transfer all its shares to such person or persons (or their Nominee) as may be nominated by the Member Directors as representing the interests of the Members.
- 8.12.3 If a Shareholder is wound up, dies, becomes bankrupt or insolvent, or becomes mentally incompetent then that Shareholder shall cease to be eligible to hold its shares. A Nominee may transfer his or her shares to his or her Appointor and otherwise the Employer or, in the case of a deceased Employer, his or her legal personal representative, shall be bound on a request in writing of the Directors of the Company to transfer all its shares to such person or persons as may be nominated by the Directors as representing the interests of the Employers or Members, as the case may be. Employer Directors shall nominate the person or persons representing the interests of the Employers and Member Directors shall nominate the person or persons representing the interests of the Members.
- 8.12.4 If any person who in conformity with the provisions of this clause 8.12, is required to transfer any shares makes default in transferring those shares, that person must be treated as having appointed the Directors and Secretary of the Company individually to be the attorney of that person to sign a transfer on behalf of the person in default and a transfer by any Director or Secretary shall be as effective as if it were duly executed by the person in default and a receipt of a Director or Secretary for the purchase money is a good discharge to transferee who is not bound to see to the application of the purchase money.
- 8.12.5 In the event of any transfer of shares in conformity with the provisions of this clause 8.12, the price payable for the shares shall be the paid up capital of the shares which shall be paid by the transferee to the transferor or his or her legal personal representative (as the case may be) within six (6) months from the date of transfer of the shares.

Interests of Employer

- 8.13 A Employer Class Shareholder or in the case of a Nominee, his or her Appointor ceases to represent the interests of Employers:
- 8.13.1 in the case of an Employer, no Member is employed by that Employer.
- 8.13.2 in the case of an Employer Association, less than 2% of Employers belong to that association or such lesser number as is determined by the directors.

Interests of Members

- 8.14 A Member Class Shareholder or in the case of a Nominee, his or her Appointor, ceases to represent the interests of Members if less than 2% of Members belong to that organisation or such lesser number as is determined by the directors.

9. TRANSFER OF SHARES ON DEATH OR BANKRUPTCY OF SHAREHOLDER

Persons entitled on death of Shareholder

- 9.1 If a Shareholder dies, the only persons that the Company will recognise as having any right to the deceased's shares are the following:
- 9.1.1 his or her legal personal representative; and
 - 9.1.2 any joint holder of those shares.
- 9.2 The deceased person's estate will still be subject to any liabilities which attached to the shares, even if the deceased was only a joint holder of shares.
- 9.3 If two or more persons are jointly entitled to the deceased's shares, those persons will be regarded as joint holders of the shares.

Registration or transfer of shares

- 9.4 A person who becomes entitled to shares on the death or bankruptcy of a Shareholder may seek registration by giving the Company a signed application, or may transfer the shares to another person in accordance with this Constitution. The signed application is treated in the same way as a completed and signed transfer. A person seeking to effect a transfer under this clause must produce any information reasonably requested by the Directors.

Indemnity

- 9.5 A person registered as a Shareholder, as a result of the death or bankruptcy of another Shareholder, must indemnify the Company and the Directors of the Company against any loss or damage suffered by the Company or its Directors as a result of that registration.

Entitlement to dividends and other rights

- 9.6 If a Shareholder dies or becomes bankrupt, his or her personal representative or trustee is entitled to receive any dividends and other benefits that the Shareholder would have been entitled to, and to exercise the same rights as the Shareholder.

10. ALTERATION OF SHARE CAPITAL

Cancelling, consolidating and dividing share capital

- 10.1 Subject to the Corporations Act and the terms on which shares are issued, the Shareholders may resolve at a general meeting to do any of the following:
- 10.1.1 cancel shares which have not been taken or agreed to be taken or which have been forfeited;
 - 10.1.2 consolidate and divide any of the Company's share capital into shares of a larger amount than the existing shares; or
 - 10.1.3 subdivide any of the issued shares into shares of a smaller amount, but only if the subdivision does not alter the proportion of the amount paid to any amount unpaid on each reduced share from what it was on the original share.

Reducing share capital

- 10.2 Subject to the Corporations Act and the terms on which shares are issued, the Shareholders may resolve by special resolution to reduce the Company's share capital.

Converting share capital

- 10.3 Subject to the Corporations Act and the terms on which shares are issued, the Shareholders may resolve by special resolution to convert shares from one class to another class.

11. GENERAL MEETINGS

Power to call meetings

- 11.1 A Director may call a general meeting at any time. The Directors must call a general meeting if requested to do so by Shareholders in the way set out in the Corporations Act. If the Directors fail to call such a meeting, the Shareholders may call a meeting in the way set out in the Corporations Act.
- 11.2 An Employer Director may convene a general meeting of all Employer Class Shareholders or a meeting of a class of Employer Shareholders at any time.
- 11.3 A Member Director may convene a general meeting of all Member Class Shareholders or a meeting of a class of Member Shareholders at any time.

Notice of meetings

- 11.4 The Company must give notice of a general meeting to the following people:
- 11.4.1 the Shareholders;
 - 11.4.2 the Directors;
 - 11.4.3 any person entitled to be notified as a result of the death or bankruptcy of a Shareholder; and
 - 11.4.4 the Company's auditor, if there is one.
- 11.5 A person may waive notice of any general meeting by written notice to the Company.
- 11.6 In accordance with the Corporations Act, a Shareholder may nominate an electronic means by which the Shareholder may be notified that notices of meeting are available and access notices of meeting.
- 11.7 The accidental omission to give notice of any general meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate anything done (including the passing of a resolution) at the general meeting.

Content of notice

- 11.8 The notice must specify each of the following:
- 11.8.1 the place, the day and the hour of the meeting;

- 11.8.2 if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting;
- 11.8.3 the general nature of the business to be transacted; and
- 11.8.4 any other matters required by the Corporations Act.

Period of notice

- 11.9 Unless the Corporations Act permits otherwise, 21 days' notice of a meeting must be given (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) for any meeting of Shareholders whether of all Shareholders, all Employer Class Shareholders, a class of Employer Shareholders, all Member Class Shareholders or a class of Member Shareholders.

Quorum

- 11.10 Except as otherwise set out in this Constitution.
 - 11.10.1 In the case of a general meeting of all Shareholders One Employer Class Shareholder and One Member Class Shareholder present is a quorum;
 - 11.10.2 In the case of a general meeting of all Employer Class Shareholders One Employer Class Shareholder present is a quorum;
 - 11.10.3 In the case of a general meeting of all Member Class Shareholders One Member Class Shareholder present is a quorum;
 - 11.10.4 In the case of a meeting of a class of Employer Class Shareholders One Shareholder of that Class present is a quorum;
 - 11.10.5 In the case of a meeting of a class of Employer Class Shareholders or of a class of Member Class Shareholders One Shareholder of that Class present is a quorum.
- 11.11 If a quorum is not present within 30 minutes after the advertised starting time of the meeting, then the following provisions apply:
 - 11.11.1 if the meeting was called at the request of Shareholders, the meeting is cancelled; and
 - 11.11.2 in any other case, the meeting is postponed to the same place on the same day and at the same time the following week, or to any other time and place chosen by the Directors. If a quorum is not present within 30 minutes after the starting time of the postponed meeting, it is cancelled.

Representatives of Shareholders

- 11.12 At meetings of Shareholders or classes of Shareholders each Shareholder entitled to vote may vote in person or by proxy or by attorney.
- 11.13 A person attending as a proxy, as the attorney of a Shareholder, or as representing a corporation which is a Shareholder is to be treated as a Shareholder for the purposes of:
 - 11.13.1 determining whether a quorum is present; and

11.13.2 demanding a poll.

Chairperson

11.14 Subject to clause 11.15, the chairperson of Directors or, in the chairperson's absence, the deputy chairperson shall preside as chair at every general meeting.

11.15 Where a general meeting is held and:

11.15.1 there is no chairperson or deputy chairperson; or

11.15.2 the chairperson or deputy chairperson is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting,

11.15.3 the Directors present shall choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Shareholders Present shall elect one of their number to be chair of the meeting.

11.15.4

Chairperson's powers

11.16 The chairperson may temporarily vacate the chair at a general meeting in favour of another person present at any time and for any reason the chairperson sees fit, and must do so if the Shareholders are voting on the chairperson's election or re-election as a Director.

11.17 The chairperson's ruling on all matters relating to the order of business, procedure and conduct of the general meeting is final and no motion of dissent from a ruling of the chairperson may be accepted.

11.18 The chairperson may, in his or her absolute discretion, refuse any person admission to a general meeting, or expel the person from the general meeting and not permit them to return, if the chairperson reasonably considers that the person's conduct is inappropriate. Inappropriate conduct in a general meeting includes:

11.18.1 The use of offensive or abusive language which is directed to any person, object or thing.

11.18.2 Attendance at the meeting while under the influence of any kind of drug, or using or consuming any drug at the meeting, including any alcoholic substance.

11.18.3 Possession of any article, including a recording device or other electronic device or a sign or banner, which the chairperson considers is dangerous, offensive or disruptive or likely to become so.

Minutes

11.19 The Directors must ensure that the minutes of a meeting of Shareholders records the following:

11.19.1 the names of all Shareholders who are present;

11.19.2 the name of the chairperson; and

11.19.3 details of the proceedings at the meeting.

11.20 The minutes of a general meeting must be signed by the chairperson of that meeting, at or by the time of the following meeting.

Adjournment

11.21 The chairperson may at any time adjourn a meeting with the consent of the majority of those present. The chairperson must adjourn a meeting if the majority of those present at the meeting vote to adjourn it.

11.22 Notice of the adjourned meeting does not have to be given unless the adjournment is for 30 days or more.

11.23 The only business that can be transacted at an adjourned meeting is the unfinished business from the original meeting.

Written resolutions

11.24 The Shareholders may pass a resolution in writing without holding a meeting if all Shareholders who are entitled to vote on the resolution sign a document, or documents or identical copies of it or them, containing a statement that they are in favour of the resolution set out in the document.

11.25 A written resolution will be treated as having been passed on the date that the last Shareholder signs.

12. VOTING RIGHTS

Right to vote

12.1 Subject to any rights or restrictions for the time being attached to a class or classes of shares:

12.1.1 on a show of hands every person present in person or by proxy who is a Shareholder or who represents a corporation who is a Shareholder has one vote; and

12.1.2 on a poll every Shareholder present in person or by proxy, attorney or representative has one vote for each share held by the Shareholder.

Objections to voter qualification

12.2 No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.

12.3 An objection to the qualification of a voter must be referred to the chairperson of the meeting, whose decision is final.

12.4 A vote not disallowed according to an objection as provided in this Constitution is valid for all purposes.

Rights of joint Shareholders

- 12.5 In the case of joint Shareholders the vote of the senior who tenders a vote, whether in person or by proxy, must be accepted to the exclusion of the votes of the other joint Shareholders and, for this purpose, seniority must be determined by the order in which the names stand in the Register.

Voting rights where calls unpaid

- 12.6 A Shareholder is not entitled to vote at a general meeting unless all calls or other sums presently payable by the Shareholder in respect of the shares have been paid.

Method of voting

- 12.7 If a resolution is put to the vote at a general meeting, it must be decided on a show of hands, unless a poll (written vote) is requested by any of the following:

12.7.1 the chairperson;

12.7.2 any five Shareholders entitled to vote on that resolution;

12.7.3 any Shareholder or Shareholders who, individually or collectively, hold 5% of the voting rights of all those who have a right to vote on the resolution on a poll; and

12.7.4 any Shareholder or Shareholders who, individually or collectively, hold shares in respect of which the total amount paid up is at least 5% of the total amount paid up on all shares which give a right to vote on the resolution on a poll.

- 12.8 Unless the person who requested a poll withdraws it, the chairperson must decide how and when the poll is to be taken. If the poll concerns the election of a chairperson or the adjournment of the meeting, it must be taken immediately.

No casting vote

- 12.9 If the votes are equally divided on a show of hands or a poll, the chairperson of the meeting does not have a casting vote. If the vote is tied, the resolution is not passed.

Evidence of outcome of show of hands

- 12.10 A declaration by the chairperson that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry in the minutes to that effect are conclusive evidence of the outcome of a show of hands.

Sole Shareholders

- 12.11 If the Company has only one Shareholder, and the Shareholder records in writing his or her decision on a question, it counts as the passing of a resolution. The record also counts as the minutes of the passing of the resolution.

13. PROXIES

Appointment of proxy

- 13.1 A Shareholder may appoint any person as a proxy to represent, and to vote for, the Shareholder at a meeting in accordance with the Corporations Act and this Constitution. The proxy has the same rights at the meeting as the Shareholder would have had, except to the extent that the document appointing the proxy limits them.

Form of proxy document

- 13.2 A document appointing a proxy may be in any form acceptable to the Company. It must be signed in one of the following ways:
- 13.2.1 signed by the Shareholder;
 - 13.2.2 signed by the Shareholder's authorised attorney; or
 - 13.2.3 if the Shareholder is a body corporate, under seal or signed by an authorised officer or attorney.

Proxy must be given to the Company

- 13.3 A document appointing a proxy (and any power of attorney under which it is signed, or a certified copy of that power) must be delivered to the Office, or another place specified for this purpose in the notice of meeting, at least 48 hours before the time of the meeting. If the document is not delivered on time, the proxy cannot vote at the meeting.
- 13.4 A document appointing a proxy to attend and vote at an adjourned meeting must be received by the Company at least 48 hours before the resumption of the meeting.

Proxy vote not invalid on certain grounds

- 13.5 A vote made under a proxy is not made invalid by any of the following facts unless the Company receives written notice of the fact before the commencement of the meeting:
- 13.5.1 the Shareholder has died;
 - 13.5.2 the Shareholder has become mentally unfit to vote;
 - 13.5.3 the Shareholder has transferred the shares in respect of which the proxy was given; and
 - 13.5.4 the proxy or power has been revoked.

14. APPOINTMENT AND REMOVAL OF DIRECTORS

14.1 Number of directors

- 14.1.1 until otherwise determined in accordance with this Constitution, the number of directors must not be less than 4 Employer Directors, 4 Member Directors and such number of Independent Directors, if any, as are required by the Act.

- 14.1.2 the Company may by resolution, increase or reduce the number of directors PROVIDED THAT the number of Employer Directors and Member Directors shall remain equal at all times.
- 14.1.3 alternate directors are not to be treated as directors for the purpose of determining the minimum or maximum number of directors holding office.

14.2 Appointment of Directors

- 14.2.1 an Employer Director must be appointed for each class of Employer Class Shares on issue and must be appointed by Shareholders of that class of shares.
- 14.2.2 a Member Director must be appointed for each class of Member Class Shares on issue and must be appointed by Shareholders of that class of shares.
- 14.2.3 If a director appointed by the Shareholders holding a class of shares ceases to be a director, those Shareholders may appoint another person to be a director.
- 14.2.4 The appointment of directors by the Shareholders of a class of shares is made by a majority of the Shareholders holding shares of that class giving notice in writing to the company specifying the persons appointed as director by the Shareholders holding shares of that class.
- 14.2.5 The appointment of directors takes effect at the time of giving the notice or at a later time specified in the notice of appointment.
- 14.2.6 The appointment will be for a four (4) year term.
- 14.2.7 A person may be reappointed as a director for up to two (2) further terms of four (4) years each.

Removal of Directors

- 14.3 Each Director holds office until he or she vacates the office or is removed under this Constitution, or if appointed for a term, the term expires.
- 14.4 A director may be removed at any time by a majority of Shareholders holding shares of the class who appointed the director giving notice in writing to the Company terminating the director's appointment.
- 14.5 The termination of the appointment of a director is effective on the date of giving the notice to the Company or on a later date specified in the notice.

Appointment of Independent Directors

- 14.6 The Employer Directors and Members Directors will appoint and remove such numbers of Independent Directors as is required by the Act. Appointment and removal will be by a two thirds majority of all Employer Directors and Member Directors.

Resignation of Directors

- 14.7 A Director may resign from office by giving notice in writing to the Company of the Director's intention to resign. A notice of resignation takes effect at the later of the following:

- 14.7.1 the time of giving the notice to the Company;
- 14.7.2 the date, if any specified in the notice; or
- 14.7.3 the expiration of the period, if any, specified in the notice.

Disqualification of Directors

- 14.8 A Director's appointment ends immediately any of the following happens:
 - 14.8.1 the Director becomes bankrupt;
 - 14.8.2 the Director becomes mentally unfit to hold office, or the Director or his or her affairs are made subject to any law relating to mental health or incompetence;
 - 14.8.3 the Director becomes disqualified by law from being a Director; or
 - 14.8.4 without the consent of the other Directors, the Director is absent from meetings of Directors for a continuous period of six months.

Casual vacancies

- 14.9 Where any vacancy is not filled within 90 days of the vacancy occurring the Employer Directors may at any time appoint any person to be a director to fill a casual vacancy amongst Employer Directors and the Member Directors may at any time appoint any person to be a director to fill a casual vacancy amongst Member Directors. Any such appointment shall terminate at the end of the financial year in which the appointment is made.

Vacancies to be filled

- 14.10 Any vacancy on the board of directors shall be filled within the time required by the Act. Any failure to fill a vacancy within the time required by the Act will not invalidate any decision of the Directors whilst such vacancy has not been filled.

Disqualified Person and Fit and Proper Standard

- 14.11 The appointment of a Director does not take effect until the Directors have had the opportunity to consider whether the appointment of the person as a Director should be subject to assessment by the Directors that the person is Fit and Proper in accordance with the Fit and Proper Policy. The appointment shall take effect immediately after the end of the meeting at which tabling the notice of appointment is made and the Directors have had the opportunity to consider whether the appointment of the person as a Director should be subject to assessment by the Directors that the person is Fit and Proper in accordance with the Fit and Proper Policy, unless a resolution is passed by the Directors requiring the appointment to be assessed by them in accordance with the Fit and Proper Policy.
- 14.12 Where the Directors determine that the appointment of the person as a Director should be subject to assessment by the Directors that the person is Fit and Proper in accordance with the Fit and Proper Policy, the appointment shall not take effect unless and until the Directors determine that the person is Fit and Proper in accordance with the Fit and Proper Policy, in which case the appointment will take effect immediately after the end of that meeting at which the Directors determine that the person is Fit and Proper in accordance with the Fit and Proper Policy.

- 14.13 A shareholder nominating a Director on becoming aware that the Director has become a Disqualified Person or may otherwise not meet the Fit and Proper Standard, shall give the Directors written notice that the Director has become a Disqualified Person or may otherwise not meet the Fit and Proper Standard and shall do so within 14 days of becoming so aware.

15. DIRECTORS' REMUNERATION

Remuneration

- 15.1 The Directors may determine their own remuneration, including any retirement benefits.
- 15.2 The Company may enter into contracts whereby the services of a director are provided by another entity.

Payment for expenses

- 15.3 The Directors are entitled to be reimbursed by the Company for any expenses they properly incur in connection with the business of the Company – such as travelling, hotel accommodation and other expenses.

16. POWERS OF DIRECTORS

Powers of Directors

- 16.1 The Company is managed by its Directors. The Directors may delegate their powers.
- 16.2 The Directors may exercise all those powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Shareholders in general meeting or otherwise.

Director may be employed by Company

- 16.3 A Director may be employed by, or contract with, the Company and may be employed by any other company in which the Company owns shares or has an interest. A Director may be a Director or officer of that other company. However, a Director cannot be employed as the Company's or that other company's auditor. To the extent permitted by law, a Director is not required to account to the Company for any profit arising from his or her employment by, or contracting with, the Company.

17. PROCEEDINGS OF DIRECTORS

Proceedings

- 17.1 The Directors may run their meetings in any way they see fit.

Calling meetings

- 17.2 A Director may call a meeting of Directors at any time. The Secretary (if any) must call a meeting of Directors if asked to do so by a Director.

Mode of meeting for Directors

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

within a reasonable period before the meeting. The Directors may otherwise regulate their meetings as they think fit.

Notice of meetings

- 17.4 All Directors are entitled to receive notice of a meeting of Directors. However, a Director who is outside Australia is not required to be notified unless he or she gave the Company, in writing, contact details.
- 17.5 The accidental omission to give notice of any meeting to, or the non-receipt of a notice by, a person, does not invalidate anything done (including the passing of a resolution) at a meeting of Directors.

Quorum

- 17.6 At a meeting of Directors, a quorum is present if two thirds of all of the appointed Directors are present. Directors acting as proxy directors shall be counted as present in both capacities.
- 17.7 If the number of directors is reduced below the number necessary for a quorum of directors, the continuing director or directors may act only to appoint additional directors to the number necessary for a quorum or to convene a general meeting of the Company.
- 17.8 Two Directors must be present before business can be transacted at a meeting of Directors, unless the Company only has one Director.

Chairperson

- 17.9 The Directors elect one of their members as chairperson who must meet any applicable Independent requirements in the Act and in the Prudential Standards.
- 17.10 The Directors may elect one of their number as their deputy chairperson to act as chairperson in circumstances where the chairperson elected pursuant to clause 17.9 is unable to act as chairperson.
- 17.11 Unless the Directors determine otherwise, each chairperson and deputy chairperson who is elected shall be appointed for a term of two years.
- 17.12 Where a meeting of Directors is held and:
- (a) a chairperson has not been elected as provided by clause 17.9 and a deputy chairperson has not been elected pursuant to clause 17.10; or
 - (b) neither the chairperson nor deputy chairperson is present at the time appointed for the holding of the meeting or do not wish to chair the meeting,
- the Directors present shall elect one of their number to be a chairperson of the meeting.
- 17.13 If a meeting is held and no chairperson has been appointed, or the elected chairperson is unwilling to act or is more than 15 minutes late for a meeting, the Directors present may choose a Director to chair that meeting.

Voting

- 17.14 A resolution of Directors shall not be passed unless at least two thirds of the total number of Director's votes have been cast in favour of the resolution or, if director voting is not regulated by the Act, a simple majority.
- 17.15 The chairperson does not have a casting vote. A decision reached by the requisite majority vote is treated as the decision of all the Directors.

Director's interests

- 17.16 A Director who has a personal interest in a matter involving the Company must disclose that interest if required under and in accordance with the Corporations Act. A Director may give the other Directors standing notice of any ongoing interest.
- 17.17 The details of any disclosure or notice of a personal interest must be recorded in the minutes.

Voting where a Director is interested in a matter

- 17.18 A Director may attend meetings and vote on matters in which he or she is interested if and to the extent the Director is permitted to do so under the Corporations Act.
- 17.19 If there are not enough Directors to form a quorum as a result of a Director having an interest which disqualifies them from voting then one or more of the Directors (including those who have the disqualifying interest in the matter) may call a general meeting of the Company and the general meeting may pass a resolution to deal with the matter.

No disqualification

- 17.20 Subject to compliance with the Corporations Act, a Director or any entity in which the Director has a direct or indirect interest (as applicable) may:
- 17.20.1 enter into a contract or arrangement with an Associated Party;
 - 17.20.2 hold any office or place of profit (other than auditor) in an Associated Party;
 - 17.20.3 act in a professional capacity (or be a member of a firm that so acts) other than as auditor of an Associated Party.
- 17.21 Despite the fiduciary nature of a Director's office and the Director's fiduciary obligations:
- 17.21.1 any contract or arrangement entered into in accordance with clause 17.21.1 is not invalid or voidable; and
 - 17.21.2 a Director may do any of the things specified in clause 17.21 without any liability to account to the Company or any other person for any direct or indirect benefit accruing to the Director or the entity in which the Director has a direct or indirect interest.

Exercise of rights

- 17.22 If the Company holds or owns membership, shares or other interests in another body corporate, trust or other entity, the Directors may exercise any and all voting rights conferred by the membership, shares or interests in any manner the Directors consider fit.

Minutes of meeting

- 17.23 The Directors must ensure that the minutes of a meeting record each of the following:
- 17.23.1 the names of all Directors who are present;
 - 17.23.2 the chairperson of the meeting;
 - 17.23.3 details of the proceedings at the meeting; and
 - 17.23.4 any appointment of an officer.
- 17.24 The Directors must ensure that all minutes are signed by the chairperson of that meeting or by the chairperson of the next meeting.

Written resolutions

- 17.25 The Directors may pass a resolution in writing without holding a meeting if the following conditions are met:
- 17.25.1 the resolution is set out in a document or documents indicating that the required majority of Directors are in favour of it; and
 - 17.25.2 the requisite majority of all Directors required to pass a resolution at a directors meeting sign the document or documents or identical copies of it or them.
- 17.26 A written resolution will be treated as having been passed by the Directors on the date that the last Director signs.
- 17.27 A document generated by electronic means which purports to be an exact copy of a resolution of Directors is to be treated as a resolution in writing.
- 17.28 For the purposes of clause 17.26 to 17.27, a resolution in writing is treated as signed by a Director when:
- 17.28.1 a physical document of the resolution in writing is signed by a Director (or a copy of that document);
 - 17.28.2 an electronic transmission of the resolution in writing includes an electronic signature of the Director; or
 - 17.28.3 an electronic transmission confirming that the Director has read and understood the circular resolution and agrees to the resolution.

Validity of acts of director

- 17.29 All acts done by a meeting of the directors or of a committee of directors or by a person acting as a director are valid even if it is later discovered that there is a defect in the appointment of a person to be a director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

18. COMMITTEE OF DIRECTORS

Powers and proceedings of a committee

- 18.1 The Directors may appoint a committee of Directors, and delegate any of their powers to it. The Directors may impose any limitations they choose on the committee. The committee must observe those limitations. The committee may appoint consultants to assist in its deliberations.
- 18.2 A committee of Directors may run its meetings in any way it sees fit.
- 18.3 The members of the committee may elect a chairperson for their meetings and may determine the period for which the chairperson will hold office. The chairperson will be Independent where required by the Prudential Standards. If a meeting is held and no chairperson has been appointed, or the elected chairperson is unwilling to act or is more than 15 minutes late for a meeting, the committee may choose a Director to chair that meeting.
- 18.4 A committee shall comprise such number of Employer Directors, Member Directors and if required by the Act or Prudential Standards, Independent Directors as the Directors determine.

Voting

- 18.5 A question which arises at a meeting of a committee of Directors must be decided by such majority vote of committee members as is provided for in the delegation or if there is no provision as to voting in the delegation, at least two thirds of all committee members. If the votes are evenly divided, the chairperson does not have a second vote. If a vote is tied, the motion is not passed. A decision reached by vote is treated as the decision of all members of the committee.

19. MANAGING DIRECTOR

Appointment of managing Director

- 19.1 The Directors may appoint a Director as a managing Director on the terms and for the length of time that they consider appropriate. The Directors may give the managing Director any of the powers they can exercise. They may also impose any limitations on the exercise of those powers, and may withdraw or alter the powers they have conferred at any time, with or without cause.

Ending of appointment of managing Director

- 19.2 A managing Director's appointment ends immediately any of the following happens:
- 19.2.1 he or she ceases to be a Director;

19.2.2 the Directors end the appointment by written notice, provided that they comply with any agreement relating to the ending of the appointment; or

19.2.3 the period of the appointment ends.

Remuneration

19.3 Subject to any agreement entered into in a particular case, a managing Director may receive remuneration (whether by way of a salary, commission or participation in profits, any other way, or by a combination of these methods) as the Directors determine.

Powers of managing director

19.4 Any powers conferred by the Directors on the managing director may also be held by the directors.

20. ALTERNATE DIRECTORS

Appointment of alternate Director

20.1 A director may appoint a person to be an alternate director in the director's place, during the period that the director thinks fit, providing the alternate Director has consented in writing to act in that capacity.

The appointment of an alternate director must be in writing, signed by the director.

20.2 The appointment of an Alternate Director does not take effect until the Directors have had the opportunity to consider whether the appointment of the person as an Alternate Director should be subject to assessment by the Directors that the person is Fit and Proper in accordance with the Fit and Proper Policy. Where the Directors determine that the appointment of the person as an Alternate Director should be subject to assessment by the Directors that the person is Fit and Proper in accordance with the Fit and Proper Policy, the appointment shall not take effect unless and until the Directors determine that the person is Fit and Proper in accordance with the Fit and Proper Policy.

Powers and obligations of an alternate Director

20.3 An alternate Director may exercise any of the powers of a Director and is subject to all of his or her obligations. He or she is entitled to be notified of Directors meetings and to attend and vote at them, but only if the appointing Director is not present or not voting.

End of appointment of alternate Director

20.4 An alternate Director's appointment ends immediately any of the following happens:

20.4.1 the Director who appointed the alternate Director ceases for any reason to be a Director;

20.4.2 the Director who appointed the alternate Director ends the appointment by giving the alternate Director a written notice signed by the Director;

20.4.3 the period of the appointment ends; or

20.4.4 anything happens that would result in the alternate Director ceasing to be a Director if he or she were a Director.

Remuneration of an alternate Director

20.5 The Company is not required to pay any remuneration or benefit to an alternate Director.

21. PROXY DIRECTORS

Appointment of proxy Directors

21.1 Subject to the procedures set out in this clause 21.1, a Director may by proxy appoint another Director of the Company to be a proxy Director to attend meetings of Directors in the Director's place and to sign written resolution of Directors in the Director's place.

21.2 Such appointment will be for the period that the Director thinks fit or to vote at particular meetings of Directors or to vote on particular resolutions as the Director thinks fit.

21.3 The appointment of a proxy Director by a Director is made by the Director giving notice in writing to the Company specifying the person he or she intends to appoint as a proxy Director. The notice of appointment shall be tabled at the next board meeting.

Form of proxy

21.4 A document appointing a proxy must be in the following form or in a form that is as similar to that schedule as the circumstances allow or in another common form approved by the Directors:

Energy Industries Superannuation Scheme Pty Limited

I

of

Being a Director of the company, appoint

of

absence,

of

, Director,

or, in his/her

, Director,

as my proxy to:

(a) attend in my absence at Directors Meetings of the company that are held from time to time and to sign written resolutions of Directors in my place; or

(b) attend in my absence at a Directors Meeting of the company to be held on the day of 20 and at any adjournment of that meeting*.

**This form is to be used *in favour of/ *against the resolutions attached.

Signed this day of 20

*Strike out whichever is not desired.

****To be inserted if desired. Authority of proxies**

- 21.5 A document appointing a proxy Director may specify the manner in which the proxy Director is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- 21.6 A Director holding one or more proxies has one vote per proxy, in addition to the Director's own vote.

Verification of proxies

- 21.7 Before the time for holding the meeting or adjourned meeting at which a proxy Director proposes to vote, there must be deposited with the Company:
- 21.7.1 the document appointing the proxy Director; and
- 21.7.2 if signed under power of attorney, the power of attorney under which the document is signed or a notarially certified copy of that power.
- 21.8 Those documents must be either:
- 21.8.1 emailed or deposited at the Office, or at another place specified for that purpose in the notice convening the meeting before the commencement of the meeting or adjourned meeting; or
- 21.8.2 produced to the chairperson of the meeting or adjourned meeting before the proxy votes.
- 21.9 The Chairperson may accept a proxy without a signature.

Validity of proxies

- 21.10 A proxy document is invalid if it is not deposited or produced prior to a meeting or a vote being taken as required by these articles.

Revocation of appointment of proxy

- 21.11 A vote given in accordance with the terms of a proxy document is valid despite the occurrence of any one or more of the following events if no intimation in writing of any of those events has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the document is used:
- 21.11.1 the previous death or unsoundness of mind of the principal;
- 21.11.2 the revocation of the instrument or of the authority under which the instrument was executed.

Powers of proxy Directors

- 21.12 A Director, acting in the capacity as a proxy Director, is subject in all respects to the terms and conditions applying to the other Directors except:
- 21.12.1 for the provisions of these articles relating to the election of Directors, their remuneration and the power to appoint a proxy Director; and

21.12.2 as expressly provided in these articles.

21.13 A Director, acting in the capacity of a proxy Director, is entitled to :

21.13.1 receive notice of meetings of the Directors; and

21.13.2 attend and (unless the Director who appointed the proxy Director is present) vote in that capacity at meetings of the Directors.

Termination of appointment of proxy Director

21.14 The appointment of a proxy Director is immediately terminated if:

21.14.1 the Director who appointed the proxy Director ceases for any reason to be a Director;

21.14.2 the Director who appointed the proxy Director gives notice of termination of the appointment to the Company;

21.14.3 the Directors resolve to terminate the appointment after giving 7 days' notice of intention to remove the proxy Director to the Director who appointed the proxy Director; or

21.14.4 the Company or the Director who appointed the proxy Director becomes aware that the proxy Director is a Disqualified Person as defined in the Act.

22. SECRETARY

Appointment

22.1 The Directors may appoint a Secretary, and decide the conditions of his or her appointment. The Secretary must consent in writing to holding the position. The Secretary may also be a Director of the Company.

Removal

22.2 The Directors may at any time end the appointment of a Secretary.

23. INDEMNITY AND INSURANCE

Indemnity against liability

23.1 Every officer and past officer of the Company is indemnified by the Company to the fullest extent permitted by law against a liability incurred by that person as an officer of the Company or a subsidiary of the Company including without limitation legal costs and expenses incurred in defending an action.

Insurance premiums

23.2 The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company to the fullest extent permitted by law.

24. EXECUTION OF DOCUMENTS

24.1 A document may be executed in the following manner:

- 24.1.1 if the Company has more than one Director, by two Directors or a Director and Secretary;
- 24.1.2 if the Company has only one Director, by the sole Director;
- 24.1.3 if the Company has a common seal, by that seal being affixed to the document and the document executed by one Director and either another Director, the Secretary or another person appointed by the Directors for that purpose;
- 24.1.4 any manner permitted by the Corporations Act; or
- 24.1.5 any manner authorised by the Directors of the Company.

25. PROFITS AND DIVIDENDS

Source of dividends

25.1 Dividends are to be paid as allowed by the Corporations Act. The Company does not pay interest on dividends.

Determining to pay a dividend

25.2 The Directors alone may determine to pay a dividend and may decide the terms on which the dividend is to be paid.

Reserved profits

25.3 Before determining to pay a dividend, the Directors may set aside any amount that they consider appropriate. This amount may be used in any way that profits can be used and can be invested or used in the Company's business in the interim.

Interim dividends

25.4 The Directors may determine to pay interim dividends if they consider that the Company's financial position justifies it, subject to the requirements of the Corporations Act.

Payment of dividends

25.5 Dividends must be paid to Shareholders in proportion to their shares, except in relation to shares that have special rights relating to dividends attached to them.

25.6 Subject to any special rights conferred on the holders of any shares or class of shares, the person entitled to a dividend on a share is entitled to:

- 25.6.1 if the share is fully paid, the entire dividend; or
- 25.6.2 if the share is partly paid, a proportion of that dividend equal to the proportion which the amount paid on that share bears to the total issue price of that share.

Right of set off

- 25.7 The Directors may deduct from a dividend payable to a Shareholder any amount that is payable to the Company by the Shareholder.

Distribution of assets

- 25.8 The Directors may choose to pay a dividend or bonus by distributing Company assets to Shareholders – such as paid-up shares, debentures or debenture stock of another body corporate. The Directors may settle a difficulty arising in relation to such a distribution in any way that they consider appropriate – for example, making cash payments to some Shareholders in respect of the value of the assets, or vesting some assets in trustees.

Method of payment

- 25.9 The Directors may determine the method of paying a dividend to a Shareholder.

Capitalisation of profits

- 25.10 The Directors may resolve to capitalise any part of the Company's profit that is available for distribution. If they do that, they must not pay the amount in cash, but must use it to benefit those Shareholders who are entitled to dividends in the proportions that would apply if it were a dividend. The benefit may be given in either of the following ways:

- 25.10.1 paying up the amounts unpaid on the Shareholder's shares;
- 25.10.2 issuing fully paid shares or debentures of the Company to the Shareholder; or
- 25.10.3 any other method permitted by law.

Applying an amount for the benefit of Shareholders

- 25.11 The amount of profit capitalised must be applied for the benefit of Shareholders in the proportions in which the Shareholders would have been entitled to dividends if the amount capitalised had been distributed as a dividend.
- 25.12 If fractions of shares or debentures are allocated, the Directors may issue fractional certificates or pay the Shareholder the cash equivalent of the fraction.
- 25.13 The Directors may authorise a person to act on behalf of all the Shareholders and enter into an agreement with the Company to govern the distribution of the amount to be capitalised. The agreement binds all Shareholders.

26. RECORDS

Accounting and other records

- 26.1 The Directors must ensure that proper accounting and other records are kept, and that financial statements are distributed in accordance with the requirements of the Corporations Act.

Inspection of records

- 26.2 The Directors may arrange for the Company's records to be available for inspection by Shareholders at the times and on the conditions that the Directors decide, and a Shareholder does not have the right to inspect any document except as provided by law or authorised by a resolution made by the Directors or passed at a general meeting.
- 26.3 Notwithstanding clause 26.2, the Directors may refuse access to a document where the Directors (acting reasonably) consider that such access would or would be likely to cause the Company to lose the benefit of any form of evidentiary privilege, including legal professional privilege.

27. WINDING UP

Powers of liquidator

- 27.1 If the Company is wound up, the Shareholders may, subject to any express provision of this Constitution, pass a special resolution allowing the liquidator to do one of the following:
- 27.1.1 to specify a value for the Company's assets, determine how to divide them as between different classes of Shareholders, and carry out the division; or
- 27.1.2 to transfer the whole or any part of the Company's assets to trustees for the benefit of Shareholders and those liable to contribute to the winding up.

No obligation to accept liability

- 27.2 A Shareholder can refuse to accept any shares or securities if any obligation attaches to them.

Special terms of shares

- 27.3 Clauses 27.1 and 27.2 do not prejudice or affect the rights of a Shareholder holding shares issued on special terms and conditions.

28. NOTICES

Persons authorised to give notices

- 28.1 A notice by either the Company or a Shareholder in connection with this Constitution may be given on behalf of the Company or a Shareholder by a Director, Secretary, other authorised officer or a Shareholder. The signature of a person on a notice given by the Company may be written, printed or stamped.

Method of giving notice

- 28.2 In addition to the method for giving notices permitted by statute, a notice or communication by the Company, an officer of the Company or a Shareholder in connection with this Constitution may be given to the addressee by any of the methods set out in the first column of the following table. The notification is effective on the date set out in the second column.

Method of notification	Date of notification
By personal delivery.	Date of delivery.

Method of notification	Date of notification
By sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee.	One day after it is posted.
By fax sent to the recipient's fax number.	Date of an error free fax transmission report from the sender's fax machine.
By telephone, unless this Constitution specifically requires written notification.	Date of telephone call.
By e-mail sent to the recipient's e-mail address.	Date on which the recipient receives the e-mail in readable form

Notice to joint Shareholders

- 28.3 If shares are jointly owned, the Company is only required to notify the joint holder who is listed first in the Register.

Addresses for giving notices to Shareholders

- 28.4 The street address or postal address of a Shareholder is the street or postal address of the Shareholder shown in the Register of Shareholder. The facsimile number or e-mail address of a Shareholder is the number which the Shareholder may specify by written notice to the Company as the facsimile number or e-mail address to which notices may be sent to the Shareholder.
- 28.5 Until a person entitled to a share in consequence of the death or bankruptcy of a Shareholder gives notice to the Company of an address for the giving of notices, the address of that person is the address of the deceased or bankrupt Shareholder.

Address for giving notices to the Company

- 28.6 The street and postal address of the Company is its Office. The facsimile number or e-mail address of the Company is the number or address (as applicable) which the Company may specify by written notice to the Shareholders as the facsimile number or e-mail address to which notices may be sent to the Company.

Notice to representatives

- 28.7 If a person is entitled to a share because of the death or bankruptcy of a Shareholder, the Company may notify that person personally, or by a letter posted to the address supplied by the person, and addressed to him or her or to the representatives of the deceased or assignee of the bankrupt. If no address has been supplied, the Company may post the letter to the address used for notification before the death or bankruptcy.

29. DEFINITIONS AND INTERPRETATION

Definitions

- 29.1 In this Constitution the following definitions apply:

"**Act**" means the *Superannuation Industry (Supervision) Act 1993* and the Regulations thereto;

"**Appointor**" means the representative of Employers or Members on whose behalf a Nominee holds shares;

"**APRA**" means the Australian Prudential Regulation Authority;

"**Associated Party**" means each of the following:

- (c) the Company;
- (d) any related body corporate of the Company;
- (e) any other body corporate, trust or entity promoted by the Company or in which the Company has an interest of any kind.

"**Company**" means Energy Industries Superannuation Scheme Pty Limited, ACN 077 947 285;

"**Corporations Act**" means the *Corporations Act 2001* (Cth);

"**Director**" means a person occupying the position of a Director of the Company including, where appropriate, an alternate director of the Company;

"**Employer**" has the same meaning as Participating Employer in the Trust Deed;

"**Employer Association**" means an employer association registered under the Fair Work Act 2009 (Commonwealth) and includes, if having a separate legal identity, any employer association registered under a State Industrial Relations Act or equivalent legislation where either a representative of the association registered under the Commonwealth legislation or a representative of the association registered under the State legislation has a say in the conduct of the other organisation;

"**Employer Class Share**" means a share that has been issued in accordance with clause 3.2

"**Employer Director**" means a director appointed in accordance with clause 14.2.1;

"**Fit and Proper**" means fit and proper in accordance with the Fit and Proper Prudential Standard;

"**Independent**" has the same meaning as in the Act;

"**Industrial Organisation**" means a Union or an Employer Association;

"**Member**" has the same meaning as in the Trust Deed;

"**Member Class Share**" means a share that has been issued in accordance with clause 3.3.

"**Member Director**" means a director appointed in accordance with clause 14.2.2;

"**Nominee**" means an individual person holding shares on behalf of a representative of Employers or of Members;

"Office" means the registered office of the Company;

"Prudential Standard" has the same meaning as in the Act;

"Register" means the register of Shareholders kept by the Company under the Corporations Act;

"Secretary" means a person (if any) appointed to perform the duties of a secretary of the Company;

"Shareholder" means a person whose name is entered in the Register as a Shareholder of the Company;

"Trust Deed" means the deed of trust setting out the terms of the Australian Construction Industry Redundancy Fund made on 10 October 1994; and

"Union" means a union registered under the Fair Work Act 2009 (Commonwealth) and includes, if having a separate legal identity, a union registered under a State Industrial Relations Act or equivalent legislation where either a representative of the union registered under the Commonwealth legislation or a representative of the union registered under the State legislation has a say in the conduct of the other union.

Standard replaceable rules do not apply

- 29.2 The replaceable rules contained in the Corporations Act do not apply to the Company.

Application of Corporations Act

- 29.3 A word or phrase used in any part or division of the Corporations Act that is given a special meaning for the purposes of that part or division has, unless this Constitution specifically states otherwise, the same meaning in any part of this Constitution that deals with a matter covered in that part or division.
- 29.4 A reference in this Constitution to the Corporations Act includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under the Corporations Act.

Exercise of powers

- 29.5 Except as specifically contemplated to the contrary in this Constitution, the Company may exercise any power, take any action and engage in any conduct or procedure which under the Corporations Act a company may do.

Interpretation

- 29.6 In the interpretation of this Constitution, the following provisions apply unless the context otherwise requires:
- 29.6.1 headings are inserted for convenience only and do not affect the interpretation of this Constitution;
- 29.6.2 if the day on which any act, matter or thing is to be done under this Constitution is not a business day, the act, matter or thing must be done on the next business day;

- 29.6.3 where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day;
- 29.6.4 a reference in this Constitution to "dollars" or "\$" means Australian dollars and all amounts payable under this Constitution are payable in Australian dollars;
- 29.6.5 a reference in this Constitution to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- 29.6.6 a reference in this Constitution to any document or agreement is to that document or agreement as amended, novated, supplemented or replaced;
- 29.6.7 a reference to a clause or part is a reference to a clause or part of this Constitution;
- 29.6.8 an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- 29.6.9 where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- 29.6.10 a word which indicates the singular also indicates the plural, a word which indicates the plural also indicates the singular, and a reference to any gender also indicates the other genders;
- 29.6.11 a reference to the word "include" or "including" is to be interpreted without limitation; and
- 29.6.12 any schedules and attachments form part of this Constitution.