

Constitution for Pooled Super Pty Ltd

ACN 142 516 005

Contents

Table of contents

1	Preliminary	1
	1.1 Definitions	1
	1.2 Interpretation.....	2
	1.3 Application of the Act	2
	1.4 Exercise of powers.....	3
	1.5 Replaceable rules not to apply	4
	1.6 Single member company	4
	1.7 Single director company	4
2	Share capital	4
	2.1 Shares.....	4
	2.2 Variation of class rights.....	4
	2.3 Alteration of share capital	5
	2.4 Equitable and other claims	5
3	Transfer and transmission of shares	5
	3.1 Transfer of shares.....	5
	3.2 Power to decline registration of transfers	6
	3.3 Power to suspend registration of transfers	6
	3.4 Transmission of shares.....	6
4	General meetings	7
	4.1 Calling general meetings	7
	4.2 Notice of general meetings	7
	4.3 Quorum at general meetings	7
	4.4 Chairperson of general meetings.....	8
	4.5 Conduct of general meetings.....	8
	4.6 Decisions at general meetings.....	9
	4.7 Voting rights	9
	4.8 Decisions without general meetings	10
	4.9 Resolution of single member	10
	4.10 Representation at general meetings.....	10
5	Directors – general	12
	5.1 Appointment and removal of directors	12
	5.2 Vacation of office	12
	5.3 Remuneration of directors	13
	5.4 Share qualification	13
	5.5 Interested directors	13
	5.6 Powers and duties of directors	14
	5.7 Proceedings of directors	15
	5.8 Convening meetings of directors	15
	5.9 Notice of meetings of directors	15
	5.10 Quorum at meetings of directors	16
	5.11 Chairperson of directors	16
	5.12 Decisions of directors	17
	5.13 Written resolutions of directors	17
	5.14 Proxies	18
	5.15 Committees of directors and delegation to a director	19
	5.16 Validity of acts.....	19
6	Directors	20
	6.1 Composition and appointment	20

	6.2	Director vacancies	20
7		Executive officers	20
	7.1	Secretary.....	20
	7.2	Provisions applicable to all executive officers	20
8		Seals	21
	8.1	Common seal.....	21
	8.2	Use of seal	21
9		Dividends, reserves and profits	21
	9.1	Dividends	21
	9.2	Reserves.....	21
	9.3	Carry forward of profits	21
10		Winding up	21
	10.1	Distribution of surplus	21
	10.2	Division of property	22
11		Indemnity and insurance	22
	11.1	Persons to whom rules 11.2 and 11.4 apply	22
	11.2	Indemnity	22
	11.3	Extent of indemnity	23
	11.4	Insurance	23
	11.5	Savings	23
	11.6	Deed	23
12		Minutes and records	23
	12.1	Minutes	23
	12.2	Minutes of resolutions passed without a meeting.....	23
	12.3	Signing of minutes	23
	12.4	Minutes as evidence	24
	12.5	Inspection of records and access to documents	24
13		Notices	24
	13.1	Notices by the company to members	24
	13.2	Notices by the company to directors.....	25
	13.3	Notices by members or directors to the company	25
	13.4	Notices posted to addresses outside Australia.....	25
	13.5	Time of service.....	25
	13.6	Other communications and documents	26
	13.7	Notices in writing.....	26
14		General	26
	14.1	Submission to jurisdiction	26
	14.2	Prohibition and enforceability.....	26

Constitution

Pooled Super Pty Ltd

ACN 142 516 005

A company limited by shares

Constitution

1 Preliminary

1.1 Definitions

The meanings of the terms used in this constitution are set out below.

Term	Meaning
Act	the <i>Corporations Act 2001</i> (Cth).
Primary Director	is a director who has appointed a proxy in accordance with rule 5.14.
representative	in relation to a member which is a body corporate, means a person authorised by the body corporate under the Act or a corresponding previous law to act as its representative.
SIS Act	the Superannuation Industry (Supervision) Act 1993 (Cth).
SIS Regs	the regulations made pursuant to the SIS Act.

- Transmission Event**
- 1 for a member who is an individual – the member’s death, the member’s bankruptcy or the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
 - 2 for a member who is a body corporate – the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.
-

VS Vision Super Pty Ltd (ACN 082 924 561).

1.2 Interpretation

- (a) A reference in this constitution to a partly paid share is a reference to a share on which there is an amount unpaid.
- (b) A reference in this constitution to a call or an amount called in respect of a share includes a reference to an amount that, by the terms of issue of a share, becomes payable on issue or at a fixed date.
- (c) A member is to be taken to be present at a general meeting if the member is present in person or by proxy or representative.
- (d) A chairperson appointed under this constitution may be referred to as chairman or chairwoman, or as chair, as appropriate.
- (e) A reference in this constitution in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (f) In this constitution, unless the contrary intention appears:
 - (1) the singular includes the plural and the plural includes the singular;
 - (2) words of any gender include all genders;
 - (3) an expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any government agency as well as an individual;
 - (4) a reference to a person includes that person’s successors and legal personal representatives;
 - (5) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them; and
 - (6) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (g) In this constitution, headings and bold type are for convenience only and do not affect its interpretation.

1.3 Application of the Act

- (a) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision of the Act.
 - (b) Subject to rule 1.3(a), unless the contrary intention appears, an expression in a rule that is used in the Act has the same meaning in this constitution as in the Act.
-

1.4 Exercise of powers

- (a) The company may, in any way the Act permits:
- (1) exercise any power;
 - (2) take any action; or
 - (3) engage in any conduct or procedure,
- which, under the Act, a company limited by shares may exercise, take or engage in.
- (b) Where this constitution provides that a person or body may do a particular act or thing, the act or thing may be done at the person's discretion.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the same manner and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular thing in respect of particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that thing in respect of some only of those matters or in respect of a particular class or particular classes of those matters and to make different provision in respect of different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
- (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between the company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of the office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
- (1) the delegation may be concurrent with, or (except in the case of a delegation by the board of directors) to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of a specified office or position;
 - (4) the delegation may include the power to delegate;

- (5) where the performance or exercise of that function or power is dependent on the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to that matter; and
- (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

1.5 Replaceable rules not to apply

Those provisions of the Act designated as replaceable rules do not apply to the company except so far as they are repeated in this constitution.

1.6 Single member company

If at any time the company has only one member then, unless the contrary intention appears:

- (a) a reference in a rule to 'the members' is a reference to that member; and
- (b) without limiting rule 1.6(a), a rule which confers a power or imposes an obligation on the members to do a particular thing confers that power or imposes that obligation on that member.

1.7 Single director company

If at any time the minimum number of directors fixed under this constitution is one and the company in fact has only one director then, unless the contrary intention appears:

- (a) a reference in a rule to 'the directors' is a reference to that director; and
- (b) without limiting rule 1.7(a), a rule which confers a power or imposes an obligation on the directors to do a particular thing confers that power or imposes that obligation on that director.

2 Share capital

2.1 Shares

Without prejudice to any special rights conferred on the holders of any shares or class of shares, the directors may:

- (a) issue, allot or grant options for, or otherwise dispose of, shares in the company; and
- (b) decide:
 - (1) the persons to whom shares are issued or options are granted;
 - (2) the terms on which shares are issued or options are granted; and
 - (3) the rights and restrictions attached to those shares and options.

2.2 Variation of class rights

Unless otherwise provided by the terms of issue of a class of shares:

- (a) all or any of the rights or privileges attached to the class may be varied, whether or not the company is being wound up, only with the consent in writing of the holders of three-quarters of the issued shares of that class, or with the sanction

of a special resolution passed at a separate meeting of the holders of the issued shares of that class;

- (b) the provisions of these rules relating to general meetings apply, so far as they can and with such changes as are necessary, to each separate meeting of the holders of the issued shares of that class; and
- (c) the rights conferred on the holders of the shares of that class are to be taken as not having been varied by the creation or issue of further shares ranking equally with them.

2.3 Alteration of share capital

- (a) The company may alter its share capital in any manner permitted by law.
- (b) Where fractions of shares are or would otherwise be created by an alteration of share capital under rule 2.3(a), the directors may:
 - (1) make cash payments;
 - (2) decide that fractions of shares are to be disregarded or rounded down to the nearest whole share.

2.4 Equitable and other claims

- (a) Except where a law or this constitution requires otherwise, the company is entitled to treat the registered holder of a share as the absolute owner of that share and need not:
 - (1) recognise a person as holding a share on any trust, even if the company has notice of that trust; or
 - (2) recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a share by any other person except an absolute right of ownership in the registered holder, even if the company has notice of that claim or interest.
- (b) With the consent of the directors, shares held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in rule 2.4(b) limits the operation of rule 2.4(a).

3 Transfer and transmission of shares

3.1 Transfer of shares

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, a member may transfer any of the member's shares by an instrument in writing in any usual form or in any other form approved by the directors.
- (b) An instrument of transfer referred to in rule 3.1(a) must:
 - (1) be signed by or on behalf of both the transferor and the transferee unless the instrument of transfer relates only to fully paid shares and the directors have dispensed with signature by the transferee or the transfer of the shares is effected by a document which is, or documents which together are, a sufficient transfer of those shares under the Act;
 - (2) if required by law to be stamped, be duly stamped;

- (3) in the case of a transfer of partly paid shares, be endorsed by, or accompanied by an instrument executed by, the transferee to the effect that the transferee agrees to accept the shares subject to the terms and conditions on which the transferor held them and to become a member and to be bound by the company's constitution; and
 - (4) be left for registration at the company's registered office, or at such other place as the directors decide, with the certificate for the shares to which it relates or any other evidence the directors require to prove the transferor's title or right to the shares and the transferee's right to be registered as the owner of the shares.
- (c) Subject to the powers vested in the directors under rules 3.2 and 3.3, where the company receives an instrument of transfer complying with rule 3.1(b), the company must register the transferee named in the instrument as the holder of the shares to which it relates.
 - (d) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members as the holder of the shares.
 - (e) The company may retain a registered instrument of transfer for any period the directors decide.
 - (f) Except in the case of fraud, the company must return any instrument of transfer which the directors decline to register to the person who deposited it with the company.
 - (g) The directors may, to the extent permitted by law, waive all or any part of the requirements of this rule 3.1.

3.2 Power to decline registration of transfers

Subject to any special rights conferred on the holders of any shares or class of shares, the directors may, in their absolute discretion, decline to register any transfer of shares.

3.3 Power to suspend registration of transfers

The directors may suspend the registration of transfers at such times and for such periods, not exceeding in total 30 days in any year, as they think fit.

3.4 Transmission of shares

- (a) Where a member dies, the only persons the company will recognise as having any title to the member's shares or any benefits accruing on those shares are:
 - (1) the legal personal representative of the deceased, where the deceased was a sole holder; and
 - (2) the survivor, where the deceased was a joint holder.
- (b) Rule 3.4(a) does not release the estate of a deceased member from any liability on a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a share because of a Transmission Event may, on producing any evidence the directors require to prove that person's entitlement to the share, choose:
 - (1) to be registered as the holder of the share by signing and giving the company a written notice stating that choice; or
 - (2) to nominate some other person to be registered as the transferee of the share by executing or effecting in some other way a transfer of the share to that other person.

- (d) The provisions of this constitution concerning the right to transfer shares, and the registration of transfers of shares apply, so far as they can and with any necessary changes, to any transfer under rule 3.4(c) as if the relevant Transmission Event had not occurred and the transfer were signed by the registered holder of the share.
- (e) For the purpose of this constitution, where 2 or more persons are jointly entitled to a share because of a Transmission Event they will, on being registered as the holders of the share, be taken to hold the share as joint tenants.
- (f) Despite rule 3.4(a), the directors may register a transfer of shares signed by a member before a Transmission Event even though the company has notice of the Transmission Event.

4 General meetings

4.1 Calling general meetings

- (a) The directors may, whenever they think fit, call and arrange to hold a general meeting.
- (b) A general meeting may be convened only as provided by this rule 4.1 or as otherwise required by the Act.
- (c) Subject to rule 4.1(d), the directors may postpone, cancel or change the venue for a general meeting.
- (d) A general meeting called and arranged under section 249D of the Act may not be postponed beyond the date by which section 249D requires it to be held and may not be cancelled without the consent of the requisitioning member or members.

4.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Act.
- (b) The content of a notice of a general meeting called by directors is to be decided by the directors, but must state the general nature of the business to be transacted at the meeting and any other matters required by the Act.

4.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of:
 - (1) if the number of members entitled to vote is 2 or more – 2 of those members; or
 - (2) if only one member is entitled to vote – that member, present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (1) where the meeting was convened on the requisition of members, the meeting must be dissolved; or

- (2) in any other case, the meeting stands adjourned to the day, and at the time and place, the directors decide or, if they do not make a decision, to the same day in the next week at the same time and place and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

4.4 Chairperson of general meetings

- (a) The chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting there is no chairperson of directors or the chairperson of directors is not present or not willing to act as chairperson of the meeting, one of the other directors must act as chairperson.

4.5 Conduct of general meetings

- (a) The chairperson of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in his or her opinion necessary or desirable for:
 - (1) proper and orderly debate or discussion, including limiting the time that a person may speak on a motion or other item of business before the meeting; and
 - (2) the proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- (b) The chairperson of a general meeting may at their sole discretion at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question or resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- (c) No business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (d) Where a meeting is adjourned, notice need not be given to any person unless the meeting is adjourned for more than 30 days.
- (e) Where a meeting is adjourned, the directors may postpone, cancel or change the venue of the adjourned meeting.
- (f) Where a meeting of members is held at 2 or more venues using any form of technology:
 - (1) a member participating in the meeting is to be taken to be present in person at the meeting;
 - (2) all the provisions in this constitution relating to meetings of members apply, so far as they can and with such changes as are necessary, to meetings of the members using that technology; and
 - (3) the meeting is to be taken to be held at the place determined by the chairperson of the general meeting as long as at least one of the members involved was at that place for the duration of the general meeting.
- (g) If the technology used in accordance with the requirement of rule 4.5(f) encounters a technical difficulty, whether before or during the meeting, which results in a member not being able to participate in the meeting, the chairperson

may, subject to the Act, allow the meeting to continue or may adjourn the meeting either for such reasonable period as may be required to fix the technology or to such other time and location as the chairperson deems appropriate.

4.6 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the members present at the meeting. A decision made in this way is for all purposes a decision of the members.
- (b) If votes are equal on a proposed resolution:
 - (1) the chairperson of the meeting does not have a casting vote in addition to any deliberative vote; and
 - (2) the proposed resolution is to be taken as having been lost.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands, unless a poll is demanded by:
 - (1) the chairperson of the meeting; or
 - (2) any member present and having the right to vote at the meeting,
 before a show of hands is held or before the result of the show of hands is declared or immediately after the result of the show of hands is declared.
- (d) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll is demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried 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 without proof of the number or proportion of the votes recorded for or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it is to be taken in a way and subject to rule 4.6(g) either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs. The result of the poll as declared by the chairperson is the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn with the chairperson's consent.

4.7 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (1) on a show of hands, every member present has one vote; and
 - (2) on a poll, every member present has one vote for each share held by the member and in respect of which the member is entitled to vote.
- (b) If a person present at a general meeting represents personally, by proxy, or by representative more than one member:
 - (1) on a show of hands the person is entitled to one vote only, even though he or she represents more than one member;
 - (2) that vote will be taken as having been cast for all the members the person represents; and

- (3) the person must not exercise that vote in a way which would contravene any directions given to the person in accordance with rule 4.10(g) in any instrument appointing the person as a proxy.
- (c) A joint holder may vote at any meeting in person, by proxy, or by representative as if that person were the sole holder. If more than one joint holder tenders a vote, the vote of the holder named first in the register must be accepted to the exclusion of the other or others.
- (d) A person entitled to a share because of a Transmission Event may vote at any general meeting in respect of that share in the same way as if that person were the registered holder of the share if, before the meeting, the directors have:
 - (1) admitted that person's right to vote at that meeting in respect of the share; or
 - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under rule 3.4(c),
 and any vote so tendered by that person must be accepted to the exclusion of the vote of the registered holder of the share.
- (e) A member is not entitled to vote at a general meeting unless all calls and other amounts presently payable by that member in respect of shares in the company have been paid.
- (f) An objection to the qualification of a person to vote at a general meeting must be:
 - (1) raised before or at the meeting at which the vote objected to is given or tendered; and
 - (2) referred to the chairperson of the meeting, whose decision is final.
- (g) A vote not disallowed by the chairperson of a meeting under rule 4.7(f) is valid for all purposes.

4.8 Decisions without general meetings

- (a) When the company has more than one member, the company may pass a resolution (except a resolution to remove an auditor) without a general meeting being held:
 - (1) if all of the members entitled to vote on the resolution sign a document containing a statement that they are in favour of a resolution set out in the document; and
 - (2) otherwise in accordance with the Act.
- (b) If a share is held jointly, each of the joint members must sign the document.
- (c) The passage of the resolution satisfies any requirement in the Act, or in this constitution, that the resolution be passed at a general meeting.

4.9 Resolution of single member

When the company has only one shareholder, the company may pass a resolution by the shareholder recording it and signing the record.

4.10 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (1) in person or, where a member is a body corporate, by its representatives; or
 - (2) by not more than 2 proxies.

- (b) A representative may, but need not, be a member of the company.
- (c) A proxy or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy or representative is to be taken to confer authority:
 - (1) to agree to a meeting being convened by shorter notice than is required by the Act or by this constitution;
 - (2) to agree to a resolution being proposed and passed as a special resolution at a meeting of which less than the period of notice required by the Act has been given; and
 - (3) even though the instrument may refer to specific resolutions and may direct the proxy or representative how to vote on those resolutions to do any of the acts specified in rule 4.10(e).
- (e) The acts referred to in rule 4.10(d)(3) are:
 - (1) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (2) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (3) to act generally at the meeting.
- (f) Where a member appoints 2 proxies to vote at the same general meeting, the following rules apply:
 - (1) subject to rule 4.10(f)(2), the appointment is of no effect and a proxy may not vote unless each proxy is appointed to represent a specified proportion of the member's voting rights;
 - (2) if the Act precludes the company from treating as invalid the appointment of 2 proxies which fails to specify the proportion or number of votes that each may exercise, each person appointed may exercise half the member's votes;
 - (3) on a show of hands, neither proxy may vote;
 - (4) on a poll, each proxy may only exercise the voting rights the proxy represents; and
 - (5) if both appointments cannot be validly exercised at the meeting, the later appointment revokes the earlier appointment of a proxy.
- (g) An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument so provides, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.
- (h) Subject to rule 4.10(i), an instrument appointing a proxy need not be in any particular form as long as it is in writing, legally valid and signed by or on behalf of the appointer.
- (i) A proxy may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy, and the authority under which the instrument is signed or a certified copy of the authority, are:
 - (1) received at the registered office of the company, a fax number at the company's registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting before the time specified in the notice;

- (2) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- (3) in the case of a poll, produced when the poll is taken.
- (j) The directors may waive all or any of the requirements of rules 4.10(h) and 4.10(i) and in particular may, on the production of such other evidence as the directors require to prove the validity of the appointment of a proxy accept:
 - (1) an oral appointment of a proxy;
 - (2) an appointment of a proxy which is not signed in the manner required by rule 4.10(h); and
 - (3) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or other authority under which the instrument is signed.
- (k) A vote given in accordance with the terms of an instrument appointing a proxy is valid despite:
 - (1) a Transmission Event occurring in relation to the appointer; or
 - (2) the revocation of the instrument or of the authority under which the instrument was executed,

if no written notice of the Transmission Event or revocation has been received by the company by the time and at one of the places at which the instrument appointing the proxy is required to be deposited, tabled or produced under rule 4.10(i).
- (l) A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the transfer of the share in respect of which the instrument was given, if the transfer is not registered by the time at which the instrument appointing the proxy is required to be deposited, tabled or produced under rule 4.10(i).
- (m) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the person acting as proxy for the appointer is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.

5 Directors – general

5.1 Appointment and removal of directors

- (a) There must be:
 - (1) at least one director; and
 - (2) unless the board resolves otherwise, not more than the number of directors holding office as directors of VS.
- (b) Directors will be appointed as provided in rule 6.1.
- (c) Subject to rule 5.2 and to the terms of any agreement entered into between the company and the relevant director, a director holds office until the director dies, or the director's office becomes vacant under rule 5.2.

5.2 Vacation of office

The office of a director becomes vacant:

- (a) in the circumstances prescribed by the Act;

- (b) if the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (c) if the director resigns by written notice to the company;
- (d) if the director's term of office set out in an agreement entered into between the company and the relevant director expires;
- (e) if the director ceases to be a director of VS;
- (f) if a resolution is passed for the removal of that director by the directors, their having determined that the relevant director has ceased to satisfy the requirements of any licence held by the company which licence is necessary for the company to carry on its business; or
- (g) if the director is removed by a resolution of the members.

5.3 Remuneration of directors

- (a) If a general meeting of the company determines by a two-thirds majority of all shareholders entitled to vote to alter the level of remuneration for directors, the directors will be paid such remuneration as determined by that general meeting.
- (b) In addition to the remuneration which has been determined in accordance with rule 5.3(a), the directors may resolve that a director shall be paid reasonable travelling and other expenses properly incurred by him or her in attending and returning from meetings of the directors, or any committee of the directors, or general meetings of the company, or otherwise in connection with the business of the company including any insurance premiums incurred by the director..
- (c) If a director renders or is called on to perform extra services or to make any special exertions in connection with the affairs of the company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration which has been determined in accordance with rule 5.3(a).
- (d) Nothing in rule 5.3(a) restricts the remuneration to which a director may be entitled as an officer of the company or of a related body corporate in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration which has been determined in accordance with rule 5.3(a).

5.4 Share qualification

- (a) A director need not hold any shares in the company as a qualification.
- (b) A director who is not a member of the company is entitled to attend and speak at general meetings and at meetings of the holders of a class of shares.

5.5 Interested directors

- (a) A director may hold any other office or place of profit (other than auditor) in the company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or place on such terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the company may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise, provided that the director discloses such a position or interest to the company.
- (c) A director is not disqualified merely because of being a director from contracting with the company.

- (d) No contract made by a director with the company, and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested, is avoided or rendered voidable merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (e) No director contracting with or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under any contract or arrangement merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (f) Subject to the Act, a director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
 - (1) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (2) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
 - (3) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement to which the seal is affixed,unless it is prohibited by the Act or by a written policy approved by the directors.
- (g) No act of the company is invalidated due to a contravention of this rule 5.5.

5.6 Powers and duties of directors

- (a) The directors are responsible for managing the business of the company and may exercise to the exclusion of the members all the powers of the company which are not required, by the Act or by this constitution, to be exercised by the members.
- (b) Without limiting the general nature of rule 5.6(a), the directors may exercise all the powers of the company to borrow or raise money in any other way, to charge any of the company's property or business 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.
- (c) The directors may decide how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the company.
- (d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) The directors may:
 - (1) appoint or employ any person to be an officer, agent or attorney of the company for such purposes with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for such period and on such conditions as they decide;
 - (2) authorise an officer, agent or attorney to delegate any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (3) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.

- (f) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors decide.

5.7 Proceedings of directors

- (a) The directors may meet together to attend to business and adjourn and regulate their meetings as they decide.
- (b) A meeting of the directors may be held using any technology consented to by all the participating directors (**Approved Technology**) and the consent may be a standing one. The contemporaneous linking together by Approved Technology of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors by approved technology.
- (c) A director participating in a meeting by Approved Technology is to be taken to be present in person at the meeting.
- (d) A meeting by approved technology is to be taken to be held at the place determined by the chairperson of the meeting as long as at least one of the directors involved was at that place for the duration of the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs as a result of which one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

5.8 Convening meetings of directors

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

5.9 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice a director, other than a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
- (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting;
 - (4) may be given in person or by post or by telephone, fax or other electronic means; and
 - (5) is to be taken to have been given to a proxy if it is given to the Primary Director.
- (c) A director may waive notice of any meeting of directors by notifying the company to that effect in person or by post, telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any thing done or resolution passed at the meeting if:
- (1) the non-receipt or failure occurred by accident or error;

- (2) before or after the meeting, the director has waived or waives notice of that meeting under rule 5.9(c) or has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means; or
 - (3) the director or proxy appointed by the Primary Director attended the meeting.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a proxy of a Primary Director on leave of absence approved by the directors does not invalidate any act, thing done or resolution passed at the meeting if:
- (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the proxy or the Primary Director or another proxy appointed by that director has waived or waives notice of that meeting under rule 5.9(c) or has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means; or
 - (3) the proxy or the Primary Director or another proxy appointed by that director attended the meeting.
- (f) A person who attends a meeting of directors waives any objection that person may have to a failure to give notice of the meeting and, if the person is:
- (1) a director, the waiver applies to any proxy appointed in respect of that Primary Director; or
 - (2) a proxy, the waiver applies to the Primary Director and to any other proxy appointed in respect of that Primary Director.

5.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) Unless the company has only one director, a quorum consists of:
 - (1) if the directors have fixed a number for the quorum, that number of directors; and
 - (2) in any other case, two-thirds of the directors in office.
- (c) If there is a vacancy in the office of director, the remaining director or directors may act. But, if the number of remaining directors is not sufficient to constitute a quorum, the remaining director or directors may act only in an emergency or to increase the number of directors to a number sufficient to constitute a quorum or to call a general meeting of the company.

5.11 Chairperson of directors

- (a) The directors must elect one of the directors to the office of chairperson of directors who will hold office as chairperson of directors until the earlier of:
 - (1) the chairperson's term of office as a director expiring; or
 - (2) that office being vacated in accordance with rule 5.11(d).
- (b) The office of chairperson of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the director holding that office for the purposes of rule 5.3(c).
- (c) There is no prohibition on a chairperson whose term of office has expired or whose office has been vacated from again being elected chairperson if he or she subsequently again serves as a director.

- (d) If the chairperson of directors:
 - (1) resigns as chairperson of directors by notice in writing to the directors;
 - (2) ceases to be a director; or
 - (3) is removed as chairperson of directors by a resolution of the directors, his office as chairperson of directors will be vacated and the directors must elect one of their number to be chairperson of directors who will hold office as chairperson of directors until his office is vacated in accordance with this rule 5.11(d).
- (e) Subject to rule 5.14(e), the chairperson of directors shall not have a second or casting vote.
- (f) The directors must elect one of the directors to the office of deputy chairperson of directors and shall determine the period for which that director is to be deputy chairperson of directors as well as the terms and conditions of that office.
- (g) The chairperson of directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at each meeting of directors.
- (h) If at a meeting of directors:
 - (1) there is no chairperson of directors;
 - (2) the chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,
 the directors present must elect one of themselves to be chairperson of the meeting.

5.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution. However if the company has only one director, the director may pass a resolution and make a declaration by recording it and signing the record.
- (b) Subject to the requirements of any relevant legislation, questions arising at a meeting of directors are to be decided by two-thirds of votes cast by the directors in office and any such decision is for all purposes a decision of the directors.
- (c) Subject to rule 5.14(e), at any meeting of directors, each director present has one vote only and no director has a second or casting vote.
- (d) The chairperson (or such other person determined by the directors) shall sign all minutes of directors' meetings which minutes shall be taken to be a true and correct record.

5.13 Written resolutions of directors

- (a) If not less than two-thirds of the total number of:
 - (1) all the directors, (other than any director on leave of absence approved by the directors, any director who disqualifies himself or herself from considering the thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest or any director who the directors reasonably believe is not entitled at law to do the thing or to vote on the resolution in question)

assent to a document containing a statement to the effect that a thing has been done or resolution has been passed; and

- (2) the directors who assent to the document would have constituted a quorum at a meeting of directors held to consider that thing or resolution,

then that thing or resolution is to be taken as having been done at or passed by a meeting of the directors.

- (b) For the purposes of rule 5.13(a):
 - (1) the meeting is to be taken as having been held if the directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to by a director or if the directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to by a director;
 - (2) two or more separate documents in identical terms each of which is assented to by one or more directors are to be taken as constituting one document; and
 - (3) a director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post, fax, telephone or other electronic means.
- (c) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the thing or resolution to which the document relates.
- (d) Where a document is assented to in accordance with rule 5.13(a), the document is to be taken as a minute of a meeting of directors.

5.14 Proxies

- (a) A director may appoint a fellow director or the chairperson as a proxy in the same manner as contemplated in the VS company constitution.
- (b) An instrument appointing a proxy need not be in any particular form as long as it is in writing, legally valid and signed by or on behalf of the Primary Director.
- (c) A proxy is entitled to notice of meetings of directors, and of any committee or other group of which a Primary Director in respect of whom he or she is a proxy is a member in his or her capacity as a director, and to attend and vote and otherwise act on behalf of a Primary Director at any such meeting at which the Primary Director is not present, but he or she will automatically vacate office as a proxy in respect of a particular Primary Director on the earliest of the following events:
 - (1) the expiry of the proxy's period of appointment;
 - (2) the death of the proxy;
 - (3) the proxy becoming prohibited from being a proxy by reason of, or a disqualified person in terms of, any Relevant Law;
 - (4) the proxy resigning as a proxy by notice in writing to the company;
 - (5) the proxy ceasing to be qualified under this constitution to hold the office of a proxy;
 - (6) the Primary Director ceasing to be a director;
 - (7) the proxy being removed from office by the same procedure as that by which he or she was appointed as a proxy; or

- (8) the proxy suffering any mental or physical incapacity or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, and in respect of whom the directors have passed a resolution declaring the office of that person to be vacant.
- (d) A proxy shall not be taken into account in determining the minimum or maximum number of directors allowed for the time being under this constitution, or for the purpose of determining whether a quorum is present at any meeting of the directors attended by the proxy at which he or she is entitled to vote.
- (e) The same person may act as a proxy in respect of more than one director and that person shall be entitled to a separate vote for each Primary Director that person represents and, if a director in his or her own right, his or her vote or votes as a proxy shall be in addition to his or her own vote as a director.
- (f) If more than one proxy has been appointed in respect of a Primary Director and more than one of those proxies is present in person at a meeting from which the Primary Director is absent, only the oldest of those proxies present shall be entitled to vote for the Primary Director, and the other proxy or proxies shall not remain at the meeting unless they are entitled to vote at the meeting as a director in their own right or as a proxy for another Primary Director.

5.15 Committees of directors and delegation to a director

- (a) The directors may delegate any of their powers to a committee or committees consisting of the number of directors they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Membership of a committee of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the members for the purposes of rule 5.3(c).
- (e) The directors may delegate any of their powers to a director.
- (f) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (g) The acceptance of a delegation of powers by a director may, if the directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of rule 5.3(c).

5.16 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated merely because of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified from being a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee (as applicable) when the act was done.

6 Directors

6.1 Composition and appointment

The directors of the company will be the persons who are, at the relevant time, all of the directors of VS and, where there is any person who is a director of VS but who is not a director of the company, the company must, as soon as practicable, appoint such person as a director of the company.

6.2 Director vacancies

If the office of a director of the company becomes vacant, the vacancy is to be filled in the same manner as contemplated in the VS company constitution.

7 Executive officers

7.1 Secretary

- (a) The directors must appoint at least one secretary and may appoint additional secretaries.
- (b) The directors may appoint one or more assistant secretaries.

7.2 Provisions applicable to all executive officers

- (a) A reference in rules 7.2 and 11.1 to an executive officer is a reference to a secretary or assistant secretary appointed under rule 7.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors think fit.
- (c) Subject to any contract between the company and the relevant executive officer, an executive officer of the company may be removed or dismissed by the directors at any time, with or without cause, and if he or she is also a director, the executive officer ceases to be a director on termination of his or her employment.
- (d) The directors may:
 - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the directors) as they think fit;
 - (2) withdraw, suspend or vary any of the powers, discretions and duties so conferred; and
 - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer need not hold any shares to qualify for appointment.
- (f) An act done by a person acting as an executive officer is not invalidated merely because of:
 - (1) a defect in the person's appointment as an executive officer; or
 - (2) the person being disqualified from being an executive officer, if that circumstance was not known by the person when the act was done.

8 Seals

8.1 Common seal

Without limiting the ways in which the company can execute documents in accordance with the Act, if the directors so decide, the company may have a common seal.

8.2 Use of seal

The directors may decide on procedures for the use of the seal.

9 Dividends, reserves and profits

9.1 Dividends

The directors may determine that a dividend is payable and fix:

- (a) the amount;
- (b) the time for payment; and
- (c) the method of payment.

9.2 Reserves

- (a) The directors may keep such reserves or provisions for such purposes as they decide.
- (b) The directors may appropriate to the profits of the company any amount previously set aside as a reserve or provision.
- (c) Setting aside an amount as a reserve or provision does not require the directors to keep the amount separate from the company's other assets or prevent the amount being used in the company's business or being invested as the directors decide.

9.3 Carry forward of profits

The directors must carry forward so much of the profits remaining as is not transferred to a reserve or provision.

10 Winding up

10.1 Distribution of surplus

Subject to this constitution and the rights or restrictions attached to any shares or class of shares:

- (a) if the company is wound up and the property of the company available for distribution among the members is more than sufficient to pay:
 - (1) all the debts and liabilities of the company; and
 - (2) the costs, charges and expenses of the winding up,

the excess must be paid to or distributed amongst the members of the company in proportion to the number of shares held by them, subject to any relevant dividend declaration made by the director;

- (b) for the purpose of calculating the excess referred to in rule 10.1(a), any amount unpaid on a share is to be treated as property of the company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 10.1(a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under rule 10.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the company.

10.2 Division of property

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:
 - (1) divide among the members the whole or any part of the company's property; and
 - (2) decide how the division is to be carried out as between the members or different classes of members.
- (b) A division under rule 10.2(a) need not accord with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under rule 10.2(a) does not accord with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Act.
- (d) If any of the property to be divided under rule 10.2(a) includes securities with a liability to calls, any person entitled under the division to any of the securities may, within 10 days after the passing of the special resolution referred to in that rule, by written notice direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds. The liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 10.2 takes away from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.

11 Indemnity and insurance

11.1 Persons to whom rules 11.2 and 11.4 apply

Rules 11.2 and 11.4 apply to:

- (a) each person who is or has been a director or executive officer (within the meaning of rule 7.2(a)) of the company; and
- (b) any other officers or former officers of the company or of its related bodies corporate as the directors in each case decide.

11.2 Indemnity

The company may indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this rule 11.2 applies against all losses or liabilities (including costs and expenses) incurred by the person as an officer of the company.

11.3 Extent of indemnity

The indemnity in rule 11.2:

- (a) is a continuing obligation and is enforceable by a person to whom rule 11.2 applies even though that person has ceased to be an officer of the company; and
- (b) operates only to the extent that the loss or liability in question is not covered by insurance.

11.4 Insurance

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 11.4 applies against any liability incurred by the person as an officer of the company where the directors consider it appropriate to do so.

11.5 Savings

Nothing in rule 11.2 or 11.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

11.6 Deed

Without limiting a person's right under this rule 11, the company may enter into a deed agreeing with the person to give effect to the rights of the person conferred by this rule 11 or the exercise of a discretion under this rule 11, on such terms and conditions as the directors think fit, as long as they are not inconsistent with this rule 11.

12 Minutes and records

12.1 Minutes

The directors must cause minutes of all proceedings and resolutions of general meetings and of meetings of directors (including committees of directors) to be recorded, in books kept for that purpose, within one month after the relevant meeting is held.

12.2 Minutes of resolutions passed without a meeting

The directors must ensure minutes of resolutions passed by shareholders and resolutions passed and declarations made by directors (and committees of directors) without a meeting are recorded in books kept for the purpose within one month after the resolution is passed or the declaration is made.

12.3 Signing of minutes

Except in the case of documents which are taken to be minutes under rule 4.9 or rule 5.12(d), those minutes must be signed within a reasonable time by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

12.4 Minutes as evidence

A minute that is recorded and signed under rule 12.1 and rule 12.3 is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

12.5 Inspection of records and access to documents

- (a) The directors must ensure the minute books for general meetings are open for inspection by shareholders free of charge.
- (b) The directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of shareholders other than directors.
- (c) A person who is not a director does not have the right to inspect any of the board papers, books, records or documents of the company, except as provided by law or this constitution, or authorised by the directors.
- (d) The company may enter into contracts with its directors agreeing to provide continuing access for a specified period after they cease to be a director to board papers, books, records and documents of the company which relate to the period during which the director was a director on such terms and conditions as the directors think fit and which are not inconsistent with this rule 12.5.

13 Notices

13.1 Notices by the company to members

- (a) The company may give notices, including a notice of general meeting to a member:
 - (1) personally;
 - (2) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or
 - (3) by sending it to the fax number or electronic address (if any) nominated by the member.
- (b) A notice may be given by the company to the joint holders of a share by giving the notice in the manner authorised by rule 13.1(a) to the joint holder first named in the register of members in respect of the share.
- (c) A notice given to a member in accordance with rule 13.1(a) or 13.1(b) is, despite the occurrence of a Transmission Event and whether or not the company has notice of that occurrence:
 - (1) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
 - (2) sufficient service on any person entitled to the shares as a result of the Transmission Event.
- (d) A notice given to a person who is entitled to a share as a result of a Transmission Event is sufficient service on the member in whose name the share is registered.
- (e) Any person who, because of a transfer of shares, becomes entitled to any shares registered in the name of a member is bound by every notice which, before that person's name and address is entered in the register of members in

respect of those shares, is given to the member in accordance with this rule 13.1.

- (f) A certificate signed by a director or secretary of the company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

13.2 Notices by the company to directors

Subject to this constitution, a notice may be given by the company to any director or proxy either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or proxy's usual residential or business address, or by electronic means or fax to such electronic address or fax number, as the director or proxy has supplied to the company for giving notices.

13.3 Notices by members or directors to the company

Subject to this constitution, a notice may be given by a member, director or proxy to the company by serving it on the company at, or by sending it by post in a prepaid envelope to, the registered office of the company or by fax or electronic means to the principal fax number or the principal electronic address of the company at its registered office.

13.4 Notices posted to addresses outside Australia

A notice sent by post to an address outside Australia must be sent by airmail.

13.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (1) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax, service of the notice is to be taken to be effected if the correct fax number appears on the fax report generated by the sender's fax machine and to have been effected at the time the fax is sent.
- (c) Where a notice is sent by electronic means, service of the notice is to be taken to be effected:
 - (1) in the case of an electronic messaging system that contains a delivery verification function, on the generation by the electronic messaging system of a delivery verification notice or log entry, or other confirmation; or
 - (2) in the case of electronic mail or other electronic messaging system (other than those referred to in rule 13.5(c)(1)), on the delivery to where the addressee is a natural person, the addressee's electronic mail or electronic messaging system account or where the addressee is a corporation, the corporation's computer systems.
- (d) If service under rule 13.5(c) is on a day which is not a business day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following business day.
- (e) For the purposes of rule 13.5(d), business day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in the place concerned.

13.6 Other communications and documents

Rules 13.1 to 13.5 (inclusive) apply, so far as they can and with any necessary changes, to the service of any communication or document.

13.7 Notices in writing

A reference in this constitution to a written notice includes a notice given by fax or electronic transmission or any other form of written communication.

14 General

14.1 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of Victoria, the Federal Court of Australia and the courts which may hear appeals from those courts.

14.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.