

Constitution of American Australian
Association Limited
ACN 119 727 847

The Corporations Act
A company limited by guarantee
Registered in New South Wales

(Includes amendments made by special resolution to 13 July 2008)

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Constitution of the American Australian Association Limited, a public company limited by guarantee

GENERAL

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise:

AAA Nominee Director means a Director appointed under Rule 8.1(a).

Chairman means the person occupying the position of chair of the Directors under Rule 10.6.

Chief Executive Officer means the chief executive appointed by the Directors under Rule 12.1.

Company means American Australian Association Limited.

Corporations Act means the *Corporations Act 2001* (Cth) and the *Corporations Regulations*.

Deputy Chairman a person occupying the position of deputy chair of the Directors.

Director means a person appointed or elected to the office of director of the Company in accordance with this Constitution and, where appropriate, includes an alternate director.

Foundation Member means the American Australian Association, Inc, a not-for-profit corporation incorporated in New York, of 599 Lexington Avenue, New York, New York, United States of America.

Member has the meaning given in Rule 3.1.

Member Present means, in connection with a meeting, the Member present at the venue or venues for the meeting, in person or by proxy, by attorney or, where the Member is a body corporate, by representative.

Person and words importing persons means any person including partnerships, associations and bodies corporate, unincorporated bodies and all other entities or associations recognised by law as well as individuals.

Responsible Person means an Australian resident individual who:

- (a) performs a significant public function; or
- (b) is a member of a professional body having a code of ethics or rules of conduct; or
- (c) is officially charged with spiritual functions by a religious institution; or
- (d) is a director of a company whose shares are listed on the Australian Stock Exchange; or
- (e) has received formal recognition from the Australian government for services to the community; or
- (f) otherwise satisfies the criteria of a Responsible Person published by the Commissioner of Taxation from time to time.

Secretary means a person appointed as secretary of the Company in accordance with this Constitution.



Show of Hands means a show of hands or such other method as the chair shall determine from time to time.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (d) A word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution.

1.3 Replaceable rules

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

2. Purpose

2.1 Purposes of the Company

The Company is incorporated for the following purposes:

- (a) to promote friendship, cooperation and understanding between the peoples of the United States of America and Australia and New Zealand;
- (b) to strengthen relations between the United States of America and Australia and New Zealand through creating a better understanding of their cultures and societies;
- (c) to develop and undertake exchanges and programmes including, but not limited to, educational scholarships and programmes, conferences and seminars and other cultural events for the furtherance of the purposes set out in paragraph (a) and (b);
- (d) to conduct fund raising from the public to raise funds to assist in the activities of the Company;
- (e) to receive donations and other gifts for the furtherance of the purposes of the Company set out in paragraph (a) and (b), and to disburse those funds in the furtherance of those purposes; and
- (f) to undertake any activities incidental to or associated with the above.

2.2 Application of income and property to purposes

- (a) Subject to paragraph (b), the income and property of the Company must only be used to further the purposes of the Company set out in Rule 2.1. No part of that income or



property may be paid or transferred, directly or indirectly, to any Member of the Company by way of dividend, bonus or otherwise.

- (b) Paragraph (a) does not prevent the Company from making a payment in good faith to a Member of the Company:
 - (i) of reasonable and proper remuneration for services provided to the Company;
 - (ii) for goods supplied in the ordinary course of business; or
 - (iii) of reasonable and proper rent for premises let by a Member.

2.3 Gift Fund

The Company must maintain one or more gift funds to which gifts or contributions for the Company's purposes are to be made. The following will apply in respect of each gift fund:

- (a) the object and purposes of the gift fund will fall within the purposes of the Company set out in Rule 2.1;
- (b) the Company will invite members of the public to make gifts or contributions to the gift fund;
- (c) any gifts or contributions received by the Company under paragraph (b) will be accepted by the Company in the following manner:
 - (i) all gifts or contributions of money received by the Company will be placed in a separate bank account; and
 - (ii) receipts in the name of the Company will be issued to the member or members of the public who made the gift or contribution to the Company;
- (d) all gifts or contributions made to the gift fund must be separately identified and kept separately from any other funds of the Company;
- (e) the gift fund must be managed by a committee (the Gift Fund Committee, a majority of whom shall be Responsible Persons) appointed under Rule 10.11; and
- (f) the gift fund must operate on a non-profit basis and money must not be distributed to members of the committee appointed under paragraph (e), trustees of the fund (if any) or the Company except as reimbursement for out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative purposes.

2.4 Amendment to constitution

The Company must give written notice to the Commissioner of Taxation of any amendment to Rules 2 or 15 of this Constitution.

3. Membership

3.1 Members of the Company

- (a) The Members are those persons admitted to the membership of the Company who have consented to becoming a Member and whose names are entered into the Company's register of members.



- (b) On registration the Members will be those persons set out in Schedule 1 who have consented in writing to be Members.
- (c) Two or more persons cannot be registered as holding a single membership interest, whether as joint tenants or as tenants in common.

3.2 Categories of Members

- (a) The Directors shall determine and may admit as members such classes of Members as they determine.
- (b) Subject to Rule 4.3, the Directors may vary or cancel the rights of Members in any class.

3.3 Limited liability of Members

The liability of the Members of the Company is limited.

3.4 Members' liability on winding up

Each Member undertakes to contribute to the assets of the Company in the event of it being wound up while they are a Member, or within one year after they cease to be a Member, for payment of the debts and liabilities of the Company and of the costs, charges and expenses of winding up, such amount as may be required not exceeding \$1.00.

3.5 Admission as a Member

- (a) A person who wants to apply for membership must submit a written application to the Secretary signed by the applicant in the form determined by the Directors.
- (b) Admission as a member shall be determined by the Directors or an authorised committee thereof. If the Directors decide not to admit an applicant to the membership, they do not have to give any reasons for their decision.
- (c) When an applicant is admitted, the Secretary must notify the applicant and request payment of the first annual membership fee.
- (d) When the Company receives payment from the applicant of the first annual membership fee, the applicant will be registered in the Company's register of Members and will immediately become a Member.

3.6 Membership fee

The Directors may from time to time determine a membership fee for any class of Members and the terms of payment of the membership fee.

3.7 Resignation of a Member

A Member may resign from the Company by giving notice in writing to the Secretary. The resignation will be effective from the date it is received by the Secretary.

3.8 Non-payment of membership fee

- (a) If the membership fee of a Member remains unpaid for a period of 28 days after it becomes due, the Secretary will give notice to the Member of that fact.



- (b) If the membership fee remains unpaid more than 14 days after the date of the notice given under paragraph (a), the Directors may cancel the membership of the Member and remove the Member's name from the register of Members.

3.9 Misconduct of a Member

- (a) The Directors may expel from the Company any Member:
 - (i) who does not comply with the provisions of this Constitution; or
 - (ii) whose conduct in the opinion of the Directors is prejudicial to the interests of the Company; or
 - (iii) at the written request of at least 2 Members.
- (b) At least 21 days before the Directors hold a meeting to expel a Member the Directors must send a notice to the Member which states:
 - (i) the allegations against the Member;
 - (ii) the proposed resolution for the Member's expulsion;
 - (iii) that the Member has an opportunity at the meeting to address the allegations either orally or in writing; and
 - (iv) that the Member may elect to have the question of expulsion dealt with by the Company in general meeting, provided that the Member notifies the Secretary in writing, at least 48 hours before the meeting at which the resolution is to be considered by the Directors.
- (c) The Company must expel a Member and remove the Member's name from the register where:
 - (i) a general meeting is held to expel a Member; and
 - (ii) a resolution is passed at the meeting for the expulsion of the Member by a majority of two-thirds of those present and voting (such voting will be by ballot).

3.10 Ceasing to be a Member

A Member's membership of the Company will automatically cease

- (a) in the case of a Member who is a natural person, on the date that:
 - (i) the Member dies;
 - (ii) the Member becomes of an unsound mind; or
 - (iii) the Member becomes a person whose estate is liable to be dealt with in any way under the laws relating to mental health; or
- (b) in a case of a Member which is a body corporate, on the date that:
 - (i) a liquidator is appointed in connection with the winding up of the Member; or
 - (ii) an order is made by a court for the winding up or deregistration of the Member.

3.11 Liability after a person ceases to be a Member

A Member who ceases to be a Member must pay to the Company:



- (a) all membership fees or other amounts owing to the Company which are due and unpaid at the date that the member ceases to be a member; and
- (b) amounts which the Member is liable to pay under Rule 3.4.

3.12 Register of Members

The register of Members must be kept by the Secretary and must contain the full name and address of each Member and any other information required by the Directors.

3.13 Address of Members

Every Member must inform the Secretary in writing of any change in their address and any such change of address must be entered in the register of Members. The latest address in the register of Members is deemed to be the Member's registered address.

4. Foundation Member

4.1 Appointments and Dismissals

No appointment to, or dismissal from, any of the following positions in the Company will be effective without the prior written consent of the Foundation Member:

- (a) a Director;
- (b) an Alternate Director; or
- (c) a Secretary.

4.2 Amendment to Constitution

The provisions of this Rule 4 and Rules 2, 3.2, 3.3 and 14 may not be amended without the written consent of the Foundation Member.

4.3 Protection of Rights of Foundation Member

The rights of the Foundation Member under this Constitution may not be varied or abrogated in any way without the prior written consent of the Foundation Member.

5. General meetings

5.1 Power to call general meeting

A Director may call for a general meeting of the Company whenever the Director thinks fit.

5.2 Non-receipt of notice

The fact that a person entitled to receive notice of a general meeting does not receive that notice or is accidentally not given notice, does not invalidate any resolution passed at the meeting.

5.3 Business of general meetings

Unless all Members are present as Members Present and agree otherwise, the only business to be transacted at a general meeting will be that set out in the notice.



5.4 Right of others to attend general meeting

Any other person (whether a Member or not) requested by the Directors to attend any general meeting is entitled to be present and, at the request of the Chair, to speak at that general meeting.

6. Proceedings at general meetings

6.1 Number for a quorum

Except as otherwise provided in this Constitution, 3 Members Present constitutes a quorum.

6.2 Requirement for a quorum

No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

6.3 No quorum

- (a) If there is no quorum at a general meeting within 30 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless:
 - (i) the Directors adjourn the meeting to a date, time and place determined by the Directors; or
 - (ii) if there are no Directors present at the meeting, the chair adjourns the meeting to a date, time and place determined by the chair.
- (b) If no quorum is present at any adjourned meeting within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

6.4 Chair of general meetings

Subject to Rule 6.5, the Chairman is entitled to preside as chair at every general meeting. Where the Chairman is not present or does not wish to act as chair, a Deputy Chairman is entitled to preside over the meeting in his place.

6.5 Absence of Chair

Where a general meeting is held and:

- (a) there is no Chairman, the Chairman is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting; and
- (b) there is no Deputy Chairman, a Deputy Chairman is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting.,

the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members present may elect one of their number to be chair of the meeting.

6.6 Conduct of general meetings

- (a) The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the chair of the meeting.



- (b) The chair of the meeting may make rulings without putting the question (or any question) to the vote if the chair of the meeting considers action is required to ensure the orderly conduct of the meeting.
- (c) At any time the chair of the meeting considers it necessary or desirable for the proper and orderly conduct of the meeting, the chair of the meeting may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members Present.
- (d) Any determination by the chair of the meeting in relation to matters of procedure (including any procedural motions moved at, or put to, any meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, any meeting). Any challenge to a right to vote (whether on a Show of Hands or on a poll) or to a determination to allow or disregard to vote may only be made at the meeting and may be determined by the chair of the meeting whose decision is final.
- (e) If a person purports to cast a vote in contravention of the Corporations Act, the chair of the meeting may determine that the vote be disregarded and treated as not having been cast.
- (f) Nothing contained in this rule limits the powers conferred on a chair of a meeting by law.

6.7 Adjournments

- (a) During the course of a general meeting, the chair of the meeting may, and if so directed by the meeting must, adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to a meeting held at another time and place determined by the chair.
- (b) If the chair of the meeting exercises a right of adjournment under paragraph (a), the chair has the sole discretion to decide whether to seek the approval of the Members Present to the adjournment and, unless the chair exercises that discretion, no vote may be taken by the Members Present in respect of the adjournment.
- (c) The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- (d) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting. Otherwise it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

6.8 Voting at general meetings

- (a) Any resolution submitted to a general meeting is to be decided by a Show of Hands of the Members Present and entitled to vote, or such other method as the chair shall determine, unless a poll is demanded.



- (b) In the case of an equality of votes, the chair of the meeting has, both on a Show of Hands and on a poll, a casting vote in addition to the vote or votes to which the chair may be entitled as a Member or as a proxy, attorney or properly appointed representative of a Member.
- (c) Unless a poll is demanded, a declaration by the chair following a vote on a Show of Hands that a resolution has been passed or lost is conclusive.
- (d) A poll may be demanded by a Member in accordance with the Corporations Act (and not otherwise) or by the chair of the meeting. No poll may be demanded on the election of a chair of a meeting or, unless the chair otherwise determines, the adjournment of a meeting. A demand for a poll may be withdrawn.

6.9 Procedure for polls

- (a) When demanded, a poll may be taken in the manner and at the time the chair of the meeting directs.
- (b) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the chair of the meeting considers appropriate.
- (c) The result of the poll is the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.

7. Votes of Members

7.1 Voting rights

Subject to this Constitution and any rights or restrictions for the time being attached to any class or classes of Members:

- (a) at meetings of Members each Member entitled to attend and vote may attend and vote in person or by proxy, by attorney or (where the Member is a body corporate) by representative;
- (b) a Member is not entitled to vote at a general meeting unless all sums presently payable by the member in respect of membership in the Company have been paid; and
- (c) each Member has one vote both on a Show of Hands and a poll.

7.2 Right to appoint proxy

- (a) A Member may appoint one proxy.
- (b) A proxy need not be a Member.

7.3 Form of proxy

A form of appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) which the Directors may prescribe or accept.



7.4 Lodgement of proxies

An instrument appointing a proxy is not valid unless it and the power of attorney or other authority (if any) under which the instrument is signed is received at the registered office of the Company or, if notice of a meeting provides for electronic lodgement of proxies, at the electronic mail address specified in the notice, at any time before the meeting commences .

7.5 Validity of proxies

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
 - (i) the previous death or unsoundness of mind of the principal;
 - (ii) the revocation of the instrument (or of the authority under which the instrument was executed) or the power; or
 - (iii) the transfer of the share in respect of which the instrument or power is given, if no notice in writing of the death, unsoundness of mind, revocation or transfer (as the case may be) has been received by the Company at its registered office at least 48 hours (or any shorter period as the Directors may permit or specified by the Corporations Act) before the commencement of the meeting, or adjourned meeting at which the instrument is used or the power is exercised.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting unless the principal actually votes at the meeting on a resolution for which the proxy is proposed to be used.

7.6 Where proxy is incomplete

- (a) No instrument appointing a proxy is treated as invalid merely because it does not contain:
 - (i) the address of the appointor or of a proxy;
 - (ii) the proxy's name or the name of the officer held by the proxy; or
 - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the chair of the meeting.
- (c) A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.

8. Appointment, Removal and Remuneration Of Directors

8.1 AAA Nominee Directors

- (a) The Foundation Member is entitled to appoint 3 persons to serve as Directors of the company (the *AAA Nominee Directors*).



- (b) Each AAA Nominee Director will serve until such time as the Foundation Member nominates a person, having provided their consent to the appointment, to replace them.

8.2 Appointment and Removal

- (a) The number of Directors (not including AAA Nominee Directors) must be not less than 3 and not more than 17.
- (b) Subject to Rule 4.1(a), the Directors may at any time appoint a person to be a Director to fill a casual vacancy or as an addition to the existing number of Directors, provided the total number of Directors does not exceed the maximum number under paragraph (a).
- (c) Any Director appointed under paragraph (b) may hold office only until the next annual general meeting of the company and is then eligible for election at that meeting.

*Rule 8.2(a) amended by
Special Resolution
passed 13 July 2008.*

8.3 Qualification as a Director

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

8.4 Retirement by rotation

- (a) An AAA Nominee Director will not be subject to retirement by rotation.
- (b) At every annual general meeting convened after 30 June 2009 one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not exceeding one-third, must retire from office and will be eligible for re-election.
- (c) The Directors to retire at each annual general meeting will be the Directors who have been in office the longest since last being elected or re-elected. Between Directors who were elected on the same day, the Director to retire will be decided by lot unless they agree otherwise.
- (d) A retiring Director will be eligible for re-election without needing to give any prior notice of an intention to submit for re-election and will hold office as a Director until the end of the meeting at which the Director retires.

*Rule 8.4(b) amended by
Special Resolution
passed 13 July 2008.*

8.5 Remuneration

- (a) Subject to paragraphs (b) and (c), no Director is entitled to be paid a fee for his or her service as a Director.
- (b) The Directors will be entitled to be paid or reimbursed for all out-of-pocket expenses incurred by them in the performance of their duties as Directors where the amount payable does not exceed an amount previously approved by the Directors.
- (c) A Director may be engaged by the Company in any other capacity (other than auditor) and may be appointed on such terms as to remuneration, tenure of office and otherwise as is agreed by the Directors.

8.6 Vacation of Office

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



- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (b) ceases to be a Member, where applicable;
- (c) is removed from office by a resolution of the Members at a general meeting of which notice of the resolution has been given;
- (d) resigns by notice in writing to the Company;
- (e) is absent without the consent of the Directors from meetings of the Directors held during a continuous period of 6 months; or
- (f) dies.

8.7 Alternate Director

Subject to this Constitution, each Director may appoint any person (who, if there are other Directors, is approved by a majority of the other Directors) to act as an alternate Director in the Director's place, either for a stated period or until the happening of a specified event, whenever by absence or illness or otherwise the Director is unable to attend to duties as a Director. The appointment must be in writing and signed by the Director and a copy of the appointment must be given to the registered office or to a meeting of the Directors. The appointment takes effect on (if there are other Directors) approval by a majority of the other Directors or, where the approval has been granted, at any later time specified in the appointment. The following provisions apply to any alternate Director:

- (a) the appointment of the alternate Director is terminated or suspended on receipt at the registered office of notice in writing from the Director by whom the alternate Director was appointed;
- (b) the alternate Director is entitled to receive notice of meetings of the Directors and to attend and vote at the meetings if the Director by whom the alternate Director was appointed is not present;
- (c) the alternate Director is entitled to exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director, to the extent the Director by whom the alternate Director was appointed has not exercised or performed them or they have not been limited by the instrument appointing the alternate Director;
- (d) the alternate Director will be entitled to be reimbursed under Rule 8.5(b) as if the alternate Director were a Director;
- (e) the office of the alternate Director is terminated on the death of, or termination of office by, the Director by whom the alternate Director was appointed;
- (f) the alternate Director is not to be taken into account in determining the number of Directors; and
- (g) the alternate Director is, while acting as a Director, responsible to the company for the alternate Director's own acts and defaults and is not the agent of the Director by whom the alternate Director was appointed.



9. Powers of Directors

9.1 Powers of Directors

- (a) The business of the Company will be managed by the Directors, who, subject to paragraph (c), may exercise all powers of the Company which are not, by the Corporations Act or this Constitution, required to be exercised by the Company in general meeting.
- (b) Without limiting paragraph (a), the Directors may exercise all the powers of the Company to:
 - (i) borrow money, to charge any property or business of the Company; or
 - (ii) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) To be effective any action of the Directors requires the consent of the majority of AAA Nominee Directors, or if two of them are appointed, both AAA Nominee Directors.

10. Proceedings of Directors

10.1 Directors meetings

The Directors may meet together for conducting business and adjourn and otherwise regulate their meetings as they see fit.

10.2 Power to call for a Directors meeting

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

10.3 Quorum for Directors meetings

- (a) The number of Directors necessary to form a quorum at a meeting of Directors is half of the number of Directors or, if the number of Directors is not a multiple of 2, then the odd number nearest to and greater than half the number of Directors.
- (b) Quorum will not be established unless two AAA Nominee Directors are present.
- (c) Despite anything else in this Constitution, a minimum of three Directors is necessary to form a quorum at a meeting of Directors.

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| <i>Inserted by special resolution dated 12/09/2006</i> |
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10.4 Notice

Reasonable notice must be given to every Director of the place, date and time of every meeting of the Directors.

10.5 Directors meetings by technology

- (a) For the purposes of the Corporations Act, each Director, by consenting to be a Director (or by reason of the adoption of this Constitution), consents to the use of each of the following technologies for holding a Directors meeting:
 - (i) video conference;



- (ii) telephone;
- (iii) electronic mail;
- (iv) any other technology which permits each Director to communicate with every other Director; or
- (v) any combination of these technologies.

A Director may withdraw the consent given under this Rule in accordance with the Corporations Act.

- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
 - (i) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Directors, taken to be assembled together at a meeting and to be present at that meeting; and
 - (ii) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were physically present in one location.

10.6 Chairman and Deputy Chairman of Directors

- (a) The Chairman and one Deputy Chairman shall be AAA Nominee Directors as directed by the Foundation Member.
- (b) The board may resolve to appoint any other director as a Deputy Chairman.

10.7 Directors' voting rights and exercise of powers

- (a) Subject to this Constitution, questions arising at a meeting of Directors are decided by a majority of votes of Directors present and voting.
- (b) In the case of an equality of votes, the chair of the meeting has a casting vote in addition to the chair's deliberative vote.
- (c) Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.

10.8 Conflict of interests

- (a) A Director is not liable to account to the Company for any profit realised by any contract or arrangement, by reason only of holding the office of Director or of the fiduciary relationship established by the office.
- (b) A Director is not disqualified from contracting with the Company in any capacity by reason of holding the office of Director.
- (c) In relation to a contract or arrangement in which a Director is in any way interested:
 - (i) the fact that the Director signed the document on behalf of the Company evidencing the contract or arrangement will not in any way affect its validity;



- (ii) the contract or arrangement may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it; and
- (iii) the Director will not be liable to account to the Company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.

10.9 Material personal interest

- (a) Subject to paragraph (b), a Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of his or her interest in accordance with the Corporations Act.
- (b) A Director with a material personal interest in a matter that relates to the affairs of the Company is not required to give notice in the following circumstances:
 - (i) if all of the following conditions are met:
 - (A) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of the Company;
 - (B) if a person who was not a Director at the time the notice was given is appointed as a Director, the notice is given to that person; and
 - (C) the nature or extent of the interest has not materially increased above that disclosed in the notice;
 - (ii) if the Director has given a standing notice of the nature and extent of the interest in accordance with the Corporations Act and that standing notice is still effective in relation to the interest; or
 - (iii) as otherwise permitted under the Corporations Act.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting or vote on the matter, except as permitted in accordance with the Corporations Act.
- (d) Nothing in this Rule affects the duty of a Director:
 - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Director's duties or interests as a Director, to declare at a meeting of Directors, the fact and the nature, character and extent of the conflict; or
 - (ii) to comply with the Corporations Act or any other law.

10.10 Committees

- (a) The Directors may delegate any of their powers to committees consisting of at least two AAA Nominee Directors and any one or more other Directors or any other person or persons as the Directors think fit and may revoke that delegation.
- (b) A committee to which any powers have been delegated under paragraph (a), must exercise those powers in accordance with any directions of the Directors. These powers are then taken to have been exercised by the Directors.



- (c) No act of a committee will be held to be effective without the concurrence of the majority of AAA Nominee Directors appointed to the committee, or if two of them are present, both AAA Nominee Directors.
- (d) Subject to paragraph (b), the meetings and proceedings of any committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Directors so far as they are applicable.

10.11 Gift Fund Committee

- (a) The Directors must delegate to a committee formed for the purpose of Rule 2.3(e) (management of a gift fund) those of their powers relevant to the operation of the committee (Gift Fund Committee).
- (b) Each Gift Fund Committee must include at least two AAA Nominee Directors and any other person or persons as the Directors think fit but the majority of each Gift Fund Committee must consist of Responsible Persons.
- (c) The decision of a Gift Fund Committee must be supported by a majority of the Gift Fund Committee and a majority of the AAA Nominee Directors appointed to the Gift Fund Committee, or if two of them, both AAA Nominee Directors.
- (d) Notwithstanding any other provision of this Constitution, the Directors, including the AAA Nominee Directors, must accept and act in accordance with the recommendations and decisions of each Gift Fund Committee, in each case, in relation to the management of the gift fund to which such committee relates.

10.12 Written resolutions

- (a) A resolution in writing signed by all Directors or a resolution in writing of which notice has been given to all Directors and which is signed by a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Directors), is a valid resolution of the Directors and is effective when signed by the last of all the Directors or the last of the Directors constituting the majority, as required.
- (b) To be effective a resolution must be signed by the majority of AAA Nominee Directors, or if two of them are appointed, both AAA Nominee Directors.
- (c) For the purpose of this Rule, the references to *Directors* include any alternate Director for the time being present in Australia who is appointed by a Director for the time being not present in Australia but do not include any other alternate Director.
- (d) The resolution may consist of several documents in the same form each signed by 1 or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director and is deemed to be signed when received in legible form.



10.13 Defects in appointments

- (a) All acts done by any meeting of the Directors or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of a committee.
- (b) Paragraph (a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or to act as a Director or that a person so appointed was disqualified.

10.14 If less than minimum number of Directors

If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of calling a general meeting of the Company but for no other purpose.

11. Advisory Council

11.1 Formation

The Directors may convene a council of eminent persons to assist and advise the Directors from time to time, with such powers as the Directors decide.

11.2 Appointment and removal of Members of the Advisory Council

The Directors may appoint any person to be a member of the Advisory Council or remove any member of the Advisory Council, at any time in their absolute discretion. A member of the Advisory Council may, at any time, resign his or her office by notice in writing to the Company.

11.3 Proceedings of the Advisory Council

The provisions of this Constitution relating to proceedings of a committee apply, *mutatis mutandis*, to proceedings of the Advisory Council.

12. Officers of the Company

12.1 Appointment of a Chief Executive Officer

The Directors may appoint a person to be the Chief Executive Officer of the Company for such period and on such terms as they think fit. Subject to the terms of any agreement entered into in a particular case, the Directors may at any time terminate any such appointment.

12.2 Powers of a Chief Executive Officer

The Directors may delegate to the Chief Executive Officer any of the powers exercisable by them under this Constitution and may at any time withdraw, suspend or vary any of those powers. Giving powers to the Chief Executive Officer does not prevent the exercise of those powers by the Directors.

12.3 Appointment of Secretary

There must be at least one Secretary who, subject to Rule 4.1(c) is to be appointed by the Directors.



12.4 Qualification as a Secretary

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

12.5 Powers, duties and authorities of Secretary

A secretary of the Company holds office on the terms and conditions, and with the powers, duties and authorities, as the Directors decide.

12.6 Termination of appointment of secretary

Subject to Rule 4.1(c), the Directors may at any time terminate the appointment of a Secretary.

12.7 Appointment of other officers

The Directors may from time to time:

- (a) create any other position or positions in the Company with the powers and responsibilities as the Directors may from time to time decide; and
- (b) appoint any person, whether or not a Director, to any position or positions created under paragraph (a).

12.8 Termination of appointment of other officers

The Directors may at any time terminate the appointment of a person holding a position created under Rule 12.7(a) and may abolish the position.

13. Seals

13.1 Seals and their Use

The Company may have a common seal and a duplicate common seal which are to be used by the Company as determined by the Directors.

14. Notices

14.1 Notices generally

Any Member who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or sent is not entitled to receive any notice.

14.2 How notice may be given

The Company may give notice to a Member, in its discretion, by:

- (a) serving it on the Member personally;
- (b) sending it by post to or leaving it at the Member's address as shown in the register of Members or an alternative address supplied by the Member;
- (c) sending it to the fax number or electronic mail address supplied by the Member.



14.3 Personal service or delivery

A notice served on a Member personally or left at the Member's address is considered to have been served when delivered.

14.4 Notice by post

A notice sent by post:

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

and in either case is considered to have been served at the expiration of 24 hours after the notice is posted, provided that it is properly addressed.

14.5 Notice by fax or electronic mail

Any notice sent by fax or electronic mail is considered to have been served on the day it is sent, provided that it is properly addressed.

15. Winding Up

15.1 Winding Up - Company

If upon winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the property must not be paid to or distributed among the Members but must be given or transferred to one or more organisations selected by the Members at or before the time of dissolution, which is covered by an item in any of the tables in subdivision 30-B of the *Income Tax Assessment Act 1997* (Cth).

15.2 Winding up - Gift Fund

If a gift fund, but not the Company, is wound up, dissolved or set aside for any reason whatsoever (including the Company ceasing to be a deductible gift recipient under item 1 of the table contained in section 30-15 of the *Income Tax Assessment Act 1997* (Cth)), then so much of the surplus assets of the gift fund must not be paid to or distributed among the Members but must be given or transferred to one or more organisations, selected by the Members at or before the time of dissolution, which is covered by an item in any of the tables in subdivision 30-B of the *Income Tax Assessment Act 1997* (Cth).

15.3 Amalgamation

Where it furthers the purposes of the Company to amalgamate with any one or more other organisations having similar purposes to the purposes of the Company, the other organisation or organisations must have rules prohibiting the distribution of its income and property to members.



16. Indemnity

16.1 Indemnity of Officers, Insurance and Access

- (a) The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.
- (b) Where the Directors consider it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company or a subsidiary.
- (c) Where the Directors consider it appropriate, the Company may:
 - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Company to make the payments.
- (d) Where the Directors consider it appropriate, the Company may:
 - (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give the access.
- (e) In this Rule 16:
 - (i) **officer** means:
 - (A) a Director or Secretary, chief executive officer or employee; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Company,and includes a former officer.
 - (ii) **duties of the officer** includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, the subsidiary of the Company to any other corporation.
 - (iii) **to the relevant extent** means:
 - (A) to the extent the Company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount



that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.

- (iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

Schedule 1

Initial Members

Each of the people named below as a Member consents to becoming a Member of the Company and agrees to the terms of this Constitution.

| Name | Address | Signature |
|--|---|------------------|
| American Australian Association, Inc. | 599 Lexington Avenue, 18 th Floor New York, NY 10022 USA | |