

**AUSTRALIAN ADVISORY BOARD ON
AUTISM SPECTRUM DISORDERS LIMITED**
(formerly known as the Autism Council of Australia Limited)
ACN 085 018 408

CONSTITUTION

As amended on

13 April 2011

INDEX TO CONSTITUTION

1	INTERPRETATION	1
	1.1 Replaceable rules inapplicable	1
	1.2 Definitions	1
	1.3 Construction.....	3
2	NAME.....	4
3	REGISTERED OFFICE	4
4	OBJECTS.....	5
	4.1 The Company's Objects	5
	4.2 The Company's further Objects.....	5
5	MEMBERS	5
	5.1 Membership	5
	5.2 Fees	6
	5.3 Notification	6
	5.4 Commencement of Membership.....	6
	5.5 Cessation of Membership	6
6	REGISTER OF MEMBERS.....	6
7	EXPULSION OF A CORPORATE MEMBER.....	7
	7.1 The Power to Expel a Corporate Member.....	7
	7.2 The Provisions for Expulsions.....	7
8	GENERAL MEETINGS.....	8
	8.1 Annual general meeting.....	8
	8.2 Holding of general meetings.....	8
	8.3 Convening of general meetings	8
	8.4 Notice of meetings	9
	8.5 Omission to give notice	9
	8.6 Ordinary and Special business.....	9
	8.7 Resolutions to amend Constitution.....	9
9	PROCEEDINGS AT GENERAL MEETINGS.....	9
	9.1 Quorum	9
	9.2 Lack of quorum.....	10
	9.3 Chairperson.....	10
	9.4 Adjournment	10
	9.5 Notice of adjourned meeting	10
	9.6 Decision on resolutions.....	10
	9.7 Minutes as evidence of result	11
	9.8 Taking of poll	11
10	VOTES OF MEMBERS	11
	10.1 Entitlement to vote.....	11
	10.2 When there is an equality of votes.....	11

11	PROXIES.....	11
	11.1 Appointment of proxy.....	11
	11.2 Instrument of proxy	12
	11.3 Proxy to be deposited at office	12
	11.4 Form of proxy	12
	11.5 Power to demand poll	12
	11.6 Identification of proxy	12
12	DIRECTORS	13
	12.1 Number	13
	12.2 No remuneration	13
	12.3 Vacancies.....	13
13	DUTIES OF DIRECTORS	14
	13.1 Management of the Company.....	14
14	DISQUALIFICATION OF DIRECTORS.....	14
15	DIRECTOR'S OBLIGATIONS	15
	15.1 Confidentiality	15
	15.2 Use	15
	15.3 Confidential Information in the public domain	15
	15.4 Uncertainty	15
	15.5 Security	16
	15.6 Delivery or destruction of Confidential Information.....	16
	15.7 Director must not make copies	16
	15.8 Obligations to continue.....	16
	15.9 No limitation.....	16
	15.10 Director's interests.....	17
	15.11 Declaration of interest.....	17
	15.12 Votes by interested Directors.....	17
16	DIRECTOR'S CONFLICTS OF INTEREST	18
17	OFFICE BEARERS.....	18
	17.1 Office Bearers	18
	17.2 Appointment and Termination of Office Bearers.....	18
	17.3 Chairperson to preside at annual general meeting.....	18
18	PROCEEDINGS OF DIRECTORS.....	18
	18.1 Procedure generally	18
	18.2 Quorum	19
	18.3 Notice of Board meetings	19
	18.4 Chairperson of Board meetings	19
	18.5 Determinations.....	19
	18.6 Delegation to Committees	19
	18.7 Procedure of Committees	20
	18.8 Validation of irregular acts	20
	18.9 Written resolutions.....	20
	18.10 Board Meetings by Instantaneous Communication Device.....	20

19	MINUTES.....	21
20	SECRETARY	21
21	ESTABLISHMENT AND OPERATION OF GIFT FUND	21
	21.1 Establishment and Maintenance of Gift Fund	21
	21.2 Future Gifts.....	22
22	FINANCIAL RECORDS	22
	22.1 Financial and other records.....	22
	22.2 Time for financial reports	22
	22.3 Financial Year.....	22
23	NOTICES.....	22
	23.1 Notices to Members.....	22
	23.2 Deemed service.....	22
	23.3 Persons entitled to notice of general meeting.....	23
24	DISPUTES AND MEDIATION	23
	24.1 Application	23
	24.2 Mediation.....	23
25	WINDING UP OR DISSOLUTION	24
26	INDEMNITY OF OFFICERS	24
27	CAPACITY	25
28	NON-PROFIT.....	25
29	LIMITED LIABILITY	25
30	MEMBERS' GUARANTEE	25
31	APPLICATION OF THE CORPORATIONS ACT.....	26
	31.1 What parts of the Corporations Act apply	26
	31.2 Replaceable rules displaced.....	26

CORPORATIONS ACT 2001
CONSTITUTION
OF
AUSTRALIAN ADVISORY BOARD ON
AUTISM SPECTRUM DISORDERS LIMITED
(formerly known as the Autism Council of Australia Limited)
ACN 085 018 408
A COMPANY LIMITED BY GUARANTEE

1 INTERPRETATION

1.1 Replaceable rules inapplicable

The replaceable rules in the Corporations Act do not apply to the Company unless repeated in this Constitution or specifically made applicable to this Company by a provision of this Constitution.

1.2 Definitions

In this Constitution, unless the context otherwise requires:

“**ASIC**” means the Australian Securities and Investments Commission.

“**Board**” means the Board of Directors.

“**Board Meeting**” means a meeting of the Board of Directors.

“**Business Day**” means a day which is not a Saturday, Sunday or bank or public holiday in New South Wales.

“**Chairperson**” means the Chairperson of a General Meeting of Members or the Chairperson of a meeting of the Board of Directors of the Company (as the context requires).

“**Committee**” means a Committee of Directors or a Committee of Directors and other persons appointed to such Committee by the Board formed under clause 17.

“**Company**” means “Australian Advisory Board on Autism Spectrum Disorders Limited” formerly known as the “Autism Council of Australia Limited”.

“Confidential Information”:

- (a) means information (whether or not in material form) given to or gained by a Director before, during or after that person’s term of directorship, that relates to:
 - (i) the Company; or
 - (ii) customers, clients or suppliers of the Company; and
- (b) includes, but is not limited to:
 - (i) trade secrets;
 - (ii) information relating to the business affairs, accounts work, marketing plans, sales plans, prospects, price information, supplier lists, research, management, financing, business strategies, products, inventions, designs or processes;
 - (iii) computer data bases and computer software; and
 - (iv) data surveys, customer or client lists, specifications, drawings, records, reports and statements.

“Constitution” means this Constitution as amended from time to time.

“Corporations Act” means the *Corporations Act 2001 (Cth)*.

“Director” means any person occupying the position of a Director of the Company.

“Duties” includes, in any particular case where the Board considers 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.

“Gift” means a gift to the Company pursuant to the provisions of subdivision 30-A of the *Income Tax Assessment Act 1997* and which is either a gift of cash or a gift of an asset made or transferred or given to the Company.

“Gift Fund” means the gift fund established under clause 21.

“Instantaneous Communication Device” includes telephone, television, fax, email, videoconference or any other audio, visual or data device which permits instantaneous communication.

“Liability” means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending an action for a liability incurred as an Officer.

“Members” or **“Corporate Members”** means corporate entities that are, or who are admitted as, members of the Company under clause 5.1.

“Objects” means the objects for which the Company is established as set out in clause 4.

“Office” means the registered office from time to time of the Company.

“**Office Bearers**” has the meaning assigned in clause 17.1.

“**Officer**” means:

- (a) a Director or Secretary or a director or secretary of a subsidiary of the Company; or
- (b) a person:
 - (i) who makes or participates in making decisions that affect the whole, or a substantial part, of the business of the Company or a subsidiary of the Company;
 - (ii) who has the capacity to affect significantly the Company’s or a subsidiary of the Company’s financial standing; or
 - (iii) in accordance with whose instructions or wishes the Directors or the directors of a subsidiary of the Company are accustomed to act (excluding advice given by the person in the proper performance of functions attached to the person’s professional capacity or their business relationship with the Directors or the directors of a subsidiary of the Company or the Company or a subsidiary of the Company),

and includes a former officer;

“**Register**” means the register of Members to be kept pursuant to the Corporations Act.

“**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 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.

“**Secretary**” means any person appointed to perform all or any of the duties of a Secretary of the Company or any person appointed to act temporarily as such.

“**Special Resolution**” has the meaning given to that term in the Corporations Act.

“**Tax Act**” means the *Income Tax Assessment Act 1997 (Cth)*.

1.3 Construction

In this Constitution unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa;

- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) “includes” means includes without limitation;
- (e) a reference to:
 - (i) a person includes a natural person 18 years or over, a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (iii) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (iv) a right includes a benefit, remedy, discretion or power;
 - (v) time is to local time in New South Wales;
 - (vi) “\$” or “dollars” is a reference to Australian currency;
 - (vii) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmission;
- (f) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (g) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

2 NAME

The name of the Company is the “Australian Advisory Board on Autism Spectrum Disorders Limited” which was formerly known as the “Autism Council of Australia Limited”.

3 REGISTERED OFFICE

The registered office of the Company shall be situated in New South Wales.

4 OBJECTS

4.1 The Company's Objects

The Company has been incorporated with the purpose and objective of working at a national level to alleviate the deleterious effects of autism spectrum disorders in the community at large and to enhance the support and quality of life for not only people who have an autism spectrum disorder but also their families and carers by:

- (a) collecting and disseminating information and fostering awareness relating to the detection and treatment of autism spectrum disorders;
- (b) promoting research into the causes and effective treatment of autism spectrum disorders;
- (c) contributing to policy development in all areas which affect the lives of people with autism spectrum disorders and their families;
- (d) disseminating information that contributes directly or indirectly to the support and wellbeing of people with autism and their families; and
- (e) engaging, involving or cooperating with any other association or organisation, whether incorporated or not, whose objects are altogether or in part similar to those of the Company.

In furthering its objectives, the Company

- (f) shall not be aligned with any particular therapeutic program, approach, or theory, and
- (g) may purchase such property and enter into such contracts as is necessary to attain the purposes and objects of the Company.

4.2 The Company's further Objects

In furtherance of the Objects set out in clause 4.1, the Company's further Objects are:

- (a) to encourage and solicit the making of donations, gifts and testamentary dispositions to the Company and obtain and disburse those funds in the furtherance of the Company's Objects;
- (b) to undertake public appeals from time to time to raise funds for its Objects;
- (c) to establish a capital base and to use income from that base to provide an ongoing source of support for its Objects. The Company may also use gifts or donations to the Gift Fund in part or in full for its specified activities as detailed in clause 4.1.

5 MEMBERS

5.1 Membership

- (a) There shall be one class of membership, this being Corporate Membership which applies to any incorporated not-for-profit entity, based in a state or territory of the Commonwealth of Australia that is a Member at the date of adoption of this Constitution (and whose name appears in Schedule 1 of this Constitution), or who, as provided for in this Constitution, is later admitted as a Corporate Member.

- (b) The eight (8) entities from the Australian states and territories, being the Corporate Members of the company prior to the adoption of this Constitution, as listed in Schedule One, are the initial Corporate Members of the Company under this Constitution.
- (c) No new Corporate Member may be accepted for membership of the Company unless, in the opinion of the Board, the Australian state or territory in which the proposed Corporate Member is primarily based is not effectively already represented by a Corporate Member that is primarily based in that Australian state or territory. An entity may apply for Corporate Membership if it is eligible to be accepted and is invited by the Board to apply.

5.2 Fees

The membership fee payable by each Corporate Member and the period for which such fee entitles membership, will be determined by the Board from time to time.

5.3 Notification

- (a) Upon the Board accepting the application for membership the Secretary will send to the corporate entity confirmation of its acceptance as a Corporate Member of the Company.
- (b) If an application for membership is rejected, the Secretary must, as soon as practicable, notify the applicant that the application has been rejected. In no case shall the Board or the Company be required to give any reason for the rejection of the applicant.

5.4 Commencement of Membership

For the avoidance of doubt, an applicant's corporate membership commences upon the making of a Board resolution to that effect.

5.5 Cessation of Membership

A Corporate Member ceases to be a Member if that corporate entity:

- (a) resigns its Membership by giving one month's written notice to the Secretary; or
- (b) fails to pay any membership fee within 90 days of the due date for such payment and by resolution of the Board membership is terminated. Notwithstanding this, the Board may reinstate the Corporate Member and restore its name to the register on payment of all arrears.

6 REGISTER OF MEMBERS

The Secretary must keep the Register at the Office and must enter in the Register:

- (a) the full name and address of each Corporate Member; and

- (b) the date on which each Corporate Member becomes and ceases to be a Corporate Member.

7 EXPULSION OF A CORPORATE MEMBER

7.1 The power to expel a Corporate Member

The Board shall have the power to expel a Corporate Member and erase its name from the Register, if:

- (a) it wilfully refuses or neglects to comply with the provisions of the Constitution; or
- (b) in the opinion of the Board, has acted in a manner unbecoming of a Corporate Member or prejudicial to the interests of the Company.

7.2 The provisions for expulsions

Such expulsions shall occur only provided that:

- (a) The allegation against the Corporate Member is made by another Corporate Member or a Director.
- (b) The allegation against the Corporate Member is transmitted to the Corporate Member and the Board in writing and in the same letter the Corporate Member is invited to respond to the allegation within 21 days of the date of the letter.
- (c) At the expiration of 21 days, or sooner if a response is sooner received, the Secretary shall call a meeting of the Board, the sole purpose of which shall be a consideration of the allegation and the response, if any.
- (d) The Board Meeting so called shall not occur less than 21 days after the receipt of a response to the allegation, or if no response is received, the expiration of the initial 21 days provided for the response to the allegation.
- (e) Notice of the Board meeting to consider the allegation and a response, if any, shall set out the time and place and purpose of the Board Meeting.
- (f) The Corporate Member against whom the allegation is made shall have the right to have a representative appear in person, and the Corporate Member making the allegation shall have the right to have a representative appear in person.
- (g) After consideration of the written allegation, any written response or any oral presentation, the Board shall consider whether the allegation has substance.
- (h) If the Board determines that the allegation has no substance it shall resolve to that effect; if the Board determines that the allegation has substance, the Board then shall consider a resolution, if proposed and seconded, that the Corporate Member be expelled from the Company. The resolution shall be put without further debate.

- (i) A resolution for the expulsion of a Corporate Member of the Company shall be deemed to have been carried unless at least two thirds of the votes cast at the meeting are in favour of the resolution.
- (j) When deliberation on the substance of the allegation or voting occurs on any resolution concerning expulsion, no Director may participate in the deliberations or vote if he or she represents or is either the Corporate Member against whom the allegation is made or the Corporate Member making the allegation.

8 GENERAL MEETINGS

8.1 Annual general meeting

An annual general meeting of the Company must be held in accordance with the Corporations Act.

8.2 Holding of general meetings

General meetings are to be held at the times and places resolved by the Company in general meetings or, if no time or place is resolved, as resolved by the Board.

8.3 Convening of general meetings

- (a) The Directors may at any time and must upon a written requisition made by at least 5% the total Corporate Membership in accordance with section 249D of the Corporations Act, convene a general meeting of the Company.
- (b) The written request for a general meeting by the Corporate Members must:
 - (i) state the resolution/s to be proposed at the meeting;
 - (ii) be signed by all the Corporate Members requesting the meeting; and
 - (iii) be given to the Company at the Office.
- (c) The Board may change the venue for, postpone or cancel a general meeting, unless the meeting is called and arranged to be held by the Corporate Members or the Court under the Corporations Act.
- (d) If a general meeting is called and arranged to be held under section 249D of the Corporations Act, the Directors may not:
 - (i) postpone it beyond the date by which section 249D requires it to be held; or
 - (ii) cancel it without the consent of the requisitioning Members.

8.4 Notice of meetings

At least 21 days prior notice must be given of a meeting of Members unless the Corporations Act otherwise provides. The notice must specify the place, date and time of the meeting and in the case of special business, the general nature of that business.

8.5 Omission to give notice

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

8.6 Ordinary and special business

- (a) Other than items of business requiring a Special Resolution due to the provisions of the Corporations Act or this Constitution, all other items of business to be conducted at a meeting of Members will be dealt with as ordinary business and will be passed upon the vote in favour of at least 50% of the votes cast by Members entitled to vote on the resolution.
- (b) Business conducted at an annual general meeting for:
 - (i) the confirmation of the minutes of the preceding meeting;
 - (ii) the receipt and consideration of the annual financial report and the reports of the Directors and the auditors (if any); and
 - (iii) the transaction of any business which under the Corporations Act or this Constitution is required to be transacted,
 will be dealt with as ordinary business.

8.7 Resolutions to amend Constitution

- (a) A resolution to amend this Constitution or this clause 8.7 shall be dealt with as a Special Resolution and will be decided in the affirmative where 75% of the votes cast by Corporate Members present at the meeting are cast in favour of the resolution.
- (b) The Company must notify the Australian Taxation Office and ASIC of any amendment to the Constitution.

9 PROCEEDINGS AT GENERAL MEETINGS

9.1 Quorum

No business is to be transacted at any general meeting unless a quorum is present at the time the meeting proceeds to business. 75% of Members, including proxies, constitute a quorum for the transaction of the business of a general meeting.

9.2 Lack of quorum

If within 30 minutes after the time appointed for the general meeting a quorum is not present:

- (a) in the case of a meeting convened upon the request of the Corporate Members, the meeting must be dissolved; and
- (b) in any other case, the meeting will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Directors determine. If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting will be dissolved.

9.3 Chairperson

The Chairperson of the Board of Directors presides as the Chairperson at every meeting. If there is no Chairperson or if the Chairperson is not present within 15 minutes after the time appointed for the meeting or is unable or unwilling or refuses to act as chairperson of the meeting, those entitled to be present and to vote at the meeting must choose another Director as Chairperson. If no Director is so chosen or if all the Directors present decline to take the chair, the Corporate Members present must choose one of their own number to be Chairperson of the general meeting of Members.

9.4 Adjournment

The Chairperson of a general meeting may, with the consent of the meeting (and must if directed by the meeting), adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.5 Notice of adjourned meeting

It is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned general meeting, unless the meeting is adjourned for 21 days or more, in which case notice of the adjourned meeting is to be given as in the case of an original meeting.

9.6 Decision on resolutions

- (a) Subject to clause 9.6(b), a resolution put to the vote at a general meeting of the Company, is to be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairperson (other than a resolution for the election of the Chairperson of a meeting or a resolution for the adjournment of a meeting) or by not less than 50% of Corporate Members having the right to vote at the meeting.
- (b) A question arising at a general meeting of the Company relating to the order of business, procedure or conduct of the meeting must be referred to the Chairperson of the meeting, whose decision is final.

9.7 Minutes as evidence of result

Unless a poll is duly demanded in accordance with clause 9.6(a), a declaration by the Chairperson that a resolution has, on the show of hands, been carried or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company signed by the Chairperson, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

9.8 Taking of poll

- (a) If a poll is duly demanded it must be taken before the close of the meeting in the manner and at the time and place, as the Chairperson of the meeting may direct. The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded provided that a poll on the election of a Chairperson of a meeting or on any question of adjournment must be taken at the meeting and without adjournment.
- (b) The demand for a poll does not prevent the meeting continuing for the transaction of any business other than the question on which a poll has been demanded.
- (c) The demand for a poll may be withdrawn.
- (d) In the case of a dispute as to the admission or rejection of a vote on a show of hands or on a poll, the Chairperson must determine the dispute and the determination made in good faith will be final and conclusive.

10 VOTES OF MEMBERS

10.1 Entitlement to vote

Subject to this Constitution and any rights or restrictions attached to membership, at a general meeting every Member present in person or represented by proxy has one vote, whether on a show of hands or on a poll.

10.2 When there is an equality of votes

In the case of an equality of votes whether on a show of hands or on a poll, the motion is lost.

11 PROXIES

11.1 Appointment of proxy

Subject to section 249X(3) of the Corporations Act, a Corporate Member may appoint one proxy only, who may but need not be a Member of the Company, and that proxy is entitled to vote on a show of hands or on a poll.

11.2 Instrument of proxy

The instrument appointing a proxy must be in writing signed by the appointor. An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution. Where an instrument contains such direction, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.

11.3 Proxy to be deposited at office

- (a) The instrument appointing a proxy and the authority (if any) under which it is signed, or a certified copy of the authority, must be received by the Company not later than the close of business on the Business Day before the general meeting or adjourned meeting or taking of the poll, at which the person named in the instrument proposes to vote. If this clause 11.3 is not complied with, the instrument of proxy will be treated as invalid.
- (b) An instrument appointing a proxy is received when it is received at any of the following:
 - (i) the Office;
 - (ii) a facsimile number at the Office; or
 - (iii) a place, facsimile number or electronic address specified for the purpose in the notice of meeting.

11.4 Form of proxy

The Board shall from time to time determine the form of the instrument of proxy, which will be valid, if it is signed by the Corporate Member making the appointment.

An instrument of proxy in which the name of the appointee is not filled in is taken to be given in favour of the Chair of the meeting to which it relates.

11.5 Power to demand poll

The instrument appointing a proxy is taken to confer authority to demand, or join in demanding, a poll.

11.6 Identification of proxy

The Chairperson of a meeting may require a person acting as a proxy to establish to the satisfaction of the Chairperson that he or she is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person does not comply, that person may be excluded from voting either upon a show of hands or upon a poll.

12 DIRECTORS

12.1 Number

- (a) Following the adoption of this Constitution, there shall be eight (8) Directors each representing one of the eight Corporate Members.
- (b) The Board may appoint up to two (2) additional Directors if it so determines for a period of up to 12 months. At the completion of the period of 12 months, the Board may re-appoint Board-appointed Directors for further 12 month terms.
- (c) A Member of the Board representing a Corporate Member holds office until that Corporate Member resigns or until replaced by the Corporate Member that such member represents on the Board.
- (d) Corporate Members shall each determine their own process for selecting their representative on the Board.
- (e) All nominated representatives of Corporate Members for directorship must be approved by the Board in accordance with criteria developed by the Board from time to time in order to ensure effective operation of the Board and to further the objects of the Advisory Board.

12.2 No remuneration

Except as provided for in clause 28, no Director may receive any remuneration for his or her services as a Director.

12.3 Vacancies

- (a) If a vacancy occurs on the Board as a result of the expulsion of a Corporate Member then that place shall be deemed to be vacant, but no Representative shall be elected or appointed to fill it until a replacement Corporate Member for that jurisdiction is admitted to Corporate Membership of the Company
- (b) A casual vacancy of a Corporate Member's representative on the Board shall be filled by that Corporate Member using the selection method employed by that particular Corporate Member.
- (c) A casual vacancy of a Board-appointed Director may be filled by resolution of the Board. Such an appointee shall hold office only for the remaining portion of the term of the Board position in respect of which the casual vacancy has occurred. After this term has ended, a person shall be appointed to that Board position at the time, for the term and in the way, provided for in this constitution. A person appointed to a casual vacancy shall be eligible for reappointment. .

13 DUTIES OF DIRECTORS

13.1 Management of the Company

- (a) Subject to the Corporations Act and any other provision of this Constitution, the management of the business and affairs of the Company shall be managed by the Board which may exercise all the powers and do everything that the Company may exercise or do and which is not required to be exercised or done by the Company in general meeting. Without limitation, the Board may exercise all the Company's powers to:
 - (i) borrow or otherwise raise money;
 - (ii) charge Company property; and
 - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or (subject to clause 28) any other person.
- (b) The powers of the Board are subject to the Corporations Act, this Constitution and to any regulations (not being inconsistent with this Constitution) from time to time made by the Company in general meeting. No regulation made by the Company in general meeting invalidates any prior act of the Board which would have been valid if that regulation had not been made.
- (c) The Board may:
 - (i) appoint or employ a person to be an officer, agent or attorney of the Company with powers, discretions and duties, including those vested in or exercisable by the Board;
 - (ii) authorise an officer to delegate powers and duties vested in that officer; and
 - (iii) dismiss or remove any agent, officer or attorney with or without cause.

14 DISQUALIFICATION OF DIRECTORS

- (a) In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act or elsewhere in this Constitution, the office of a Director becomes vacant if:
 - (i) the Director becomes of unsound mind or a person whose personal estate is dealt with in any way under the law relating to mental health;
 - (ii) the Director becomes an insolvent under administration or makes any composition or arrangement with his or her creditors or any class of them;
 - (iii) the Director is removed from office pursuant to this Constitution or the Corporations Act;

- (iv) the Director is absent from three (3) consecutive meetings of the Board without leave of absence from the Chairperson and the Board resolves that the Director's office be vacated;
 - (v) the period for which the Director is appointed expires; or
 - (vi) a Director dies.
- (b) No proceedings of the Board, or any resolution passed at any meeting, will be invalidated by reason of any Director taking part or concurring in such meeting or resolution being then disqualified until an entry is made in the minutes of the Board of the Director's office having been so vacated.

15 DIRECTOR'S OBLIGATIONS

15.1 Confidentiality

A Director shall:

- (a) keep confidential all Confidential Information; and
- (b) not disclose any Confidential Information to any person, except:
 - (i) as required by law;
 - (ii) with the prior written consent of the Company; or
 - (iii) to the Company's agents, employees or advisers in the proper performance of the Director's responsibilities and duties under this Constitution and as may be determined from time to time by the Board.

15.2 Use

No Director shall use any Confidential Information for the benefit of any person except the Company.

15.3 Confidential Information in the public domain

If any Confidential Information is lawfully within the public domain then to the extent that the Confidential Information is public, and subject to clause 15.4, a Director's obligations under clause 15.1 shall cease in respect of that Confidential Information.

15.4 Uncertainty

If there is uncertainty as to whether:

- (a) any information is Confidential Information; or
- (b) any Confidential Information is lawfully within the public domain,

that information shall be deemed to be Confidential Information and is not within the public domain, unless the Director is advised by the Board in writing to the contrary.

15.5 Security

A Director shall:

- (a) maintain proper and secure custody of all Confidential Information; and
- (b) use his or her best endeavours to prevent the use or disclosure of the Confidential Information by third parties.

15.6 Delivery or destruction of Confidential Information

- (a) A Director shall immediately deliver to the Company all Confidential Information that is physically capable of delivery:
 - (i) at the end of that person's term as a Director; and
 - (ii) at any time at the request of a person authorised by the Board.
- (b) Instead of delivering Confidential Information, the Board may direct the Director to destroy Confidential Information and certify in writing to the Company that the Confidential Information has been destroyed.
- (c) The Board may direct that Confidential Information contained in computer software or data be destroyed by erasing it from the magnetic media on which it is stored so that the information cannot be recovered or reconstructed.

15.7 Director must not make copies

- (a) A Director must not make any copy or summary of any Confidential Information, except if required to do so in the course of his or her duties as a Director.
- (b) If a Director is required to make a copy or summary of Confidential Information in the course of the Director's duties and functions as a Director, the copy or summary belongs to the Company.

15.8 Obligations to continue

- (a) A Director shall comply with the obligations under this clause 15 at all times during and after that person's term as a Director.
- (b) The Company may enforce the obligations under this clause 15 at any time.

15.9 No limitation

Nothing in this clause 15 shall limit any other duty of confidentiality of a Director at law or in equity.

15.10 Director's interests

Subject to the Corporations Act and clause 28:

- (a) no Director or proposed Director is disqualified by that office from becoming or remaining a director of any company in which the Company is in any way interested or which is in any way interested in the Company;
- (b) no contract, agreement or arrangement in which a Director is in any way interested, entered into by or on behalf of the Company can be avoided merely because of that Director's interest;
- (c) no Director shall directly or indirectly supply goods or services to the Company for valuable consideration where such goods or service can be satisfactorily obtained elsewhere with the Board's prior approval; and
- (d) no Director who:
 - (i) enters into a contract, agreement or arrangement in which the Director has an interest; or
 - (ii) is a director of the other company with which the Company has entered into the contract, agreement or arrangement,

is liable to account to the Company for any profits or remuneration realised by that Director as a result of him or her being interested or being a director of the other company.

15.11 Declaration of interest

The nature of a Director's interest in any contract, agreement or arrangement must be declared by that Director at a meeting of the Directors in accordance with the Corporations Act as soon as practicable after the relevant facts have come to his or her knowledge. A general notice that a Director is a member of any specified firm or corporation and is to be regarded as interested in all transactions with that firm or corporation is a sufficient declaration under this clause as regards the Director and the transactions. After giving the general notice it is not necessary for the Director to give any special notice relating to any particular transaction with that firm or corporation. The Secretary must record in the minutes any declaration made or any general notice given by a Director under this clause.

15.12 Votes by interested Directors

Subject to the Corporations Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:

- (a) must not vote on the matter unless:
 - (i) the Directors have passed a resolution that the interest does not disqualify the Director from considering or voting on the matter;

- (ii) the interested Director is entitled to be present and vote as a result of a declaration or order made by the ASIC under the Corporations Act; or
 - (iii) the interested Director is otherwise permitted by the Corporations Act to be present and vote.
- (b) must not be present while the vote is taken, unless consent is given by the Chairperson.

16 DIRECTOR'S CONFLICTS OF INTEREST

If a Director holds any office or possesses any property such that he or she might have duties or interests which directly or indirectly conflict with his or her duties or interests as Director, that Director must declare at a meeting of the Directors the fact, nature, character and extent of the conflict.

17 OFFICE BEARERS

17.1 Office Bearers

The Office Bearers of the Company shall consist of a Chairperson, a Deputy Chairperson, a Secretary and an Honorary Treasurer, each of whom shall be a Director of the Company.

17.2 Appointment and Termination of Office Bearers

At the first meeting of the Board following each annual general meeting, the Board shall appoint members of the Board to be the Chair, the Deputy Chair, the Secretary and the Honorary Treasurer of the Company. The appointment shall expire on the commencement of the first Board meeting following the next annual general meeting. These Office Bearers will be eligible for re-election and may serve an unlimited number of times as an Office Bearer. The Board shall determine the powers and duties of each Office Bearer and may terminate a Director's appointment as an Office Bearer at any time.

17.3 Chairperson to preside at annual general meeting

The person holding the office of Chairperson of the Board immediately before the commencement of an annual general meeting shall preside as Chairperson of that annual general meeting.

18 PROCEEDINGS OF DIRECTORS

18.1 Procedure generally

The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. A Director may at any time, and the Secretary shall on the requisition of a Director, convene a Board meeting.

18.2 Quorum

The quorum for a Board meeting shall be:

- (a) one-half of the number of Directors then holding office. If that is not a whole number, then the quorum shall be the next whole number greater than one-half of the number of Directors then holding office; and
- (b) no business may be conducted unless a quorum is present.

18.3 Notice of Board meetings

- (a) Notice of a Board meeting is to be given to all Directors except to a Director whom the Secretary when giving notice to other Directors reasonably believes to be outside Australia.
- (b) A notice of meeting must:
 - (i) specify the time and place of the meeting;
 - (ii) indicate the general nature of the business to be conducted; and
 - (iii) be given at least 10 days before the date of the meeting.
- (c) Non-receipt of notice of a Board meeting by, or a failure to give notice of a Board meeting to, a Director does not invalidate any act matter or thing done by or resolution passed at the meeting if non-receipt or failure occurred by accident or error.

18.4 Chairperson of Board meetings

The Chairperson shall preside at every Board meeting, or if there is no Chairperson, or if at any Board meeting the Chairperson is not present within 10 minutes after the appointed time for holding the meeting, or if being present the Chairperson is unwilling to preside, the Deputy Chairperson shall preside or if the Deputy Chairperson is not present or is unwilling to preside at the meeting, then the Directors who are present may choose one of their number to chair the Board meeting.

18.5 Determinations

Subject to this Constitution, questions arising at any Board meeting are to be decided by a majority of votes. Each Director has one vote and a determination by a majority of the Directors will for all purposes be deemed a determination of the Directors. If there is equality of votes at a meeting at which a quorum is present, the motion is lost.

18.6 Delegation to Committees

The Board may delegate any of its powers to one or more Committees consisting of one or more Directors or other persons as the Board thinks fit. Any Committee formed must comply with the regulations that may be imposed on it by the Board in exercising the Committee's delegated power.

18.7 Procedure of Committees

The meetings of Committees consisting of more than one person are governed by the clauses of this Constitution regulating the meetings of the Directors so far as they are applicable and are not superseded by any regulations made by the Directors under this Constitution.

18.8 Validation of irregular acts

Any act done by any Board meeting or by a Committee or by any person acting as a Director will be valid even if it is later discovered:

- (a) that there was some defect in the appointment or continuance in office of a Director or such other person; or
- (b) that any of them was disqualified or had vacated office or were not entitled to vote.

18.9 Written resolutions

A resolution in writing signed or (subject to the Corporations Act) approved by fax or email by not less than 75% of all Directors of the Company is as valid and effectual as if it had been passed at a duly held Board meeting. That resolution may consist of several copies of a document each signed by one or more Directors.

18.10 Board Meetings by Instantaneous Communication Device

For the purposes of this Constitution, the contemporaneous linking together by Instantaneous Communication Device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, is deemed to constitute a Board meeting and all the provisions of this Constitution as to the Board meetings will apply to such meetings held by Instantaneous Communication Device so long as the following conditions are met:

- (a) all the Directors for the time being entitled to receive notice of the Board meeting entitled to notice of a meeting by Instantaneous Communication Device and to be linked by Instantaneous Communication Device for the purposes of such meeting. Notice of any such meeting may be given by the Instantaneous Communication Device or in any other manner permitted by this Constitution;
- (b) at the commencement of the Board meeting each Director taking part in the meeting by Instantaneous Communication Device is able to hear each of the other Directors taking part;
- (c) at the commencement of the Board meeting each Director must acknowledge his or her presence for the purpose of the Board meeting to all the other Directors taking part;
- (d) a minute of the proceedings of a meeting by Instantaneous Communication Device is sufficient evidence of those proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair.

19 MINUTES

The Directors must cause minutes to be kept in accordance with the Corporations Act:

- (a) of the names of the Directors present at each Board meeting and of any Committee; and
- (b) of all resolutions and proceedings of general meetings and of Board meeting and of Committees.

The minutes must be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next meeting.

20 SECRETARY

The Directors shall appoint a Secretary in accordance with the Corporations Act at the remuneration and on the terms and conditions as the Directors think fit. Any Secretary so appointed may be removed by the Directors.

21 ESTABLISHMENT AND OPERATION OF GIFT FUND

21.1 Establishment and Maintenance of Gift Fund

- (a) The Board shall cause the Company to establish and maintain a Gift Fund for the main purpose of the Company.
- (b) All gifts of money and property and any income derived from such money, property or other investments arising out of such gifts shall be paid into or credited to the Gift Fund, and the Gift Fund shall not receive any other money or property.
- (c) A separate bank account shall be opened and maintained for the Gift Fund and all gifts and income derived from such gifts or the investment of such gifts shall be kept separate from the other funds of the Company.
- (d) Receipts for donations of property to the Gift Fund are to be issued in the name of the Gift Fund and show its Australian Business Number.
- (e) The Gift Fund is only invested on an arm's length basis in investments that can be managed in a way to ensure that the use of the funds reflect the objects of the Company and not as a means of excessive accumulation of investment assets.
- (f) Notwithstanding any other provision in this Constitution, if upon the first occurrence of the revocation of the Company's endorsement as a deductible gift recipient under sub-division 30-B of the *Tax Act* or the winding up of the Gift Fund, there remains, after the satisfaction of all of the debts and liabilities of the Gift Fund, any property or money whatsoever, the surplus assets shall be given or distributed to some other (one or more) funds, authorities or institutions determined by the Company, which is charitable at law and which is a named fund, authority or institution known to have been approved under sub-division 30-B of the *Tax Act* or a fund, authority or institution falling under one or more of the items listed in the tables in sub-division 30-B.

21.2 Future Gifts

If any person, firm, company or association shall at any future date pay or transfer to the Company any money or any real or personal property and shall direct the Company to hold the same upon like trusts as are contained in this Constitution, the Company will in that event hold that money or property in the Gift Fund and as fully as if it had been paid or transferred to the Company at the time of the adoption of this Constitution.

22 FINANCIAL RECORDS

22.1 Financial and other records

The Directors must cause proper financial and other records to be kept and provide annual financial reporting to Members as required by the Corporations Act.

22.2 Time for financial reports

The interval between the end of a financial year of the Company and the annual financial reporting to Members must not exceed the period (if any) prescribed by the Corporations Act.

22.3 Financial Year

- (a) Subject to the Corporations Act, the financial year of the Company shall run from 1 July to 30 June of the next year.

23 NOTICES

23.1 Notices to Members

The Company may give notice to a Corporate Member:

- (a) personally;
- (b) by sending it by post to the Member at its registered address;
- (c) by sending it to the fax number or electronic mail address (if any) nominated by the Member; or
- (d) in any other way allowed under the Corporations Act.

23.2 Deemed service

- (a) If a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected at the time at which the letter would be delivered in the ordinary course of post.

- (b) A notice sent by fax is deemed to be received on production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the fax number of the recipient if produced before 5.00pm on a Business Day, otherwise on the next Business Day.
- (c) A notice sent by electronic mail is deemed to be received on the day of transmission, if transmitted before 5.00pm on a Business Day, otherwise on the next Business Day.
- (d) A notice sent by electronic mail is deemed not to be served only if the computer system used to send it reports that delivery failed.

23.3 Persons entitled to notice of general meeting

Notice of every general meeting must be given in the manner authorised to:

- (a) every Corporate Member; and
- (b) the auditor for the time being (if any) of the Company.

No other person is entitled to receive notices of general meetings.

24 DISPUTES AND MEDIATION

24.1 Application

- (a) The grievance procedure set out in this clause applies to disputes under this Constitution between:
 - (i) a Corporate Member and another Corporate Member; or
 - (ii) a Corporate Member and the Company.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute came to the attention of all of the parties.

24.2 Mediation

- (a) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend the meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (b) The mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - (A) in the case of a dispute between a Corporate Member and another Corporate Member, a person appointed by the Board; or

- (B) in the case of a dispute between a Corporate Member and the Company, a person who is a mediator appointed or employed by the Australian Commercial Disputes Centre.
- (c) A mediator can be a representative of a Corporate Member but not a party to the dispute.
- (d) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (e) The mediator, in conducting the mediation must:
 - (i) give the parties to the mediation every opportunity to be heard; and
 - (ii) allow due consideration by all parties of any written statement by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (f) The mediator must not determine the dispute.
- (g) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Corporations Act or otherwise at law.

25 WINDING UP OR DISSOLUTION

In the event of the Company being dissolved, the amount which remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation in Australia which is a public benevolent institution for the purposes of any Commonwealth Taxation Act, including the Tax Act.

26 INDEMNITY OF OFFICERS

- (a) The Company must indemnify each Officer 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 a subsidiary of the Company or in or arising out of the discharge of the Duties of the Officer.
- (b) Subject to the Corporations Act, where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any Officer.
- (c) Subject to the Corporations Act, where the Board considers 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 against any Liability incurred by the Officer in or arising out of the conduct of the business of the Company or a

subsidiary of the Company or in or arising out of the discharge of the Duties of the Officer; and

- (ii) bind itself and amend any contract or deed with any Officer to make the payments

27 CAPACITY

Subject to the Corporations Act and clause 28, the Company has the legal capacity of a natural person including the capacity to exercise the powers set out in section 124 of the Corporations Act.

28 NON-PROFIT

The income and property of the Company must be applied solely towards the promotion of the Objects of the Company as set out in this Constitution and no portion of it is to be paid or transferred directly or indirectly by way of profit to Corporate Members or paid to Directors as fees for their services as Directors. This does not prevent the payment in good faith:

- (a) of remuneration to any officers or servants of the Company for any services rendered to the Company, if such payment is approved by the Board and the amount payable is not more than an amount that would be commercially reasonable for the service;
- (b) for goods supplied in the ordinary and usual course of business;
- (c) of interest at a reasonable and proper rate on money borrowed from any Corporate Member;
- (d) of reasonable and proper rent for premises leased or licensed by any Corporate Member to the Company; or
- (e) of out of pocket expenses incurred by a Director in performing Company duties if such payment is approved by the Board.

29 LIMITED LIABILITY

The Company is a company limited by guarantee and the liability of the Corporate Members is limited as provided by clause 29 of this Constitution.

30 MEMBERS' GUARANTEE

Every Corporate Member undertakes to contribute an amount not exceeding \$100.00 to the property of the Company if it is wound up while it is a Corporate Member or within 1 year after ceasing to be a Corporate Member, for:

- (a) payment of the debts and liabilities of the Company contracted before the time when he or she ceased to be a Member;

- (b) the costs charges and expenses of winding up; and
- (c) for an adjustment of the rights of contributories among themselves.

31 APPLICATION OF THE CORPORATIONS ACT

31.1 What parts of the Corporations Act apply

Unless the contrary intention appears:

- (a) an expression used in this Constitution that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act; and
- (b) subject to clause 31.1(a), an expression in a clause of this Constitution that has a defined meaning for the purposes of the Corporations Act has the same meaning as in the Corporations Act.

31.2 Replaceable rules displaced

- (a) The clauses of this Constitution displace each provision of a section or sub-section of the Corporations Act that applies (or would apply but for this clause) to the Company.
- (b) Subject to clause 1.1, the replaceable rules do not apply to the Company except those which operate as mandatory rules for public companies limited by guarantee under the Corporations Act.

Schedule One of Corporate Members

The names and addresses of the Corporate Members who have formed this Company and adopted this Constitution are as follows:

Name of Corporate Member	Address of Corporate Member	Signature of Authorised Representative of Corporate Member
Autism Asperger ACT Inc.	PO Box 717, Mawson ACT 2607	
Autism Association of South Australia Inc.	262 Marion Rd, Netley SA 5037 (PO Box 304, Marleston DC SA 5034)	
Autism Association of Western Australia (Inc.)	37 Hay St, Subiaco WA 6008 (Locked Bag 9, Post Office, West Perth WA 6872)	
Autism Northern Territory Inc.	Shop 19, Nightcliff Shopping Centre, Dick Ward Drive, Coconut Grove NT 0810 (PO Box 36595, Winnellie NT 0821)	
Autism Queensland Inc.	437 Hellowell Rd, Sunnybank Hills, QLD 4109 (PO Box 354, Sunnybank QLD 4109)	
Autism Spectrum Australia (Aspect)	Building 1, Level 2, 14 Aquatic Drive, Frenchs Forest NSW 2086 (PO Box 361 Forestville NSW 2087)	
Autism Tasmania Inc.	35 West Church St, Deloraine TAS 7304 (PO Box 1552, Launceston TAS 7250)	
Autism Victoria Inc.	24 Drummond St, Carlton VIC 3053 (P.O. Box 374, Carlton South VIC 3053)	