

AUSTRALIAN CLINICAL TRIALS ALLIANCE LIMITED[^]

ACN 168 693 972

Public Company Limited by Guarantee

CONSTITUTION

Adopted with effect upon registration of the Company by the Australian Securities and Investments Commission on 12 March 2014

and

as amended on 10 September 2015, 21 November 2017, 28 November 2018, 26 November 2020 and 8 November 2023

[^] *Which name may exclude the word "Limited" if the Company is permitted to do so under the Corporations Act.*

AUSTRALIAN CLINICAL TRIALS ALLIANCE LIMITED ¹
ACN 168 693 972

A public company limited by guarantee

Registered under the Corporations Act 2001

1. NATURE OF COMPANY AND LIABILITY

Nature of Company

1.1 The Company is a public company limited by guarantee.

Liability of Members and Guarantee on Winding Up

1.2 The liability of the Members is limited. Every Member undertakes to contribute \$10.00 to the assets of the Company if it is wound up:

- (a) while they are a Member; or
- (b) within one year after ceasing to be a Member.

Application of the Corporations Act

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

1.4 Any mandatory provision of the Corporations Act shall be incorporated into and, in the event of any conflict, apply instead of any provision of this Constitution, subject to the ACNC Act (to the extent it applies to the Company).

1.5 Where an expression is used in a manner consistent with a provision of the Corporations Act or the ACNC Act (to the extent it applies to the Company), the expression has the same meaning as in that provision.

2. OBJECTS

2.1 The objects for which the Company is established are to advance health by:

- (a) promoting the role of investigator-initiated clinical trials and clinical quality registries to inform decisions made by health practitioners, policymakers and consumers to ensure effective and cost-effective healthcare in Australia;
- (b) increasing Australia's capacity to generate and implement high-quality clinical trial evidence through the development and support of sustainable clinical trial networks, coordinating centres and clinical quality registries, and the provision of mentoring and education opportunities for Members;

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- (c) supporting communities of practice and providing a forum for the exploration and dissemination of effective and efficient clinical trial practice and policy, to ensure better health outcomes.
- 2.2 It is expressly not an objective of the Company to conduct clinical trials research itself, nor to generate profits for or distribute surplus assets to its Members.
- 2.3 The assets and income of the Company shall be applied solely in furtherance of its above-mentioned objects in clause 2.1 and no portion shall be distributed directly or indirectly to the members of the Company except as bona fide compensation for services rendered or expenses incurred on behalf of the Company or as otherwise permitted by the Constitution, including but not limited to clauses 7, 11 and 20.
- 2.4 Subject to clause 2.3, the Company has the following powers:
 - (a) the powers of an individual, and
 - (b) all the powers of a company limited by guarantee under the Corporations Act.
- 2.5 The Company can only exercise its powers to:
 - (a) carry out the objects of the Company set out in clause 2.1 of this Constitution; and
 - (b) do all things incidental or convenient in relation to the exercise of power under clause 2.4 of this Constitution.

3. MEMBERSHIP

Categories of Membership

3.1 Members may be:

- (a) Full Members;
- (b) Associate Members; or
- (c) Affiliate Members.

Full Members

3.2 Full Members:

- (a) May be any applicant that satisfies the Full Membership Criteria and which the Board (in its discretion) considers suitable for full membership of the Company. If the applicant is not a legal entity, an individual (referred to as a "Designate") representing or associated with the applicant may be granted Full Membership (which is to be held on behalf of the applicant);
- (b) Have voting rights at meetings of Members (including the right to vote on the appointment, election or removal of Directors) and the right to nominate a candidate(s) for election as a Director as provided for in this Constitution;

- (c) May nominate an individual to the Advisory Council; and
- (d) Must adhere to the terms of this Constitution in their dealings with the Company, its Members, its Directors and its other officers.

Associate Members

3.3 Associate Members:

- (a) May be any applicant that satisfies the Associate Membership Criteria and which the Board (in its discretion) considers suitable for associate membership of the Company. If the applicant is not a legal entity, an individual (referred to as a "Designate") representing or associated with the applicant may be granted Associate Membership (which is to be held on behalf of the applicant);
- (b) Do not have voting rights at meetings of Members or any right to nominate a candidate(s) for election as a Director or to, appoint, elect or remove Directors;
- (c) May nominate an individual to the Advisory Council; and
- (d) Must adhere to the terms of this Constitution in their dealings with the Company, its Members, its Directors and its other officers.

Affiliate Members

3.4 Affiliate Members:

- (a) May be any applicant for Membership that the Board considers satisfies the Affiliation Criteria and which the Board (in its discretion) considers suitable for affiliate membership of the Company. An Affiliate Member may be a natural person or other entity, or may be a natural person representing or associated with an entity or other recognised organisation who is granted Affiliate Membership to hold on behalf of the applicant, or may be an entity that is not a legal entity (in which case an individual (referred to as a "Designate") representing or associated with the applicant may be granted Affiliate Membership, which is to be held on behalf of the applicant). There is no requirement for an applicant to be based in Australia in order to satisfy the Affiliation Criteria;
- (b) Do not have voting rights at meetings of Members or any right to nominate a candidate(s) for election as a Director or to, appoint, elect or remove Directors;
- (c) Do not have any right to nominate an individual to the Advisory Council; and
- (d) Must adhere to the terms of this Constitution in their dealings with the Company, its Members, its Directors and its other officers.

Review of Membership Criteria

- 3.5 The criteria for Membership will be reviewed and amended by the Board periodically, as the Board sees fit.

- 3.6 Any change of the criteria for Membership resulting from a review will not terminate the Membership of a Member, but may change the criteria applicable to determining eligibility for new Memberships or for any change of a Member's Membership category.

Applications for Membership

- 3.7 An application for Membership (whether for Full, Associate or Affiliate Membership) must:
- (a) be signed by the applicant (including by electronic or such other means as determined by the Company from time to time); and
 - (b) be accompanied by such documents or evidence as the Board determines.
- 3.8 Applications for Membership are to be submitted to the Office.
- 3.9 Incomplete applications or those requiring further information for consideration are to be returned to the applicant with such request.
- 3.10 Each applicant must pay an application fee, being such sum (if any) as the Board prescribes from time to time and which, for clarity, may be different for the different categories of Membership, and which will be payable either at the time of making an application or after admission to Membership, as determined by the Board from time to time.

Admission to Membership

- 3.11 Other than where applications are incomplete or further information has been requested, the Board must determine, in its discretion, the admission or rejection of the applicant.
- 3.12 If an applicant is accepted for Membership, the Secretary (or their delegate) must:
- (a) notify the applicant of this admission in such form as the Board determines;
 - (b) provide the applicant with details of the applicable application fee (if not yet paid) and any applicable annual subscription (which may be any amount determined by the Board for the particular year in which the application is made); and
 - (c) on payment of the fees set out in (b) above, enter the name and details of the applicant in the Register of Members.
- 3.13 If an applicant is not accepted for Membership, the Secretary (or their delegate) must:
- (a) notify the applicant of the rejection of the application for Membership; and
 - (b) refund any application or other fees paid by the applicant (if any).
- 3.14 The Board does not have to give reasons for rejecting an application for Membership.

Register of Members

- 3.15 The Register of Members must be kept in accordance with the Corporations Act.
- 3.16 The following details must be entered in the Register of Members in respect of each Member (in addition to the information required to be entered under the Corporations Act, if not provided for in this Constitution):
- (a) the full name and, where applicable, ACN of the Member;
 - (b) the address of the Member;
 - (c) the date of admission to Membership; and
 - (d) such other details as the Board determines from time to time .
- 3.17 Each Member must notify the Secretary in writing of any change in its name, address, Representative, telephone number or email address (or any other details determined by the Board from time to time) as soon as practicable and in any event within one month after the change.

Non-transferrable

- 3.18 The rights of Membership in the Company are not transferable, subject to clauses 6.6 and 6.7.

4. MEMBERS' REPRESENTATIVES

Appointment and Removal

- 4.1 Each Designate or other Member that is not a natural person may by notice in writing to the Company appoint a natural person as its Representative to represent it, act on its behalf and exercise all powers of the Member other than powers under this clause 4.1 (including by attending meetings and, if the Member is eligible to do so, to speak, vote or join in calling for a poll).
- 4.2 Each Designate or other Member that is not a natural person may by notice in writing to the Company remove any Representative appointed by that Member. Upon receipt by the Company of a notice removing a Representative, the Company is not required to recognise that person as a Representative of the Member. If a Member removes a Representative, it may by notice in writing to the Company (which may be the same notice) appoint a replacement Representative.
- 4.3 The Representative of a Member will be:
- (a) the chairperson of the governing body of a Member; or
 - (b) a senior officer or office holder of a Member,
- unless the Member advises the Company in writing that it is not practical for that person to act as its Representative and specifies that another person who has sufficient seniority and authority to represent the Member has been appointed as a the Member's Representative or as otherwise approved by the Board.

- 4.4 A Representative automatically ceases to be a Representative if he or she ceases to be eligible for appointment as a Representative, unless the Board has agreed otherwise in writing.

Representatives Bound by this Constitution

- 4.5 Each Representative is bound by and must observe and act in accordance with this Constitution as if he or she were the Member that appointed it (but the Representative will have no liability to make any payment or monetary contribution that the Member is liable to pay or make). Each Member must cause its Representative to (and ensure its Representative does) observe and act in accordance with this Constitution. A breach of this Constitution by a Representative is deemed to be a breach of this Constitution by the Member which appointed him or her. The Company may deem the appointment of a Representative who evidences an intention not to be bound by or to observe this Constitution to have been removed by the Member which appointed him or her, with effect upon giving notice to that effect to the Member.

Representatives not to be Directors of the Company

- 4.6 A Representative automatically ceases to be a Representative if he or she is or becomes a Director of the Company.

Dispute Resolution and Discipline of Members

- 4.7 Dispute resolution

The board may from time to time determine dispute resolution procedures that will apply to disputes under this Constitution between a Member or Director and:

- (a) one or more Members;
- (b) one or more Directors; or
- (c) the Company.

Discipline

- 4.8 Without limiting clauses 4.7 or 6.9, the Board has the power to:
- (a) discipline a Member for any incident it considers damaging to the interests of the Company including any breach of this Constitution or any Regulations, guidelines or determinations made by the Board from time to time;
 - (b) suspend the membership of the Member for any period as the Board sees fit;
 - (c) impose any other form of sanction as the Board sees fit; or
 - (d) impose any combination of the above disciplinary measures.

5. ANNUAL SUBSCRIPTION

Annual Subscription

- 5.1 Members must pay an annual subscription, being such sum (if any) as the Board prescribes from time to time in respect of each category of Membership (which may be a nil or nominal amount, and need not be the same for all categories of Membership, and may be subject to such reductions, discounts or waivers in respect of a particular Member or classes of Members within a category of Membership as the Board thinks fit).
- 5.2 Unless waived in full by the Board under clauses 5.1 or 5.3 all annual subscriptions are due and payable in advance on 1 July in each year or such other date as the Board determines from time to time.
- 5.3 The Board may reduce or waive the annual subscription amount payable by a particular Member or classes of Members within a category of Membership in such manner as it thinks fit. A reduction or waiver under this clause does not relieve a Member of its obligations under clause 1.2.

Unpaid Annual Subscriptions

- 5.4 A Member ceases to be entitled to any of the rights or privileges of Membership if the annual subscription of a Member remains unpaid after it is due and notice of the default is given to the Member. However, the rights or privileges of Membership may be reinstated, if the Board thinks fit to do so, on payment or waiver of all arrears. The Board may otherwise take such action as it sees fit in respect of a Member who has failed to pay their annual subscription.

6. REMOVAL AND CESSATION OF MEMBERSHIP

Resignation

- 6.1 A Member may resign from membership of the Company by giving written notice to the Secretary.
- 6.2 Subject to clauses 6.6 and 6.7, the resignation of a Member is deemed to take effect from the date of receipt of the notice of resignation or such later date as is provided in the notice.

Failure to Pay

- 6.3 If a Member has not paid all unwaived arrears of annual subscriptions or such other fees or charges owed to the Company and notice of the default has been given to the Member or, if paid or waived, the Member's rights and privileges are not reinstated, the Board may terminate the Membership in which case both of the following applies in respect of that Member unless the Board determines otherwise:
 - (a) The Member remains liable for all the obligations and liabilities of membership that arise prior to termination of membership; and

- (b) The Member ceases to be a Member and the Member's name must be removed from the Register of Members on the date of termination of the membership, as determined by the Board.

Other Cessation of Membership

- 6.4 A Member ceases to be a Member on any Termination Event occurring in respect of the Member (other than in respect of a Designate which is provided for in clause 6.5 below).
- 6.5 A Designate ceases to be a Member on any Termination Event occurring in respect of the entity or other recognised organisation upon whose behalf the Designate holds the Membership.
- 6.6 A Designate ceases to be a Member if elected or appointed as a Director (but may revert to being a Designate upon ceasing to be a Director provided any successor Designate ceases to be a Member). The entity or other recognised organisation the Designate upon whose behalf the Designate held the Membership may by notice to the Company in writing specify a successor Designate, and that successor Designate will in the absence of any objection by the Board be substituted as to hold the Membership in lieu of and with all the rights and duties of the previous Designate, with effect from the election or appointment of the former Designate as a Director.
- 6.7 A Designate ceases to be a Member if the entity or other recognised organisation upon whose behalf the Designate held the Membership requests by notice to the Company in writing that another person hold the Membership on its behalf as a successor Designate. That successor Designate will in the absence of any objection by the Board be substituted to hold the Membership in lieu of and with all the rights and duties of the previous Designate, with effect from the time specified by the Board.
- 6.8 A natural person who holds Membership on behalf of entity or other recognised organisation as a Designate is deemed to have agreed to resign as and/or accept the termination of his or her Membership as provided for in clauses 6.5, 6.6 and 6.7 (as applicable), and it is a condition of the Designate becoming a Member that he or she has so agreed and will act accordingly.

Removal from Membership

- 6.9 Without limitation to clause 6.3, the Board may at its discretion convene a meeting of Full Members to consider the removal of a Member from the Register of Members if the person is no longer considered suitable for Membership of the Company by a majority of the Board.
- 6.10 The Board will be required to provide at least two month's written notice (or such other timeframe as the Board determines from time to time) to any Member of any intention to remove the person from the Register of Members so as to enable the Member to provide any written representations to the Company.
- 6.11 Where any written representations are made by the Member and the Member requests that the representations be notified to Full Members of the Company, the Company must do both of the following:

- (a) state, in any notice of the resolution given to Full Members of the Company, that the representations have been made.
 - (b) send a copy of the representations to every Full Member of the Company to whom the notice of the meeting has been or is sent.
- 6.12 The requirements in clause 6.11 do not apply to the Company if the representations are received by it too late for it to satisfy those requirements.
- 6.13 If a copy of the representations is not so sent because they were received too late or because of the Company's default, the Member may, without affecting any right to be heard orally, require the representations be read out at the meeting.
- 6.14 Copies of the representations need not be sent out and the representations need not be read out at the meeting if the Board is satisfied on reasonable grounds that to do so would be inappropriate or disruptive, including (but not limited to) where the representations contain defamatory material.
- 6.15 The Board does not have to give reasons for recommending the removal of any Member from the Register of Members.
- 6.16 An ordinary resolution of Full Members is required to pass the necessary resolution to remove a Member under clause 6.9.

7. PAYMENTS TO MEMBERS

Payments, Services and Information

- 7.1 The Company may make a payment to a Member in good faith for any of the following:
- (a) remuneration to any officers or employees of the Member for services actually rendered to the Company (including payment of directors' fees in accordance with clause 11.1);
 - (b) an amount to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business;
 - (c) reasonable and proper interest on money borrowed from any Member;
 - (d) reasonable and proper rent for premises let by any Member to the Company;
 - (e) making a distribution or transfer to a Member, but only if the Member is an Eligible Recipient and the distribution or transfer is in furtherance of the objects of the Company;
 - (f) any other payment approved by the Board for usual commercial matters on arms' length terms.
- 7.2 The Company may distribute grant monies to Members where the grant is expressly on the basis that the monies may be used for the benefit of Members and the Board resolves that the distribution will be in furtherance of the Company's objects and

otherwise in accordance with the requirements of the ACNC Act and other applicable laws.

- 7.3 Nothing in this clause 7 prevents the Company from providing services or information to the Members on terms which are different from the terms on which services or information are provided to persons who are not Members.
- 7.4 For the avoidance of doubt, above does not limit the ability of the Company to make payments to Representatives of Members in good faith for any proper purpose.

8. MEETINGS OF MEMBERS

Convening of Meeting by Members

- 8.1 The Board must call and arrange to hold a meeting of Members:
- (a) on the requisition of a majority of Directors;
 - (b) on the Board so resolving; or
 - (c) where validly requested by Members under the Corporations Act. A Director may call and arrange to hold a meeting of Members validly requested by Members under the Corporations Act if the Board does not do so within the time required under the Corporations Act.

Notice of Meeting

- 8.2 Written notice of a meeting must specify the place, the day and the hour of meeting of Members and the general nature of the business to be transacted, any other matters as are required by the Corporations Act.
- 8.3 A notice of a meeting may be given by any form of communication permitted by the Corporations Act.
- 8.4 The accidental omission to give notice of any meeting to, or the non receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the meeting.

Cancellation of Meetings

- 8.5 The Board may cancel a meeting of Members, other than a meeting which it is required to convene and hold under the Corporations Act.
- 8.6 A meeting of Members may only be cancelled in accordance with clause 8.5 if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the meeting as specified in notice of meeting.

Quorum at Meetings of Members

- 8.7 Business may not be transacted at a meeting of Members unless a quorum of members is present at the time when the meeting proceeds to business.

- 8.8 Except as otherwise set out in this Constitution, the presence (in person, by Representative, attorney, Corporate Representative or proxy), including attendance in accordance with clause 8.37, of the lesser of ten Members or half of the total number of Members is a quorum.
- 8.9 If a quorum is not present within half an hour from the time appointed for the meeting of Members or a longer period allowed by the chairperson:
- (a) if the meeting was convened by or on the requisition of Members, it must be dissolved.
 - (b) otherwise, it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Board.
- 8.10 If a meeting of Members has been adjourned to another time and place determined by the Board, not less than seven days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.

Quorum at Adjourned Meetings

- 8.11 At the adjourned meeting of Members the presence (in person, by Representative, attorney, Corporate Representative or proxy), including in attendance in accordance with clause 8.37, of the lesser of five Members or half of the total number of Members is a quorum but if a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

Appointment of Chairperson

- 8.12 If the Board has elected one of its number as chairperson of its meetings, that person is entitled to preside as chairperson at every meeting of Members.
- 8.13 The Directors present at a meeting of Members must elect one of their number to chair the meeting if either of the following applies:
- (a) a Director has not been elected as the chairperson of Board meetings.
 - (b) the chairperson is not present within 15 minutes after the time appointed for the holding of the meeting, or is unwilling to act.
- 8.14 The Members present at a meeting must elect one of their number to chair a meeting of Members if there are no Directors present within 15 minutes after the time appointed for the holding of the meeting or all Directors present decline to take the chair.

Chairperson's Powers

- 8.15 Subject to the terms of this Constitution dealing with adjournment of meetings of Members, the ruling of the chairperson of the meeting on all matters relating to the order of business, procedure and conduct of the meeting is final and no motion of dissent from a ruling of the chairperson may be accepted.

- 8.16 The chairperson, in their discretion may expel any Member, Director or other person from a meeting of Members if the chairperson reasonably considers that the Member's, Director's or other person's conduct is inappropriate behaviour. Any of the following conduct may be considered inappropriate in a meeting:
- (a) the use of offensive or abusive language which is directed to any person, object or thing.
 - (b) attendance at the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance.
 - (c) the use or consumption of any drug by a person at the meeting.

Adjournment of Meetings

- 8.17 Subject to clause 8.18, the chairperson of a meeting of Members may:
- (d) with the consent of any meeting of Members at which a quorum is present, adjourn the meeting from time to time and from place to place; and
 - (e) without the consent of any meeting of Members, adjourn the meeting from time to time and from place to place where it appears the facilities are inadequate to enable all persons to attend and be heard at the meeting or it is impossible for the chairperson to maintain order or to enable the conduct of a poll.
- 8.18 Any poll duly demanded on the election of a chairperson of a meeting of Members, or on any question of adjournment, shall be taken at the meeting without adjournment.
- 8.19 The only business that may be transacted at any adjourned meeting of Members is the business left unfinished at the meeting from which the adjournment took place.
- 8.20 When a meeting of Members is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- 8.21 Except when a meeting of Members is adjourned for 30 days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting Rights of Full Members

- 8.22 On a show of hands every Full Member present (in person, by Representative, attorney, Corporate Representative or proxy), including in attendance in accordance with clause 8.37, has one vote.
- 8.23 On a poll every Full Member present (in person, by Representative, attorney, Corporate Representative or proxy), including in attendance in accordance with clause 8.37, has one vote.

Voting Procedure at a Meeting of Members

- 8.24 At a meeting of Members a resolution put to the vote of the meeting must be decided on a show of hands unless the Directors otherwise determine or a poll is

demanded before that vote is taken or before the result is declared or immediately after the result is declared.

- 8.25 If a poll is not duly demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minutes of the proceedings of the Company, in conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 8.26 The Directors may determine that at any meeting of Members, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the Company by post, other electronic means approved by the Board. The Board may prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a Meeting in order for the vote to be valid.

Demand for a Poll

- 8.27 A poll may be demanded by either:
- (a) the chairperson.
 - (b) at least five Full Members entitled to vote on the resolution present in person or by Representative, attorney, Corporate Representative or proxy, including attendance in accordance with clause 8.37.
 - (c) Full Members with at least 5% of the votes that may be cast on the resolution on a poll present in person or by Representative, attorney, Corporate Representative or proxy, including attendance in accordance with clause 8.37.
- 8.28 The demand for a poll may be withdrawn.
- 8.29 The demand for a poll does not prevent the continuance of a meeting of Members for the transaction of business other than the question on which a poll is demanded.
- 8.30 If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chairperson or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting of Members at which the poll is demanded.
- 8.31 A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.

Vote of the Chairperson at Meetings

- 8.32 The chairperson of a meeting of Members is entitled to a second or casting vote.

Objections to Voter Qualification

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

- 8.34 An objection to the qualification of a voter must be referred to the chairperson, whose decision is final.
- 8.35 Subject to clause 8.36, a vote not disallowed according to an objection as provided in this Constitution is valid for all purposes.
- 8.36 A vote may be cast in a poll or on a ballot pending the determination of an objection, and is to be counted or excluded from counting to determine the outcome of the poll or ballot according to the decision of the chairperson under clause 8.32.

Mode of Meeting for Members

8.37

- (a) The Company may hold a meeting of Members at two or more venues in Australia or at such other place as may be determined by the Directors using any form of technology which gives the Members a reasonable opportunity to participate.
- (b) If the place of the meeting of Members is determined by the Directors not to be a physical location and is facilitated by an instantaneous communication device which, by itself or in conjunction with other arrangements:

- (i) gives the general body of Members a reasonable opportunity to participate in the business of the meeting of Members; and
- (ii) enables the Members who are entitled to vote to vote on a show of hands, on a poll or by direct voting as permitted by clause 8.26,

a Member present at the place is taken to be present at the meeting of Members and entitled to exercise all rights of a Member present.

- (c) If a separate meeting place is linked to the main place of a meeting of Members by an instantaneous communication device which, by itself or in conjunction with other arrangements:

- (i) gives the general body of Members in the separate meeting place a reasonable opportunity to participate in the business of the meeting of Members in the main place; and
- (ii) enables the Members in the separate meeting place to vote on a show of hands, on a poll or by direct voting as permitted by clause 8.26,

a Member present at the separate meeting place is taken to be present at the meeting of Members and entitled to exercise all rights as if he or she was present at the main place.

- (d) If the technology used in accordance with this clause 8.37 encounters a technical difficulty, whether before or during the meeting of Members, which results in a Member not being able to participate in the meeting of Members, the chairperson may, subject to the Corporations Act and this Constitution, allow the meeting of Members to continue or may adjourn the meeting of Members

either for such reasonable period as may be required to fix the technology or to such other time and location as the chairperson deems appropriate.

Resolution in Writing

- 8.38 If, and then if so to the extent, permitted by law a resolution in writing signed by all Members entitled to vote on the resolution (i.e. Full Members) is to be treated as a determination of the Members passed at a meeting of the Members duly convened and held.
- 8.39 Subject to clause 8.38, a resolution in writing may consist of several documents in like form, each signed by one or more Members (or its Representative, Corporate Representative or attorney) entitled to vote on the resolution (i.e. Full Members) and if so signed it takes effect on the latest date on which a Member entitled to vote on the resolution (i.e. Full Members) signs one of the documents.
- 8.40 Subject to clause 8.38, in relation to a resolution in writing a document generated by electronic means which purports to be a copy of a resolution of Members entitled to vote on the resolution (i.e. Full Members) is to be treated as a resolution in writing and a document bearing an image of a signature is to be treated as signed.
- 8.41 Without limiting the operation of clause 8.38, resolutions of Members may be passed in any manner permitted by law.

9. PROXIES AND REPRESENTATIVES

Proxies and Representatives of Members

- 9.1 At a meeting of Members each Full Member entitled to vote may vote by their Representative (if present) or by proxy, Corporate Representative or by attorney.
- 9.2 Subject to the terms of their appointment, a person attending as a Representative, proxy, Corporate Representative, or as the attorney of a Member has all the powers of a Member, except where expressly stated to the contrary.

Appointment of Proxies

- 9.3 A Member may appoint another person as their proxy to attend and vote instead of the Member. A proxy need not be a Member, a Designate or a Representative.
- 9.4 A document appointing a proxy must be in writing, in any form permitted by the Corporations Act and executed in accordance with the Corporations Act by the Member making the appointment. A Representative is deemed to be capable of executing a proxy on behalf of the Member which appointed the Representative (and is to be treated by the Company and the Member as being duly authorised by the Member for the purposes of the Corporations Act and all other purposes).

Authority of Proxies

- 9.5 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.

- 9.6 Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the Member can do in respect of a meeting. Without limitation, a proxy is entitled to vote on a show of hands, on a poll, and in a ballot.

Verification of Proxies

- 9.7 Before the time for holding the meeting of Members or adjourned meeting of Members at which a proxy proposes to vote, both of the following documents must be deposited with the Company:
- (a) the document appointing the proxy; and
 - (b) if the appointment is signed by the appointor's attorney (other than a Representative), the authority under which the appointment was signed or a certified copy of that authority.
- 9.8 Those documents must be received at the Office or at another place or electronic address specified for that purpose in the notice convening the meeting of Members not less than 48 hours before the time for holding the meeting.
- 9.9 If a meeting of Members has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

Validity of Proxies

- 9.10 A proxy document is invalid if it is not deposited or produced at least 48 hours prior to a meeting of Members or a vote being taken as required by this Constitution.
- 9.11 The powers and rights of a proxy are suspended if the Member or the Representative of the Member who appointed the Proxy is present at the meeting of Members (unless the proxy is the Representative).

Revocation of Appointment of Proxy or Corporate Representative

- 9.12 A vote given in accordance with the terms of a proxy document, appointment of Corporate Representative or power of attorney is valid despite the occurrence of any one or more of the following events if no intimation in writing of any of those events has been received by the Company at the Office before the commencement of the meeting of Members or adjourned meeting of Members at which the proxy or power of attorney is used:
- (a) the previous death or unsoundness of mind of the principal.
 - (b) the revocation of the instrument or of the authority under which the instrument was executed.

Verification of Corporate Representative

- 9.13 Despite anything else in this Constitution, where a Corporate Representative is appointed and:

- (a) the appointment is a standing one, the certificate appointing a Corporate Representative is not required to be produced to the Company prior to the commencement of a Meeting at which a Corporate Representative proposes to attend where:
 - (i) the certificate appointing the Corporate Representative has been previously produced to the Company;
 - (ii) the Corporate Representative is entitled to attend the Meeting on the basis of the same certificate (without amendment or extension) as the certificate referred to in clause 9.13; and
 - (iii) the certificate referred to in clause 9.13 is otherwise valid; or
- (b) otherwise, a certificate appointing a Corporate Representative must be produced to the Company at least 48 hours prior to the commencement of a Meeting at which a Corporate Representative proposes to attend.

10. APPOINTMENT AND RETIREMENT OF DIRECTORS

Number of Directors

- 10.1 Until otherwise determined in accordance with this Constitution, the number of Directors must not be less than 6 or more than 15, including independent Directors appointed under clause 10.4.
- 10.2 The Company may, by resolution, increase or reduce the number of Directors..
- 10.3 Alternate Directors are not to be treated as Directors for the purpose of determining the minimum or maximum number of Directors holding office.

Independent Directors

- 10.4 The Board will include a minimum of 3 Directors and maximum of 4 Directors appointed by the Board as independent Directors. Independent Directors appointed under this clause 10.4 are expressly not appointed as casual vacancy appointments and do not need to be appointed in accordance with clause 10.5. The Board will determine whether the individuals are recognised as being independent. One of the independent Directors appointed under this clause 10.4 will be a person who the Board considers represents the interests of healthcare consumers. The other independent Directors to be appointed under this clause 10.4 are to be persons who the Board considers will assist the Board by providing a balance of skills and knowledge in relation to expertise in fields such as legal and financial or other relevant fields in which the Board perceives there lack of existing skills and knowledge at the time of their appointment. The term of office of a Director appointed under this clause 10.4 will end at the earlier of:
 - (a) the end of the term determined and specified by the Board at the time of and as a condition of the appointment of the Director; or
 - (b) the third annual general meeting of Members after the annual general meeting of Members at which he or she was appointed (if appointed at an annual general meeting); or

- (c) the third annual general meeting of Members after the annual general meeting of Members immediately preceding his or her appointment.

Election of Directors

10.5 Subject to clauses 10.4 and 10.16, all Directors must be elected by the Full Members.

10.6 Prior to the annual general meeting of the Company, but with sufficient time for responses to be received, the Board must:

- (a) determine which Directors (excluding Independent Directors), if any:
 - (i) will be retiring, resigning or otherwise ceasing to hold office and not seeking re-election or who are not eligible for re-election, with effect at or before the next annual general meeting of Members;
 - (ii) will cease to hold office at the next annual general meeting of Members unless re-elected (if eligible to be re-elected), including Directors who retire by rotation or whose term of office will expire and are eligible for re-election at the next annual general meeting of Members and Directors appointed to fill casual vacancies who are eligible for election at the next annual general meeting of Members; and
 - (iii) are Directors to whom the preceding paragraphs in 10.5(a) do not apply (**Continuing Directors**).
- (b) The Company shall send to each Full Member a notice which must state what vacancies are available (having been determined in accordance with 10.5(a) above and must call for nominees for election (**Nomination Notice**). The Nomination Notice must be sent to Full Members before the annual general meeting of Members with sufficient time for responses to be received. The Nomination Notice must specify a reasonable date by which written nominations must be received.
- (c) If the number of eligible candidates equals or is less than the number of vacancies to be filled by the election among those candidates, the election must be by ordinary resolution of Full Members at the annual general meeting of Members. If a candidate is not elected by resolution, that candidate is unsuccessful and no candidate will be elected to that position. The Board is then authorised to seek and to appoint a person to the Board as a casual vacancy appointment under clause 10.16.
- (d) If there are more eligible candidates than the number of vacancies to be filled by the election among those candidates, the election for that vacancy or those vacancies must be conducted by anonymous ballot in which candidates are elected according to the number of votes received in the ballot, with positions being filled by the recipient of the greatest (or the recipients of the equal greatest) number of votes first until either no vacancies remain to be filled or there is an equality of votes for the candidates for the last remaining vacancy or vacancies. If there is an equality of votes for the candidates for the last remaining vacancy or vacancies, the successful candidate (or candidates if there is more than one remaining vacancy) will be determined by lot. In a ballot, for an eligible candidate to be elected he or she need not receive a majority of votes.

- (e) If a ballot is required for the election of one or more Directors, the Board will, subject to the requirements of this Constitution, determine the process for undertaking the ballot from time to time, however, the ballot must be concluded prior to the annual general meeting of Members.
- (f) At the conclusion of the ballot, the Secretary (or its delegate) shall certify to the Directors the results of the ballot whereby at the annual general meeting of Members, the Chairperson shall declare the successful candidates elected as Directors by the Full Members and those candidates so elected shall assume the office of Director with effect from the conclusion of the annual general meeting of Members.

10.7 Every Director shall:

- (a) be a natural person;
- (b) have consented to being a Director prior to their appointment; and
- (c) not be ineligible to be a Director under the Corporations Act, the ACNC Act (to the extent it applies to the Company) or clause 10.14.

Retirement of Directors

10.8 At each annual general meeting of the Company:

- (a) any Director appointed by the Directors to fill a casual vacancy must retire; and
- (b) excluding Independent Directors appointed under clause 10.4, at least one-third of the remaining elected Directors must retire.

10.9 The Directors to retire at an annual general meeting under clause 10.8(b) are those who have been longest in office since the later of their appointment, election or last election. If two or more persons became Directors on the same day, those to retire must be determined by lot unless they otherwise agree among themselves.

10.10 Other than an Independent Director appointed under clause 10.4 or casual vacancy appointment under clause 10.16, a Director's term of office starts at the end of the annual general meeting at which they are elected and ends at the end of the annual general meeting at which they retire.

10.11 Each Director must retire from office at least once every third annual general meeting after the Director was last elected or appointed.

10.12 A Director who retires under clause 10.11 may nominate for election or re-election, subject to clause 10.14.

10.13 An independent Director appointed under clause 10.4 may be reappointed by the Board, subject to clause 10.14.

10.14 A Director who has held office for a continuous period of nine years or more (disregarding any term prior to 2015 annual general meeting of Members) may not be re-appointed or re-elected.

- 10.15 A Director may retire from office by giving notice in writing to the Company of that Director's intention to retire. A notice of resignation takes effect at the time which is the later of the time of giving the notice to the Company and the expiration of the period, if any, specified in the notice.

Casual Vacancies

- 10.16 The Board may at any time appoint a person to be a Director to fill a casual vacancy. The total number of Directors may not exceed the number fixed in accordance with this Constitution.
- 10.17 A Director appointed under clause 10.16 holds office only until the next annual general meeting of Members after the appointment and is then eligible for re-election.
- 10.18 A Director appointed under clause 10.16 must not be taken into account in determining the Directors who are to retire by rotation at that annual general meeting of Members.

Removal from Office

- 10.19 The Company may by ordinary resolution remove a Director from office and may by ordinary resolution appoint (other than in respect of an Independent Director) another person as a replacement. Where the Director removed is an Independent Director, the Board shall appoint another person as a replacement under clause 10.4 or may appoint a Director to fill a casual vacancy under 10.16.
- 10.20 A person appointed to replace a Director removed from office must retire as a Director at the time ascertained as if the person became a Director on the date on which the Director removed from office was elected or last re-elected a Director.

Vacation of Office

- 10.21 In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Corporations Act, the ACNC Act (if applicable) or another provision of this Constitution, the office of Director becomes vacant if any of the following occurs:
- (a) The Director becomes insolvent under administration.
 - (b) The Director becomes unsound of mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.
 - (c) The Director is absent without the consent of the Board from the meetings of the Board held during a continuous period of six months (or such other timeframe as the Board determines) and the Board resolves that the office of that Director be vacated.
 - (d) The Director becomes prohibited from being a Director by reason of an order made under the Corporations Act, the ACNC Act (if applicable) or any other applicable law.
 - (e) The Director resigns in accordance with clause 10.15.

Board Register

- 10.22 The Board Register must be kept in accordance with the Corporations Act.
- 10.23 The following details must be entered in the Board Register in respect of each Director (in addition to the information required to be entered under the Corporations Act, if not provided for in the Corporations Act):
- (a) the full name of the Director;
 - (b) the Director's address, telephone number and email address;
 - (c) the date upon which the Director was first elected or appointed as a Director;
 - (d) each date upon which the Director was elected or appointed as a Director (including but not only by being re-elected);
 - (e) the number of consecutive terms (including the present term) for which the Director has held office (disregarding any term expiring at or before the 2015 annual general meeting of Members);
 - (f) whether the Director was appointed under clause 10.4 as an independent Director (and if so, whether a term of office was determined and specified by the Board at the time of and as a condition of the appointment of the Director, and that term if so determined and specified);
 - (g) the date a Director ceased to be a Director; and
 - (h) such other information as this Constitution or the Board lawfully requires to be recorded in the Board Register.
- 10.24 Each Director must notify the Secretary in writing of any change in his or her name, address, telephone number or email address as soon as practicable and in any event within one week after the change.

11. DIRECTORS' REMUNERATION

Determination of Fees

- 11.1 Subject to clauses 11.4 and 11.5, if payment is to be made to Directors for services as Directors, payment must be paid by way of sitting fees for their services as a Director the amount, if any, of which is to be determined from time to time by the Company in general meeting.
- 11.2 Subject to clauses 11.1, 11.4 and 11.5 Directors' fees accrue from day to day.

Payment for Expenses

- 11.3 The Directors may be paid all travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Board or any committee or meetings of Members or otherwise in the execution of their duties as Directors.

Payment for Services

- 11.4 A Director who is called upon to perform extra services or to make a special exertion or to undertake executive or other work for the Company beyond or outside of the Director's ordinary duties or is engaged to provide any other good or service, may be paid a fee for those goods, services, exertions or work.
- 11.5 The additional amount may be paid either by fixed sum or salary determined by the Board and either in addition to or in substitution for the fees otherwise payable to the Director.

12. POWERS OF DIRECTORS

- 12.1 The Board (or Directors authorised or designated by the Board) may exercise all those powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Members in general meeting or otherwise.
- 12.2 The Board may issue, amend or revoke Regulations from time to time.
- 12.3 All Regulations are binding on the Company, the Board and the Members.
- 12.4 In the event of any conflict between a Regulation and this Constitution, this Constitution will prevail to the extent of the conflict.
- 12.5 Each Director must act and exercise their powers in accordance with the Corporations Act, the ACNC Act (if applicable), all other applicable laws, this Constitution and any Regulations in the interests of the Company as a whole. Directors are not elected or appointed to represent, to promote or to act in the interests of a particular Member or Members (whether within the meaning of or for the purposes of section 203D of the Corporations Act or otherwise). Without limiting the foregoing, Directors expressly do not represent the Member which nominated them or Members having common characteristics such as membership or affiliation criteria in common.

13. DUTIES OF DIRECTORS

- 13.1 The Directors must comply with their duties as directors as set out in the Corporations Act, the regulations made under the ACNC Act (where they apply) and the general law which include:
- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the Company;
 - (b) to act in good faith in the best interests of the Company and to further the objects of the Company as set out in clause (a);
 - (c) not to misuse their position as director;
 - (d) not to misuse information they gain in their role as a Director;

- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 11B;
- (f) to ensure that the financial affairs of the Company are managed responsibly; and
- (g) not to allow the Company to operate while it is insolvent.

Disclosure of Interests

- 13.2 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
- (a) to the other Directors in writing; or
 - (b) at a Board meeting (either orally or in writing).
- 13.3 The disclosure of a conflict of interest (including the nature and extent of the interest) must be recorded in the minutes of the relevant meeting.

Directors' Material Personal Interests

- 13.4 Where the interest of a Director in a matter is a Material Personal Interest, then the Director holding the Material Personal Interest in the matter will not, except as provided under clause 13.5:
- (a) vote on the matter; or
 - (b) be present while the matter is being considered at the meeting.
- 13.5 The restrictions contained in clause 13.4 will not apply:
- (a) if the Board (other than the Director who holds a Material Personal Interest) pass a resolution that:
 - (i) identifies the Director, the nature and extent of the Material Personal Interest and its relation to the affairs of the Company; and
 - (ii) states that they are satisfied that the Material Personal Interest should not disqualify the Director from considering or voting on the matter; or
 - (b) if ASIC has made a declaration or class order pursuant to section 196 of the Corporations Act or otherwise permitting the same; or
 - (c) if the Material Personal Interest does not require disclosure due to:
 - (i) the Material Personal Interest arising because the Director is a Member and the Material Personal Interest is held in common with the other Members;
 - (ii) any other reason specified in section 191(2) of the Corporations Act.

- 13.6 If as a result of the restriction in clause 13.4(a), a quorum is not present for consideration of a matter in which a Director has a Material Personal Interest, one or more Directors (including the Directors who have a Material Personal Interest in the matter) may convene a Meeting of the Company and the Meeting may pass a resolution to deal with the matter.

14. PROCEEDINGS OF DIRECTORS

Convening of Board Meetings

- 14.1 A Director may at any time, and a Secretary must on the requisition of a Director, convene a meeting of the Board.

Notice of Board Meetings

- 14.2 Notice of each meeting of the Board must be given to each Director at least 1 Business Day before the meeting or at another time determined by resolution of the Board.
- 14.3 Despite that requirement all Directors may waive in writing the required period of notice for a particular meeting and it is not necessary to give a notice of a meeting of the Board to a Director who is out of Australia or who has been given leave of absence.

Mode of Meeting for the Board

- 14.4 The Directors may meet together in person or by any form of electronic device which must allow at all times the Directors to be able to hear and be heard by all other Directors at the meeting, for the dispatch of business, to adjourn and to otherwise regulate their meetings as they think fit.
- 14.5 Without limiting clause 14.4, the Directors may meet together in any manner permitted by law.

Quorum at Board Meetings

- 14.6 At a meeting of the Boards, the number of Directors whose presence is necessary to constitute a quorum is the lesser of six or half the number of Directors.
- 14.7 If the number of Directors is reduced below the number required by law or necessary for a quorum of the Board, the continuing Director or Directors may act only to appoint additional Directors to the number necessary for a quorum or to convene a meeting of Members of the Company.

Voting at Board Meetings

- 14.8 Questions arising at a meeting of the Board must be decided by a majority of votes of Directors present and voting. A decision of the majority is for all purposes a decision of Board.

Appointment of Chairperson of Directors

- 14.9 The Board may by resolution elect a Director as chairperson to chair their meetings and determine the period for which the person elected is to hold office.
- 14.10 If a chairperson has not been elected, or if at any meeting the chairperson is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present may choose one of their number to chair the meeting.
- 14.11 For the avoidance of uncertainty:
- (a) the passing or assumption of the chair at a meeting of Members, or the election of a person to chair at a meeting of Members if the chairperson of the Board is absent or not willing to act, does not terminate the appointment or office of the chairperson of the Board; and
 - (b) if there is no chairperson of the Board for the time being, the last surviving chairperson of the Board shall (pending election of a replacement chairperson of the Board) be the chairperson of meetings as if he or she were the chairperson of the Board, unless that person is not willing to act, was removed from office as a Director by the a resolution of the Members or is not permitted by law to act as a director of a public company. If there is no such person, or that person is not willing to act, the Secretary for the time being or a person chosen by them for the time being (which choice may be for a specified period or purpose and may be revoked at will) shall be the chairperson of meetings as if he or she were the chairperson of the Board.

Chairperson's Vote at Board Meetings

- 14.12 The chairperson has a second or casting vote at meetings of the Board.

Delegation of Powers to Committee

- 14.13 The Board may form, and delegate any of its powers to, committees consisting of Directors and/or other persons as it thinks fit to act in Australia or elsewhere.
- 14.14 The exercise of a power by a committee in accordance with this Constitution and the delegation of powers to the committee by the Board are to be treated as the exercise of that power by the Board.
- 14.15 In the exercise of any powers delegated to it, a committee formed by the Board must conform to the directions of the Board.
- 14.16 A committee formed by the Board may be dissolved by the Board.

Advisory Council

- 14.17 The Advisory Council will be an advisory body (and expressly is not a committee).
- 14.18 Each Full Member and Associate Member may be represented on the Advisory Council by a participant appointed by the Member. The Advisory Council will comprise:

- (a) one participant appointed by each Full Member and each Associate Member;
 - (b) persons who are appointed or invited by the Board.
- 14.19 A minimum of one meeting of the Advisory Council will be held each year. A proxy may attend on behalf of a member of the Advisory Council.
- 14.20 The functions, role and objectives of the Advisory Council include:
- (a) providing advice to the Board;
 - (b) providing a forum for Members (through participants) to discuss issues affecting the investigator-initiated clinical trials and registries sector;
 - (c) providing a mechanism for advising the Board on relevant issues and emerging trends in clinical trials and key strategic objectives of the Company;
 - (d) providing an opportunity for Members (through participants) to network and come together with representatives of the sector;
 - (e) assuming an active role in Membership recruitment and retention;
 - (f) serving as a forum within the Company where participants can represent their appointing Member's interests, in addition to the broader interests of the Members and the Company.

Proceedings of Committees

- 14.21 Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Board must be governed by the provisions of this Constitution, in so far as they are applicable, as if meetings and proceedings of the committee are meetings and proceedings of the Board.

Validity of Acts of Directors

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

Minutes

- 14.23 The Board must cause minutes of all proceedings of meetings of Members, of meetings of the Board and of committees to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 14.24 The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

Resolution in Writing

- 14.25 A resolution in writing which is signed by all the Directors (including any Alternate Director appointed by an absent Director) containing a statement that they are in favour of the resolution shall be as valid and effectual as if it had been duly passed at a meeting of Directors duly convened and constituted. Any such resolution may consist of separate copies of a document each signed by one or more Directors if the wording of the resolution and statement is identical in each copy.
- 14.26 A resolution under clause 14.25 shall be deemed to have been passed on the day (according to the dates of signing) when the resolution shall have been signed by all the Directors and any Alternate Director (as the case may be). If a signed copy of the resolution shall be returned to the Secretary undated, the Secretary shall fill in the date on which it was received and the same shall be deemed to have been signed on that day.
- 14.27 For the purposes of clause 14.25:
- (a) a Director may consent to (and will be deemed to have signed) a resolution by:
 - (i) signing the document containing the resolution (or a copy of that document) including by electronic means;
 - (ii) giving to the company a written notice (including by electronic means) addressed to the Secretary or to the chairperson of the Board signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
 - (iii) telephoning the Secretary or the chairperson of the Board and signifying assent to the resolution and clearly identifying its terms; and
 - (b) a reference to all the Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution.
- 14.28 Without limiting clause 14.25, a resolution may be passed in any manner permitted by law.

15. ALTERNATE DIRECTORS

Appointment of Alternate Directors

- 15.1 Subject to the approval of the Board, a Director may appoint a person to be an alternate Director in the Director's place, during such period or periods that the Board approves. An alternative Director may, but is not required to be, a Director in their own right.

- 15.2 The proposed appointment of an alternate Director must be in writing, signed by the Director and the person proposed as alternate Director and specify the period or periods for which the alternate Director is to act.
- 15.3 The appointment of an alternate Director takes effect from the date of approval by the Board.

Powers of Alternate Director

- 15.4 Except as expressly provided in this Constitution, an alternate Director is subject in all respects to the terms and conditions applying to the other Directors except for the provisions of this Constitution which relate to the election of Directors, their fees and remuneration and the power to appoint an alternate Director.
- 15.5 An alternate Director has all of the following entitlements:
- (a) to perform all the duties of a Director while the Director who appointed the alternate Director is not exercising or performing them.
 - (b) to receive notice of meetings of the Board and of any committee of which the Director who appointed the alternate Director is a member.
 - (c) to attend, count towards the quorum of, and vote at meetings of the Board Directors and of any committee of which the Director who appointed the alternate Director is a member if the Director who appointed the alternate Director is not present (for clarity, where the alternate Director is already a Director, the alternate Director shall have a separate vote on behalf of the Director the alternate Director is representing in addition to the alternate Director's own vote and shall count towards a quorum as an alternate Director in addition to counting towards a quorum as a Director in their own right).

Termination of Appointment of Alternate Directors

- 15.6 The appointment of an alternate Director is immediately terminated if any of the following circumstances occurs:
- (a) the Director who appointed the alternate Director ceases for any reason to be a Director.
 - (b) the Director who appointed the alternate Director gives notice of termination of the appointment to the Company.
 - (c) the Board resolves to terminate the appointment after giving seven days' notice of intention to remove the alternate Director to the Director who appointed the alternate Director.

16. EXECUTIVE OFFICER or CHIEF EXECUTIVE OFFICER

- 16.1 The Board may appoint an Executive Officer or Chief Executive Officer and may at any time terminate the appointment. The Board may determine the terms and conditions of the appointment of the Executive Officer or Chief Executive Officer, including remuneration.

- 16.2 The day-to-day operational management and development activities of the Company are delegated to the Executive Officer or Chief Executive Officer by the Board and she or he reports directly to the chairperson of the Board for the time being.
- 16.3 The Board may delegate to the Executive Officer or Chief Executive Officer further powers or functions of the Board as it sees fit, in accordance with all applicable laws.

17. SECRETARY

The Board may appoint one or more Secretaries and may at any time terminate the appointment or appointments. The Board may determine the terms and conditions of appointment of a Secretary, including remuneration. Any one of the Secretaries may carry out any act or deed required by this Constitution, the Corporations Act or by any other statute to be carried out by the secretary of the Company.

18. INDEMNITY AND INSURANCE

Indemnity

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

Insurance Premiums

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

19. SEALS AND EXECUTION OF DOCUMENTS

Custody of Seal

- 19.1 If the Company has one, the Board must provide for the safe custody of the Seal.

Execution of Documents

- 19.2 The Company may execute a document by affixing the Seal to the document by any manner authorised by law, including where the fixing of the Seal is witnessed by any of the following:
- (a) by two Directors.
 - (b) by a Director and the Secretary.
 - (c) by a Director and some other person appointed or authorised for the purpose (generally or specifically) by the Board.
- 19.3 The Company may execute a document without the use of a seal by any manner authorised by law, including by the document being signed by any of the following:
- (a) two Directors.

- (b) a Director and the Secretary.
- (c) any person appointed or authorised for the purpose (generally or specifically) by the Board.

19.4 The Directors may, by resolution, determine either generally or in any particular case that the signature of any Director, the Secretary or other person appointed by the Directors for the purpose of signing any instruments or documents which may need to be executed by the Company is affixed by some mechanical or other means (to be specified in the resolution of the Directors).

Official Seals

19.5 The Company may have for use in place of the Seal outside the jurisdiction where the Seal is kept one or more official seals, to be used in accordance with procedures approved by the Board.

20. SURPLUS ASSETS, WINDING UP OR DISSOLUTION

20.1 Clauses 20.2 - 20.4 apply until such time as the Company is endorsed as a deductible gift recipient within the meaning of the Tax Act.

20.2 If the Company is wound up, any surplus assets must not be distributed to a Member or a former Member of the company, unless that member or former member is a charity described in clause 20.3.

20.3 Subject to the Corporations Act and any other applicable law, and any court order, any surplus assets that remain after the company is wound up must be distributed to one or more charities:

- (a) with objects similar to, or inclusive of, the objects in clause 2, and
- (b) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the company.

20.4 The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the company may apply to the Supreme Court to make this decision.

20.5 Clauses 20.6 - 20.10 apply only upon the Company being endorsed as a deductible gift recipient within the meaning of the Tax Act.

20.6 If the Company is wound up, deregistered or dissolved any Surplus Assets must not be distributed to a Member or a former member of the Company, unless that Member or former member is an Eligible Recipient.

20.7 Subject to the Corporations Act and any other applicable law, and any court order, if on the winding up, deregistration or dissolution of the Company, there remains any Surplus Assets (including any 'gift funds' as defined in clause 20.10(a)), the Surplus Assets must be given or transferred to one or more Eligible Recipients.

- 20.8 The Eligible Recipients referred to in clause 20.7 are to be determined by a Special Resolution of the Members at or before the time of deregistration, dissolution or winding up or, failing that determination, by a court who has or acquires jurisdiction in the matter.
- 20.9 If the Company's deductible gift recipient endorsement is revoked (whether or not the Company is to be wound up, deregistered or dissolved), any surplus gift funds must be transferred to one or more Eligible Recipients, as decided by the Directors and as approved by the Members by way of Special Resolution.
- 20.10 For the purpose of this clause 20:
- (a) 'gift funds' means:
- (i) gifts of money or property for the principal purpose of the Company;
 - (ii) contributions made in relation to a fund-raising event held for the principal purpose of the Company; and
 - (iii) money received by the Company because of such gifts and contributions.
- (b) 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the Tax Act.

21. ACCOUNTS, AUDIT AND RECORDS

Accounts

- 21.1 The Board must cause proper accounting and other records to be kept and financial statements and reports to be prepared in accordance with the Corporations Act.

Audit

- 21.2 The Board must appoint a registered company auditor if required to do so under the Corporations Act.

Rights of Inspection

- 21.3 Subject to the Corporations Act the Board determines whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Board or by the Company in general meeting.

22. NOTICE

Persons Authorised to Give Notices

- 22.1 A notice by either the Company or a Member in connection with this Constitution may be given on behalf of the Company, the Board, a Director or Member by a solicitor of the Company, Board, Director or Member, or by a director or company

secretary of the Company or Member. A reference to a “notice” in this Constitution includes documents, forms and other communications in written or electronic form (other than verbal communications). An electronic image of a document will be deemed to be as effective for the purposes of giving notices and other communications as the original of the document.

- 22.2 Subject to clause 24.3, the signature of a person on a notice given by or to the Company may be written, printed, stamped or be an electronic image. A notice given by email or other electronic means will be deemed to have been signed if it includes a statement or otherwise appears that the document was signed (including but not only by use of the words “signed by” or similar).

Method of Giving Notices

- 22.3 In addition to the method for giving notices permitted by statute, a notice by the Company, the Board, a Director or a Member in connection with this Constitution may be given to the addressee by any of the following means:

- (a) by delivering it to a street address of the addressee.
- (b) by sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee.
- (c) by sending it by email to the email address of the addressee.

Addresses for Giving Notices to Members

- 22.4 The street address or postal address of a Member is the street or postal address of the Member shown in the Register of Members.
- 22.5 The email address of a Member is the email address which the Member may specify by written notice to the Company as the email address to which notices may be sent to the Member or its Representative (if any).

Address for Giving Notices to the Company

- 22.6 The street and postal address of the Company is the Office.
- 22.7 The email address of the Company is the email address which the Company may specify by written notice to the Members as the email address to which notices may be sent to the Company.

Time Notice of Meeting is Given

- 22.8 A notice of meeting given in accordance with this Constitution is to be taken as given, served and received at the following times:
- (a) if delivered in writing to the street address of the addressee, at the time of delivery.
 - (b) if it is sent by post to the street or postal address of the addressee, on the business day after posting.

- (c) if sent by email to the email address or the addressee, at the time transmission is completed.

Time other Notices are Given

- 22.9 A notice given in accordance with this Constitution is to be taken as given, served and received at the following times:
- (a) if delivered in writing to the street address of the addressee, at the time of delivery.
 - (b) if it is sent by post to the street or postal address of the addressee, on the 2nd (5th if outside Australia) business day after posting.
 - (c) if sent by email to the email address of the addressee, at the time transmission is completed.

Proof of Giving Notices

- 22.10 Without limiting the manner in which giving a notice, or sending or receipt of an email may be proved, or the giving of a notice by email or the sending and receipt of an email may be proved conclusively by production of a server report (or log) for the sender's server showing the email was sent and that no message was generated or received by the sender's server advising the non-delivery or delay of the email.

Persons Entitled to Notice of Meeting

- 22.11 Notice of every meeting of Members must be given by a method authorised by this Constitution to all of the following persons:
- (a) every Member;
 - (b) each Representative.
 - (c) every Director.
 - (d) the auditor for the time being of the Company, if any.
- 22.12 No other person is entitled to receive notices of meetings of Members (but this does not limit giving notices to other persons, nor does giving a notice to another person invalidate the meeting or grant any right to speak or vote at the meeting).

23. AMENDMENT AND REVIEW

Amending this Constitution

- 23.1 This Constitution may be amended in the manner specified in the Corporations Act.

Notifying the ACNC and ATO of alterations to this Constitution

- 23.2 All alterations making a material alteration to or materially affecting this Constitution must, as and to the extent required by law, be notified in writing to the

Australian Charities and Not-for-Profits Commissioner and the Commissioner of Taxation.

Applicable not-for-profit laws

- 23.3 The Company will comply with all laws relating to the regulation or operation of charities or not-for-profit entities including the ACNC Act and the Tax Act, and any rulings or requirements of the Commissioner of the Australian Charities and Not-for-Profits Commission or the Commissioner of Taxation, having application to the Company from time to time.

24. DEFINITIONS AND INTERPRETATION

Definitions

- 24.1 In this Constitution the following definitions apply:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and any other legislation relating to the establishment or operation of an Australian charities commission and/or a national regulatory framework and/or national education body or otherwise for the not-for-profit sector, and includes:

- (a) any regulations made under that Act or any other such legislation; and
- (b) any rulings or requirements of the Commissioner of the Australian Charities and Not-for-profits Commission under that Act, or any commissioner or body under any other such legislation, having application to the Company,

as amended from time to time.

Advisory Council means the body formed under clause 14.17 of this Constitution.

Affiliate Member means an Affiliate Member of the Company under clause 3.4.

Affiliation Criteria means the criteria determined by the Board for this purpose from time to time.

Associate Member means an Associate Member of the Company under clause 3.3.

Associate Membership Criteria means the criteria determined by the Board for this purpose from time to time.

Board means the board of Directors of the Company from time to time and for the time being.

Board Register means the register of Directors kept by the Company under the Corporations Act as supplemented with information required or authorised to be included in the register by this Constitution.

Business Day means a day on which banking institutions generally are open in Melbourne but excluding Saturdays, Sunday and public holidays;

Chief Executive Officer means the Chief Executive Officer of the Company for the time being.

Company means Australian Clinical Trials Alliance Limited (which name may exclude the word "Limited" if the Company is permitted to do so under the Corporations Act).

Continuing Director has the meaning given to that term in clause 10.5(c)

Corporate Representative means an individual appointed as a Representative of a body corporate member of the Company under section 250D of the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cth).

Designate has the meaning given to that term in clauses 3.2(a), 3.3(a) and 3.4(a).

Director means a person appointed to perform the duties of a director of the Company for the time being.

Eligible Recipient means a body corporate in Australia that:

- (a) has one or more objects or purposes similar to, or inclusive of, the objects of the Company and that agrees to use any distribution or transfer provided by the Company to further such objects or purposes;
- (b) is registered as a charity with the Australian Charities and Not-for-profits Commission;
- (c) is endorsed as a deductible gift recipient within the meaning of the Tax Act; and
- (d) by law or its constituent rules, is prohibited from distributing, and does not distribute, its income and property amongst its members (either while it is operating or on winding up) to an extent at least as great as is imposed on the Company.

Executive Officer means the Executive Officer of the Company for the time being.

Full Member means a Full Member of the Company under clause 3.2.

Full Membership Criteria means the criteria determined by the Board for this purpose from time to time.

Material Personal Interest means an interest of the kind set out in section 191 of the Corporations Act.

Member means a person whose name is entered in the Register of Members as a member of the Company.

Register of Members means the register of Members kept by the Company under the Corporations Act as supplemented with information required or authorised to be included in the register by this Constitution.

Office means the registered office of the Company.

Regulation means a determination by the Board under clause 12.2 which each Member must comply with.

Representative means the person nominated in writing to the Company under clause 4 by a Member as the person entitled to attend meetings of the Company and vote on behalf of the Member (noting that the appointment of a proxy does not constitute the appointment of a Representative however a Representative may be appointed as a proxy).

Seal means, if the Company has one, the common seal of the Company.

Secretary means a person appointed to perform the duties of a secretary of the Company.

Surplus Assets means any assets of the Company that remain after paying all debts and other liabilities of the company, including the costs of winding up, dissolution or deregistration.

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

Termination Event means any of the following in relation to a Member:

- (a) in the case of a natural person, if that person commits any act of bankruptcy or calls or threatens to call any meeting with a view to entering into a composition or arrangement with his or her creditors; and
- (b) in the case of a body corporate or other association, if:
 - a. an application is made or an effective resolution is passed for the winding up or dissolution of the body corporate or association other than as part of a solvent internal reorganisation or reconstruction (including as part of a conversion to an incorporated association or company limited by guarantee);
 - b. a receiver, receiver and manager, liquidator, provisional liquidator, official manager or administrator is appointed or proposed to be appointed to the body corporate or association;
 - c. if the body corporate is struck off the register pursuant to Chapter 5A of the Corporations Act or a notice is published pursuant to Section 601AB of the Corporations Act;
 - d. the body corporate reduces or attempts to reduce its issued capital;
 - e. the body corporate or association convenes a meeting of its creditors or proposes or enters into any scheme of arrangement or composition for the benefit of its creditors;

- f. the body corporate or association shall be unable to pay its debts as and when they fall due for payment

Interpretation

24.2 In this Constitution, unless the context otherwise requires:

- (a) a reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this document.
- (b) a reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.
- (c) a reference to a clause, part, schedule, annexure or attachment is a reference to a clause, part, schedule, annexure or attachment of or to this Constitution.
- (d) where a word or phrase is given a defined meaning another part of speech or other grammatical form.
- (e) the word “includes” in any form is not a word of limitation and the words “includes” or “including”, “for example” or “such as” introducing a list of items do not exclude a reference to other items, whether of the same class or genus or not.
- (f) a reference to the chairperson of a meeting of Members is a reference to the chair of the Meeting for the time being, and in particular is a reference to a person to whom the chair is passed or who assumes the chair to continue the conduct of a meeting of Members including a returning officer conducting an election.

24.3 Where, by a provision of this Constitution, a document including a notice is required to be signed or delivered, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions (including electronic signature) or in any other manner approved by the Directors.