

# Constitution

Advanced Paediatric Life Support, Australia

ACN – 085 581 362

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## 1. Name

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The name of the Company is Advanced Paediatric Life Support, Australia (**the Company**).

## 2. Principal Purpose and Powers

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- (a) The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a Charity.
- (b) The Principal Purpose for which the Company is established is to promote the prevention or the control of diseases in children, including by:
  - (i) improving the quality of emergency health care delivered to children and young people by medical, nursing and other health care practitioners;
  - (ii) promoting the education, training, skill acquisition and experience in paediatric emergency care by medical, nursing and other health care practitioners;
  - (iii) stimulating research in the areas of paediatric emergency medicine; and
  - (iv) providing authoritative expert advice to medical bodies, government and the community on matters relating to emergency health care for children and young people.
- (c) Solely to carry out the Principal Purpose, the Company may exercise all of the powers of an individual and a company under the Act.

## 3. Not-For-Profit

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- (a) The income and property of the Company must be applied solely towards the Principal Purpose.
- (b) No part of the income or property of the Company may be paid or transferred directly or indirectly to Members or Directors by way of dividend, bonus or other profit distribution in their capacity as Members or Directors.
- (c) Clause 3(b) does not stop the Company from making a payment:
  - (i) to a Member for goods or services provided or expenses properly incurred at fair and reasonable rates or rates more favourable to the Company;
  - (ii) to a Member in carrying out the Company's Principal Purpose;
  - (iii) of premiums for insurance indemnifying Directors to the extent allowed for by law and this Constitution; or
  - (iv) with the prior approval of the Board, to a Director:
    - (A) for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done; or
    - (B) as reimbursement for out-of-pocket expenses properly incurred in performing a duty as Director.

## 4. Membership

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### 4.1 General

The minimum number of Members is one.

### 4.2 Eligibility

To be eligible for membership, a person must:

- (a) be committed to the Principal Purpose of the Company;
- (b) be a legally qualified medical, nursing or other health care practitioner registered to practice in any one of the state or territories of Australia; and
- (c) have successfully completed the APLS Provider and Instructor courses or an equivalent course as determined by the Board.

### 4.3 Application

- (a) An application for membership must be made in writing in the form and manner (if any) approved by the Board.

- (b) An applicant must agree in writing to contribute the Guaranteed Amount in accordance with clause 18.1.

#### **4.4 Admission**

- (a) The Board must consider and resolve whether to accept or reject each application for membership within a reasonable time.
- (b) The Board may accept or reject any membership application. The Board does not have to give reasons for accepting or rejecting any application.
- (c) If the Board accepts an application, the Secretary must, as soon as possible:
  - (i) enter the applicant's details into the Register; and
  - (ii) notify the Member in writing of the date their membership commenced.
- (d) If the Board rejects an application, the Secretary must notify the Member in writing of the rejection as soon as possible.
- (e) A person becomes a Member when their name is entered into the Register.

#### **4.5 Register**

- (a) The Secretary must maintain the Register.
- (b) The Register must contain:
  - (i) the name, address and date of admission to membership – for each current Member; and
  - (ii) the name, date of admission to membership and date on which a person stopped being a Member – for each person who ceased to be Member in the past 7 years.
- (c) The Secretary may keep former Member entries separately from current Member entries.
- (d) Notices may be served on a Member at their address in the Register.
- (e) The Company must give Members access to the Register in accordance with the Act.
- (f) Information that is accessed from the Register must only be used in a manner relevant to the interests or rights of Members.

#### **4.6 Ceasing to be a Member**

- (a) A person ceases to be a Member on:
  - (i) death;
  - (ii) resignation;
  - (iii) expulsion in accordance with clause 4.7; and
  - (iv) the Board deeming, in its sole discretion, the Member to be an untraceable Member because the person has not responded to correspondence within 60 days.
- (b) A Member whose membership is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding the Guaranteed Amount for which the Member is liable under this Constitution.
- (c) There will be no liability for any loss or injury suffered by a Member as a result of any decision made in good faith under this clause.
- (d) Any person who for any reason ceases to be a Member must not represent themselves in any manner as being a Member.

#### **4.7 Expulsion and suspension of Members**

- (a) The Board may suspend or expel a Member from the Company if it decides it is not in the interests of the Company for the person to continue or remain as a Member.
- (b) The Board may not resolve to suspend or expel a Member outside of a Board meeting.
- (c) If the Board intends to consider a resolution to suspend or expel a Member, it must notify the Member in writing at least one week prior to the relevant Board meeting:
  - (i) of the date, place and time of the meeting where the resolution will be considered;
  - (ii) of the intended resolution and the grounds on which it is based; and

- (iii) that they may attend the meeting and give an oral or written explanation or submission before the resolution is voted on.
- (d) After considering any oral or written explanation or submission, the Board may resolve to:
  - (i) take no further action;
  - (ii) warn the Member;
  - (iii) suspend the Member's rights for up to 12 months;
  - (iv) expel the Member;
  - (v) refer the decision to an unbiased, independent person on conditions that the Board consider appropriate (however, the person can only make a decision that the Board could have made under this clause); or
  - (vi) require the matter to be determined at a general meeting.
- (e) Any Member expelled from the Company may at any time apply to the Board to be readmitted as a Member.
- (f) No person may become a Director following expulsion or while suspended unless they are subsequently readmitted as a Member.

#### 4.8 Liability of Members

The liability of a Member is limited to the Guaranteed Amount, being \$1.00.

## 5. Convening General Meetings

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### 5.1 Convening general meetings

- (a) The Board may call a general meeting.
- (b) If the Company receives a written request from Members with at least 10 per cent of the votes that may be cast at a general meeting to call a general meeting (a **Request**), the Board must:
  - (i) give all Members notice of a general meeting within 21 days of the Request; and
  - (ii) hold the general meeting within 2 months of the Request.
- (c) The Request must state any resolution to be proposed at the meeting.
- (d) If the Board does not call the meeting within 21 days of a Request, 50 per cent or more of the Members who made the request may call a general meeting.
- (e) To call and hold a meeting under clause 5.1(d) the Members must:
  - (i) as far as possible, follow the general meeting procedures in this Constitution; and
  - (ii) hold the general meeting within three months after making the Request.
- (f) The Company must pay the Members who make the Request any reasonable expenses they incur because the Board did not call and hold the meeting.

### 5.2 Changes to general meeting arrangements

- (a) The Board may change the venue for, postpone or cancel a general meeting called under clause 5.1(a).
- (b) If a change is made under clause 5.2(a):
  - (i) notice of the change must be given to all persons entitled to receive notices of a general meeting under this Constitution;
  - (ii) a notice of postponement must specify the date, time and place to which the general meeting has been postponed; and
  - (iii) clause 5.5 does not apply to the notice.
- (c) The only business that may be transacted at a general meeting which is postponed is the business specified in the original notice convening the meeting.

### 5.3 Entitlement to receive notice

Notice of a general meeting:

- (a) must be given to every Member and every Director; and
- (b) may be given to any auditor appointed for the Company and in office at the time.

#### **5.4 Notice of general meetings**

A notice of general meeting must:

- (a) be in writing;
- (b) state the place, day and time of the meeting;
- (c) provide details of any technology that will be used to facilitate the meeting;
- (d) state the general nature of the business to be transacted at the meeting;
- (e) state the wording of any special resolution to be considered (and state that it is proposed as a special resolution);
- (f) include the information under clause 6.5;
- (g) include any proxy form approved by the Board; and
- (h) state that any proxy form must be given to the Company at least 24 hours before the meeting, by delivery to the Company at its registered address or at another address (including an electronic address) specified in the notice of the meeting.

#### **5.5 Timing of notice**

At least 21 days' notice must be given of a general meeting (other than a meeting to consider a resolution to remove a Director or auditor) unless:

- (a) in the case of an Annual General Meeting, all the Members entitled to attend and vote agree beforehand; and
- (b) in the case of any other general meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

#### **5.6 Annual General Meeting**

- (a) The Board must hold an Annual General Meeting at least once in every calendar year.
- (b) The business of an Annual General Meeting may include any of the following (even if not stated in the notice of meeting):
  - (i) the appointment of Directors;
  - (ii) the annual financial statements and any auditor's report; and
  - (iii) the appointment and remuneration of any auditor.

#### **5.7 Chairperson of general meetings**

- (a) The President will preside as chairperson at every general meeting.
- (b) If there is no President, the President is not present within 15 minutes of the commencement time or the President is unwilling to act as chairperson for all or part of the meeting, the following may preside as chairperson (in order of precedence):
  - (i) A Vice-President;
  - (ii) a Director chosen by a majority of the Directors present;
  - (iii) the only Director present; or
  - (iv) a Member chosen by a majority of the Members present.

#### **5.8 Quorum for general meetings**

- (a) No business may be transacted at a general meeting (other than electing a chairperson or adjourning the meeting), unless a quorum is present at the time the business is dealt with.
- (b) A quorum for a general meeting is 10 Members or 20 per cent of the Members (whichever is less).
- (c) If a quorum is not present within 15 minutes of the commencement time, then:
  - (i) if the meeting was called by, or at the request of Members, the meeting will dissolve;
  - (ii) otherwise:



- (A) the meeting stands adjourned to the day, time and place, determined by the Board or (if no determination is made by the Board), to the same day, time and place in the following week; and
  - (B) if at the resumption of the meeting a quorum is not present within 15 minutes of the commencement time, the meeting will dissolve.
- (d) Each proxy present must be counted for the purpose of determining a quorum, provided that:
- (i) only one proxy may be counted for each Member; and
  - (ii) no individual may be counted more than once.
- (e) A suspended Member is not counted for the purpose of determining a quorum.

#### **5.9 Adjournment of general meetings**

- (a) The chairperson may (and must if directed by a majority of the Members present and entitled to vote) adjourn the meeting or any business, motion, or discussion being considered or remaining to be considered.
- (b) Only unfinished business may be transacted at a general meeting resumed after an adjournment.
- (c) It is not necessary to give any notice of an adjournment, or of the business to be transacted at any adjourned meeting, unless a meeting is adjourned for one month or more.
- (d) A meeting adjourned under this clause is adjourned to the day, time and place determined by the Board or (if no determination is made by the Board), to the same day, time and place in the following week.

## **6. Voting At General Meetings**

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### **6.1 Voting rights**

- (a) Each Member has one vote (provided they are not suspended).
- (b) On a vote conducted at a general meeting:
  - (i) on a show of hands or voices, each person present who is a Member, or proxy for a Member, has one vote; and
  - (ii) by poll, each person present who is a Member has one vote and each person present as a proxy has one vote for each Member they represent.

### **6.2 Method of Voting**

- (a) Voting will occur by show of hands or voices or such other method as the chairperson determines, unless a poll is demanded and not withdrawn.
- (b) A poll can be demanded by the chairperson or five Members (or their proxies) at any time prior to a vote, or immediately after the declaration of a result of a vote conducted by means other than a poll.
- (c) A poll must be taken in the manner directed by the chairperson.
- (d) A poll demanded on the election of the chairperson or on a question of adjournment must be taken immediately.
- (e) A Member may vote in person, by technology or by proxy.

### **6.3 Decisions of the Members**

- (a) Questions arising for determination will be decided by a majority of votes cast (unless otherwise provided in this Constitution).
- (b) If equal votes are cast, the chairperson will not have a second or "casting" vote and the motion will be lost.
- (c) A declaration by the chairperson that a resolution has been carried or lost on a show of hands or voices is conclusive evidence of the fact (unless a poll is demanded).
- (d) An objection to the right of a person to vote may only be raised at the meeting at which the vote objected to is given or tendered. Any objection must be referred to the chairperson, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

#### **6.4 Seconding**

It is not necessary for a motion to be seconded in order to be put to a vote.

#### **6.5 Proxies**

- (a) A Member may appoint a proxy to act on their behalf at one or more general meetings.
- (b) A proxy must be a Member or a Director of the Company.
- (c) A proxy may exercise any and all of the rights of the Member who appointed them, subject to the following:
  - (i) any directions or limitations specified in the proxy appointment; and
  - (ii) a proxy cannot speak and vote for a Member while the Member is present at a meeting.
- (d) The appointment must be written and signed (including electronically) by the appointing Member in a form substantially similar to that in Schedule 1.
- (e) A proxy vote is valid even if the appointing Member revokes the appointment, or ceases to be a Member, provided that the chairperson was not aware of the revocation or cessation of membership at the time of the meeting.

#### **6.6 Use of technology**

- (a) The Company may hold a general meeting at any two or more locations using any technology that gives the Members as a whole a reasonable opportunity to participate.
- (b) A person participating through the use of technology will be deemed to be present at the meeting in person.

#### **6.7 Circulating Member Resolutions**

- (a) This clause does not apply to a special resolution, a resolution to remove a Director or a resolution to appoint or remove an auditor.
- (b) A resolution may be passed without a meeting if:
  - (i) notice is given to all Members entitled to vote; and
  - (ii) at least 75% of Members entitled to vote approve the resolution in writing.
- (c) For the purpose of this clause:
  - (i) the notice must include the wording of the resolution and may be distributed by any means, including electronic communication;
  - (ii) approval in writing includes approval by email and any other means of electronic communication; and
  - (iii) the resolution will fail if it does not received the required approval within seven days after the notice is given.
- (d) The resolution is passed when approval is given to the Secretary by the last person necessary to constitute a 75% majority in favour of the resolution.

### **7. Dispute Resolution**

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- (a) The parties to a dispute under this Constitution, being a Member or Director and:
  - (i) one or more Members;
  - (ii) one or more Directors; or
  - (iii) the Company;must attempt to resolve the matter between themselves within 14 days of being made aware of the dispute.
- (b) The Company, a Member or a Director must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 4.7 until the disciplinary procedure is completed.
- (c) If the parties cannot resolve the dispute within 10 days, they must:
  - (i) notify the Company;

- (ii) agree or request that a mediator be appointed; and
- (iii) attempt in good faith to settle the dispute by mediation.
- (d) The mediator must:
  - (i) be a person chosen by agreement between the parties or;
  - (ii) in the absence of agreement:
    - (A) for disputes between Members, a person chosen by the Board; and
    - (B) for other disputes, a person chosen by the president of the Law Institute of Victoria.
- (e) A mediator chosen by the Board pursuant to clause 7(d)(ii)(A):
  - (i) must be a professionally accredited mediator;
  - (ii) must not be a current or former Member ;
  - (iii) must not have a personal interest in the dispute; and
  - (iv) must not be biased towards or against anyone involved in the dispute.
- (f) When conducting the mediation, the mediator must allow those involved a reasonable chance to be heard and to review any written statements.
- (g) The mediator must not determine the dispute.
- (h) A Member or a Director must not commence a formal legal proceeding (except for interlocutory relief) in relation to a dispute under this Constitution unless and until they have complied with this dispute resolution procedure.

## **8. Appointment and Removal of Directors**

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### **8.1 Number and composition of Directors**

- (a) The minimum number of Directors is three.
- (b) The Company may have up to nine Directors.
- (c) The Board will comprise:
  - (i) up to six Member nominated Directors elected pursuant to clause 8.3(a); and
  - (ii) up to three Board nominated Directors elected pursuant to clause 8.3(b).
- (d) The Chief Executive Officer may attend and speak at Board meetings but may not vote.

### **8.2 Eligibility**

- (a) Any natural person committed to the Principal Purpose is eligible to be a Director provided:
  - (i) for Member nominated Directors, the person is a Member;
  - (ii) the person is not an employee of the Company;
  - (iii) the person has consented in writing to be a Director;
  - (iv) the person has suitable qualifications, skills and experience to discharge the functions of a Director, as determined by the Board from time to time; and
  - (v) the person is not ineligible to be a Director under:
    - (A) the Act; or
    - (B) the ACNC Legislation.
- (b) Rule 8.2(a)(v)(B) will not apply to disqualify a person if an exemption is obtained from the ACNC Commissioner.

### **8.3 Nomination and appointment of Directors**

- (a) Member nominated Directors will be appointed as follows:
  - (i) Any two Members may nominate an eligible Member to serve as a Member nominated Director.
  - (ii) The nomination must be in writing and lodged with the Secretary at least 30 days before the Annual General Meeting at which the election is to take place.

- (iii) If there are more candidates nominated than there are vacancies for Member nominated Director positions, balloting lists will be prepared containing the names of the candidates in an order determined by lot. The Board may determine the method of the ballot. Each Member is entitled to vote for any number of candidates not exceeding the number of vacancies.
  - (iv) If there are no more candidates nominated for Member nominated Director positions than there are vacancies, then the chairperson will declare those candidates elected as Member nominated Directors.
  - (v) If there is not a sufficient number of candidates nominated to meet the required minimum number of Directors, the Board must appoint a Member as Director, subject to their consent, so that the Board consists of nine Directors.
- (b) Board nominated Directors will be appointed as follows:
- (i) At least 30 days prior to the Annual General Meeting at which the election is to take place, the Board will by resolution nominate three individuals to serve as Board nominated Directors.
  - (ii) The Board may not nominate more candidates than there are vacancies for Board nominated Director positions. The chairperson will declare those candidates elected as Board nominated Directors.
- (c) The Board may appoint a new Director to fill a casual vacancy.

#### **8.4 Term of office**

- (a) The term of office of a Director appointed pursuant to clause 8.3(a) or 8.3(b):
- (i) is three years (unless a different period is specified in the resolution);
  - (ii) commences at the end of the general meeting at which they are elected; and
  - (iii) expires at the end of the third Annual General Meeting following the election (or at the end of the period specified in the resolution).
- (b) The term of office of a Director appointed by the Board pursuant to clause 8.3(c):
- (i) commences on the date of appointment; and
  - (ii) expires at the conclusion of the first Annual General Meeting following the appointment.
- (c) A Member nominated Director appointed pursuant to clause 8.3(a) who has served continuously for nine years or more may only be re-appointed by a special resolution.
- (d) A Board nominated Director appointed pursuant to clause 8.3(b) who has served continually for nine years or more may only be re-appointed by unanimous resolution of the Board.

#### **8.5 Ceasing to be a Director**

A person stops being a Director, and a casual vacancy is created, if they:

- (a) resign by written notice to the Company;
- (b) if a Member nominated Director, cease to be a Member;
- (c) are removed by the Members under the Act;
- (d) are absent without leave of the Board, from three consecutive Board meetings or four Board meetings over 12 months;
- (e) die, or become subject to a Court order to receive treatment or have their finances managed by another person due to being of unsound mind or having a mental illness;
- (f) are directly or indirectly interested in any contract or proposed contract with the Company and fail to declare the nature of the interest as required by the Act; or
- (g) become ineligible to be a Director under the Act or the ACNC Legislation.

#### **8.6 Effect of casual vacancy**

If the number of Directors is insufficient to constitute a quorum or less than the minimum number fixed under clause 8.1, the remaining Directors may, except in an emergency, act only to:

- (a) increase the number of Directors to a number sufficient to constitute a quorum or meet that

minimum number; or

- (b) convene a general meeting of the Company.

### **8.7 Defects in appointment of Directors**

An act done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting or taking the relevant step.

## **9. Board Decision Making**

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### **9.1 Convening Board meetings**

A Director may convene or ask the Secretary to convene a Board meeting by giving reasonable notice to all of the other Directors.

### **9.2 Notice of Board meetings**

- (a) Notice of Board meetings must be given to every Director.
- (b) A notice of a Board meeting:
  - (i) must specify the place, day and time of the meeting;
  - (ii) must provide details of any technology that will be used to facilitate the meeting; and
  - (iii) does not need to specify the nature of the business to be transacted at the meeting.
- (c) At least 48 hours' written notice must be given of Board meetings to all Directors (unless the Board unanimously waives this requirement).

### **9.3 Quorum for Board meetings**

- (a) No business may be transacted at any Board meeting unless a quorum is present.
- (b) A quorum of Directors for Board meetings is a majority of the total number of Directors.
- (c) A Director on a leave of absence approved by the Board should not be included when calculating the total number of Directors for the purposes of determining a quorum.

### **9.4 Use of technology in Board meetings**

- (a) The Board may hold its meetings using any technology that is agreed to by the Board.
- (b) The Board's agreement may be a standing one.
- (c) A Director who attends by technology is deemed to be present in person at the meeting.

### **9.5 Chairperson of Board meetings**

- (a) The President will preside as chairperson at Board meetings.
- (b) If the President is not present within 15 minutes after the commencement time or is unwilling to act as chairperson for all or part of the meeting then:
  - (i) if there is a Vice-President, the Vice-President will be the chairperson; and
  - (ii) if the Vice-President is not present or is not willing and able to be the chairperson during all or part of the meeting, the Directors present may elect a Director to be chairperson of the meeting or part of it.

### **9.6 Voting at Board meetings**

- (a) A question arising at a Board meeting is to be decided by a majority of votes of Directors present and entitled to vote.
- (b) If the votes cast on a motion are equal, the chairperson does not have a second or "casting" vote and the motion will be lost.

### **9.7 Resolutions without meetings**

- (a) A Board resolution may be passed without a meeting if all the Directors entitled to vote on the resolution sign (including electronically) a notice stating that they are in favour of the resolution.
- (b) The resolution is passed at the time when the last Director necessary to constitute

unanimous consent signs (including electronically).

- (c) For the purpose of this clause:
  - (i) the notice must include the wording of the resolution;
  - (ii) the notice may be distributed by any means;
  - (iii) separate copies of the notice may be signed (including electronically); and
  - (iv) the resolution fails if it has not achieved unanimous consent within 48 hours after the notice was given.

## **10. Directors' Powers and Duties**

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### **10.1 Powers of the Board**

- (a) The Directors are responsible for managing the business of the Company and furthering the Principal Purpose.
- (b) The Directors may exercise all the powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Members.
- (c) The Board cannot remove a Director or auditor.
- (d) The Board may delegate any of its powers to one or more Directors, the Chief Executive Officer, a committee, an employee or any other person.
- (e) The Board may specify terms of the delegation (including the power to further delegate) and revoke a delegation.

### **10.2 Duties of Directors**

Directors must comply with any duties imposed on them by the Act and with the duties described in governance standard 5 of the ACNC Legislation.

### **10.3 Establishment of committees**

- (a) The Board may establish committees.
- (b) A committee may include, or be comprised of, non-Directors.
- (c) The meetings and proceedings of committees are:
  - (i) subject to any terms of reference and/or delegation; and
  - (ii) otherwise governed as far as possible by the provisions of this Constitution which regulate the proceedings of the Board.

## **11. Directors' Interests**

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### **11.1 Conflicts of interest**

- (a) A Director must disclose the nature and extent of any perceived or actual material conflict of interest to the other Directors (or the Members if the other Directors share that conflict).
- (b) A Director who has a material personal interest in a matter that is being considered by the Board:
  - (i) must not be present while the matter is being considered at a Board meeting; or
  - (ii) vote on the matter;unless permitted by clause 11.1(c).
- (c) Provided the Board approves and it is permitted by law, a Director may be present or vote if:
  - (i) the interest arises because the Director is a Member and the other Members have the same interest;
  - (ii) the interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as an officer of the Company;
  - (iii) the interest relates to any payment by the Company under clause 12.3 in respect of an indemnity permitted under the Act or any contract relating to such an indemnity; or
  - (iv) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or

- (v) the interest relates to a contract the Company is proposing to enter into that:
  - (A) is subject to approval by the Members; and
  - (B) will not impose any obligation on the Company if it is not approved by the Members;
- (vi) the Directors who do not have a material personal interest in the matter pass a resolution that:
  - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
  - (B) states that those Directors are satisfied that the interest should not stop the Director from voting or being present; or
- (vii) the interest arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in clause 11.1(c)(vi).

## 11.2 Permissible conduct

Provided a Director complies with clause 11.1 they may:

- (a) hold any other position in the Company, except that of auditor;
- (b) hold any office or place of profit in any other entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a Member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (f) sign or participate in the execution of a document by or on behalf of the Company; and
- (g) do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement.

## 12. Office Bearers and Chief Executive Officer

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### 12.1 Appointment of Office Bearers

- (a) From time to time as required, the Board must appoint a President, a Vice-President and any other Office Bearers it deems fit from among the Board.
- (b) Office Bearers of the Company hold office until the end of the first Annual General Meeting following their appointment.
- (c) An Office Bearer may be elected for more than one successive term.
- (d) The Board may remove or suspend a person from holding any Office Bearer position by resolution passed at a Board meeting provided:
  - (i) the resolution is passed by not less than two-thirds of the Directors present; and
  - (ii) at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person who is the subject of the resolution.

### 12.2 Secretary

- (a) The Chief Executive Officer may be the Secretary.
- (b) A person may not be appointed as Secretary unless the person:
  - (i) consents in writing to being appointed as Secretary;
  - (ii) is at least 18 years of age; and
  - (iii) is resident in Australia.
- (c) The Board may suspend or remove a Secretary.

- (d) The position of Secretary must not be vacant for more than 14 days.

### **12.3 Chief Executive Officer**

- (a) The Board may appoint a Chief Executive Officer for a term, at the remuneration and on the conditions that the Board thinks fit.
- (b) The Chief Executive Officer may not be a Director.
- (c) Subject to any contract between the Company and the Chief Executive Officer, the Board may remove the Chief Executive Officer at any time, with or without cause.
- (d) The Chief Executive Officer may attend and speak at all Board meetings and general meetings, but may not vote.
- (e) The Directors may:
  - (i) confer powers, discretions and duties on the Chief Executive Officer as they see fit;
  - (ii) withdraw, suspend or vary any powers, discretions and duties conferred; and
  - (iii) authorise the Chief Executive Officer to delegate all or any of the powers, discretions and duties conferred.
- (f) An act done by a person acting as Chief Executive Officer is not invalidated merely because of:
  - (i) a defect in their appointment as Chief Executive Officer; or
  - (ii) the person being disqualified from being Chief Executive Officer;if that circumstance was not known by the person when the act was done.

## **13. Indemnities and Insurance**

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- (a) The Company indemnifies every present and past Director and executive officer of the Company to the full extent permitted by law against all losses and liabilities incurred as a result of their position as an officer of the Company.
- (b) This indemnity:
  - (i) is a continuing obligation and is enforceable even if the person has ceased to be an officer of the company;
  - (ii) is not subject to any requirement to first incur an expense or make a payment; and
  - (iii) operates only to the extent that the relevant loss or liability is not covered by insurance.
- (c) The Company may, to the extent permitted by law, pay or agree to pay, a premium in respect of a contract insuring its officers.
- (d) Nothing in this clause 13 limits the Company's ability to indemnify or pay for insurance for any person not expressly covered by this clause.

## **14. Administration**

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### **14.1 Minutes and records**

- (a) The Board must ensure that:
  - (i) minutes of all general meetings, Board meetings and committee meetings; and
  - (ii) records of resolutions passed by Members, Directors and Committees without a meeting;are recorded and kept with the Company's records as soon as practicable (being no later than one month after the meeting or passing of the resolution).
- (b) The Company must ensure that minutes of a Board or general meeting are electronically signed (including electronically) within a reasonable time by the chairperson of the meeting or of the next meeting.

### **14.2 Members' access to Company records**

The Company must give Members access to Company records as required by the Act.



### **14.3 Common seal**

The Company does not have a common seal.

### **14.4 Execution of documents**

The Company may execute documents by the signature of:

- (a) two Directors;
- (b) one Director and the Secretary; or
- (c) such other persons appointed by the Board for that purpose.

## **15. Records, Accounting and Audit**

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### **15.1 Accounts and other records of the Company**

- (a) The Board must:
  - (i) ensure that proper financial records are kept (including electronically) in accordance with all legal and regulatory requirements;
  - (ii) ensure that records of its operations are kept (including electronically); and
  - (iii) take reasonable steps to ensure that the Company's records are kept safe.
- (b) The Company must retain its records for at least seven years.

### **15.2 Audit**

- (a) If required by law, the Company must appoint and remunerate an auditor.
- (b) Any auditor is entitled to attend any general meeting and to be heard by the Members on any business of the meeting that concerns the auditor in their capacity as auditor.
- (c) The Company may give any auditor all communications relating to the general meeting that the Members of the Company are entitled to receive.

### **15.3 Financial year**

The financial year will begin on 1 July and end on 30 June, unless the Board passes a resolution to change the financial year.

## **16. Amending This Constitution**

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- (a) The Company may only alter this Constitution by special resolution in accordance with the Act.
- (b) The Members must not pass a special resolution that amends this Constitution if passing it causes the Company to no longer be a Charity.

## **17. Notices**

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- (a) Notices can be served on Members or Directors personally, by post, email or other electronic means.
- (b) Notices are taken to be served:
  - (i) in the case of a properly addressed and posted notice, five Business Days after the date of posting; and
  - (ii) in the case of a notice sent by email or other electronic means, at the time of sending.
- (c) The non-receipt of notice or a failure to give notice, does not invalidate any thing done or resolution passed at the meeting if:
  - (i) the non-receipt or failure occurred by accident or error;
  - (ii) the individual waives notice before or after the meeting (including by attending the meeting); or
  - (iii) the individual notifies the Company of their agreement to that thing or resolution before or after the meeting.
- (d) In calculating a period of notice, both the days on which the notice is given or taken to be given and the day of the meeting must be disregarded.

## 18. Winding Up or Revocation of Endorsement

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### 18.1 Contribution of a Member on winding up

If required, each Member must contribute an amount (not more than the Guaranteed Amount) to the assets of the Company if it is wound up while they are a Member, or within one year of the Member ceasing to be a Member, for the:

- (a) payment of the debts and liabilities of the Company incurred before they ceased to be a Member; and/or
- (b) costs, charges and expenses of winding up.

### 18.2 Distribution of assets on revocation of endorsement or winding up

- (a) If the Company is a Deductible Gift Recipient any DGR gifts must be deposited in a separate bank account or otherwise identified so that they can be distinguished from other assets of the Company.
- (b) If the Company is a Deductible Gift Recipient and is wound up, or it ceases to be endorsed as a Deductible Gift Recipient, any DGR gifts remaining after satisfying the Company's liabilities and expenses must be transferred to a Charity or Charities endorsed as a Deductible Gift Recipient.
- (c) On the winding up of the Company, any assets remaining after complying with clause 18.2(a) and 18.2(b):
  - (i) must not be paid or distributed to the Members in their capacity as Members, and
  - (ii) must be given or transferred to a Charity or Charities which:
    - (A) has a similar purpose to the Principal Purpose, and
    - (B) prohibits the distribution of income, profit or assets to its Members in their capacity as Members.
- (d) The Members must decide before any winding up or revocation which Charity or Charities will receive a distribution under clause 18.2(a) or 18.2(b). If the Members fail to decide, the matter must be determined by application to the Supreme Court in the State of Victoria.

## 19. Interpretation

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### 19.1 Definitions

In this Constitution:

**"ACNC"** means the Australian Charities and Not-for-profits Commission.

**"ACNC Legislation"** means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Cth).

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

**"auditor"** may mean a reviewer, if permitted by the Act or ACNC Legislation.

**"chairperson"** means the person chairing a meeting.

**"Chair"** means the person appointed to the position of Chair under clause 12.

**"Charity"** means a charity registered under the ACNC Legislation.

**"Deductible Gift Recipient"** means an entity to which tax deductible gifts may be made pursuant to Division 30 of the ITAA 97.

**"DGR Gifts"** means:

- (a) gifts of money or property for the Principal Purpose received during any time that the Company is endorsed as a Deductible Gift Recipient;
- (b) contributions described in item 7 or 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event (as defined by section 995-1 of the ITAA 97) held for that purpose during any time that the Company is endorsed as a Deductible Gift Recipient; and
- (c) money received by the Company because of such gifts or contributions during any time

that the Company is endorsed as a Deductible Gift Recipient.

**“General Meeting”** means a meeting of Members (including an Annual General Meeting).

**“Guaranteed Amount”** means the amount set out in clause 4.8.

**“ITAA 97”** means the *Income Tax Assessment Act 1997* (Cth).

**“Member”** means a person whose name is entered in the Register as a Member of the Company in accordance with clause 4.4.

**“Office Bearer”** means President, Vice-President and Treasurer.

**“person”** includes a natural person and a corporation within the meaning of s 57A of the Act.

**“Principal Purpose”** means the purpose set out in clause 2.

**“Register”** means the register of Members under the Act.

**“Treasurer”** means the person appointed as Treasurer of the Company.

## 19.2 Interpretation

In this Constitution:

- (a) If an expression in the Constitution has a meaning in the Act, the meaning from the Act will apply to the expression - except where a contrary intention appears in this Constitution.
- (b) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

## 19.3 Exclusion of replaceable rules

- (a) The replaceable rules contained in the Act do not apply to the Company.
- (b) If at any time, the company is not a Charity, the Act (unless it is a replaceable rule) overrides any part of this Constitution or policy of the Company to the extent of any inconsistency.

## 20. Transitional Provisions

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The following clauses apply notwithstanding anything to the contrary in this Constitution.

### 20.1 Members

The Members immediately following the adoption of this Constitution will be those Members listed on the Register at the time of adoption.

### 20.2 Directors

- (a) The Directors immediately following the adoption of this Constitution will be those in office at the time of adoption.
- (b) Directors appointed prior to the adoption of this Constitution may complete their term of office under the previous Constitution. Time served prior to the adoption of this Constitution will not be taken into account for the purposes of clause 8.4(c).

## SCHEDULE 1

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### APPOINTMENT OF PROXY – ADVANCED PAEDIATRIC LIFE SUPPORT, AUSTRALIA

I, \_\_\_\_\_  
(Member)

of \_\_\_\_\_  
(Address)

appoint \_\_\_\_\_  
(Proxy)

as my proxy for the General Meeting of Advanced Paediatric Life Support, Australia be held on

\_\_\_\_\_  
(Date)

and at any adjournment.

#### CHOOSE

My proxy can vote on my behalf for all resolutions at the above General Meeting.

#### OR

My proxy can vote for the resolutions listed below as indicated:

in favour of / against	detail of proposed resolution

Signed (including electronically): \_\_\_\_\_  
(Member)

Date: