

Constitution

Australian and New Zealand Vasculitis Society



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Constitution - Australian and New Zealand Vasculitis Society

Operative clauses

1. Interpretation

1.1 Definitions

In this Constitution, unless the context otherwise requires:

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

ASIC means the Australian Securities and Investments Commission.

Associate Member has the meaning given to that term in the Schedule.

Board means the Board of Directors of the Company.

Business Day means a day which is not a Saturday, Sunday or bank or public holiday in Victoria.

Chair means the chairperson of a general meeting of Members or the chairperson of a meeting of the Board (as the context requires).

Chief Executive Officer means a person appointed to perform all or any of the Duties of a chief executive officer of the Company or any person appointed to act temporarily as such in accordance with clause 19.1.

Clinical Immunology Director means an Ordinary Member who is qualified in clinical immunology or whom the Board reasonably determines is a person whose practice is largely comprised of the practice of clinical immunology or if a non-practising researcher, whose research is primarily in the area of clinical immunology.

Commencement Date means the date of incorporation of the Company.

Committee means a committee of Directors or a committee of Directors and other persons appointed to such committee by the Board formed under clause 17.6.

Company means Australian and New Zealand Vasculitis Society, a public company limited by guarantee and registered without the word "Limited" in its name under section 150 of the Corporations Act.

Confidential Information:

(a) means information (whether or not in material form) given to or gained by a Director before, during or after that person's term of Directorship that relates to:

(1) the Company; or

- (2) Patients or suppliers of or provision of services to or on behalf of the Company; or
 - (3) any funding, sponsorship or donation arrangements in respect of the Company; and
- (b) includes, but is not limited to:
- (1) trade secrets;
 - (2) information relating to the business affairs, accounts work, marketing plans, prospects, price information, supplier lists, research, management, financing, business strategies, products, inventions, designs or processes;
 - (3) computer data bases and computer software; and
 - (4) data surveys, customer or Patient lists, specifications, drawings, records, reports and statements.

Constitution means this Constitution as amended from time to time.

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

Director means any person occupying the position of a director of the Company.

Duties includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an Officer by the Company or, where applicable, a subsidiary of the Company to any other corporation.

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

Gift Fund means the gift fund established under clause 20.

Independent Director means a Director who is not a Clinical Immunology Director, a Nephrology Director or a Rheumatology Director;

Initial Directors means each person named in the application for registration of the Company, with their consent, as a proposed director of the Company.

Initial Members means each person named in the application for registration of the Company, with their consent, as a proposed member of the Company.

Instantaneous Communication Device includes telephone, television, email, videoconference or any other audio, visual or data device which permits instantaneous communication between Directors or Members.

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

Members means persons that are, or who are admitted as, members of the Company under clause 5.3.

Nephrology Director means an Ordinary Member who is qualified in nephrology or whom the Board reasonably determines as being a person whose practice is largely comprises of the practice of nephrology or if a non-practising researcher, whose research is primarily in the area of nephrology.

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

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

Office Bearers means the persons referred to in clause 16.1.

Officer means:

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

and includes a person who formerly held any of the above positions.

Ordinary Member has the meaning given to that term in the Schedule.

Overseas Member has the meaning given to that term in the Schedule.

Patient means a person who suffers symptoms of vasculitis, being an inflammation of the blood vessels.

Community Representative means a Director who is appointed to represent the interests of Patients and consumers in accordance with clause 11.7.

Present in connection with a meeting of Members, means present in person, by Instantaneous Communication Device or by proxy (but not by attorney) at the meeting.

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

Related Body Corporate has the meaning given in the Corporations Act.

Relevant Extent means:

- (a) to the extent the Company is not precluded by law from doing so;
- (b) to the extent and for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
- (c) where the Liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the Duties in relation to another corporation, to the extent and for the amount that the Officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.

Rheumatology Director means an Ordinary Member who is qualified in rheumatology or whom the Board reasonably determines as being a person whose practice is largely comprised of the practice of rheumatology or if a non-practising researcher, whose research is primarily in the area of rheumatology.

Secretary means any person who performs all or any of the Duties of a secretary of the Company or any person appointed to act temporarily as such.

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

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

1.2 Construction

In this Constitution unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other gender;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) a reference to:
 - (1) a person includes a natural person 18 years or over, a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (2) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (3) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (4) a right includes a benefit, remedy, discretion or power;
 - (5) time is to local time in Victoria;
 - (6) "\$" or "dollars" is a reference to Australian currency;

- (7) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmission;
- (8) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (9) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

2. Name

The name of the Company is: "Australian and New Zealand Vasculitis Society" or such other name as the Members may approve in accordance with this Constitution and the Corporations Act.

3. Registered Office

The Office of the Company will be situated in Victoria.

4. Objects

The Company's objects are to:

- (a) initiate, carry out, co-ordinate and support activities which provide direct relief from the distress and suffering of Patients living with vasculitis including by promoting the management and control of vasculitis in such Patients;
- (b) facilitate research in Australia and New Zealand into the causes, management and treatment of vasculitis or alleviation of distress or suffering caused by vasculitis including by endowing chairs, lectureships or fellowships at universities and other tertiary institutions for the purpose of conducting research;
- (c) engage with and bring together Members and other physicians and health professionals for scientific discussion and to increase their knowledge and understanding of vasculitis so that they can better assist Patients who suffer from and are caused distress by vasculitis, including organising meetings, seminars and lectures in the field of vasculitis;
- (d) improve the lives of Patients suffering distress from vasculitis through the establishment and maintenance of, or funding and/or engaging organisations to establish and maintain, a network of clinical centres to design and undertake clinical trials in respect of the treatment of vasculitis;
- (e) take a principal role in providing training and education in both clinical care and research in respect of vasculitis directly and through other organisations so that Members and other physicians and health professionals can better assist Patients who suffer from and are caused distress by vasculitis;
- (f) improve the lives of Patients suffering distress from vasculitis through the establishment and maintenance of a clinical care registry linking to information and results generated by clinical trials which serves as a basis for research and a link to local or national biobank samples;

- (g) directly assist Patients with the distress and suffering associated with vasculitis by providing leadership in the cure and treatment of vasculitis, promoting the highest standard of clinical care amongst Members and other health professionals working the field of vasculitis and the provision of website information services that assist Patients to manage their condition and increase public awareness of vasculitis;
 - (h) advocate for and communicate the views of Members and Patients in respect of vasculitis and the diagnosis, treatment, or cure of vasculitis to the Australian Federal Government, the government of any State in which the Company operates and/or provides services and relevant Federal, Territory and State Government Departments involved in the provision or funding of services for Patients;
 - (i) interface or affiliate with and support consumer and patient groups in Australia and New Zealand and collaborate with and obtain the support of any national or international organisation that is conducive to the promotion or attainment of any of the Objects;
 - (j) subscribe to or donate or become a member of and cooperate with any other body of persons whose Objects are altogether or in part similar to those of the Company;
 - (k) encourage and solicit the making of donations, Gifts and testamentary dispositions to the Company and obtain and disburse those funds in the furtherance of the Company's Objects;
 - (l) undertake public appeals from time to time to raise funds for the purpose of promoting or supporting the fulfilment of the Objects;
 - (m) establish a capital base and to use income from that base to provide an ongoing source of support for the Company to achieve its Objects; and
 - (n) do any and all such things that are lawful and conducive to the attainment of the Company's Objects.
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5. Members

5.1 Initial and Subsequent Members

The Members of the Company are:

- (a) the Initial Members; and
- (b) any other person whom the Directors admit as a member in accordance with clause 5.3.

5.2 Categories of Membership

- (a) Membership of the Company will initially comprise three classes of Members.
- (b) The requirements for and rights associated with each class of Membership are set out in the Schedule.

- (c) The Directors may establish additional classes of Members and prescribe and vary the qualifications, rights, privileges and obligations of all classes of Membership of the Company.
- (d) Where classes of Members have been established, the Directors may, by resolution and subject to any requirement in the Corporations Act, reclassify or convert Members from one class to another.

5.3 Admission as a Member

Any person that:

- (a) forwards to the Secretary a written application for Membership (in the form determined by the Board from time to time):
- (b) agreeing to be bound by the Constitution (including paying the guarantee under clause 29 if required);
- (c) that specifies the name of:
 - (1) two current Members (for applications for Ordinary Members); or
 - (2) one current Member (for applications for Associate Members who are Overseas Members),

to act as referees for the applicant;

Applicants for Associate Membership who are resident in Australia or New Zealand are not required to provide the name of a current Member

- (d) provides evidence demonstrating that he or she complies with the criteria for Membership in clause 5.2 and in regulations made by the Board in accordance with clause 12(c); and
- (e) pays the then applicable application fee and pays any other annual Membership fees payable,

may be admitted as a Member in the relevant class of Members by resolution of the Board in accordance with this Constitution.

5.4 Notification

- (a) On the Board accepting an application for Membership, the Secretary will send confirmation of acceptance as a Member (including the date of commencement of membership) to the applicant.
- (b) If an application for Membership is rejected, the Secretary must, as soon as practicable, notify the applicant that the application has been rejected and must refund all application and annual Membership fees paid by the applicant in accordance with clause 5.3. In no case will the Board or the Company be required to give any reason for the rejection of the applicant.

5.5 Commencement of Membership

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

5.6 Fees

- (a) The application fee and annual Membership fee payable and the period for which such fee entitles Membership, will be determined by the Board from time to time.
- (b) The annual Membership fee will be payable annually in advance on or before the first day of the calendar year or such other day as the Board determines. As at the Commencement Date, the annual Membership fee will be \$100.00.
- (c) The Board may grant any concession with regards to application or annual Membership fees as it thinks fit, including the full or partial waiver of all or any of such fees.
- (d) A Member that ceases to be a Member before any fee becomes due and payable will not be liable for that fee.
- (e) Subject to clause 5.6(c), resignation or other termination of a Member's Membership of the Company will not relieve a Member of responsibility for any financial obligations under this Constitution, including fees and other amounts due and payable by the Member to the Company, accruing up to the effective date of termination.

5.7 Cessation of Membership

A person ceases to be a Member if the person:

- (a) resigns his or her Membership by giving one (1) month's written notice to the Secretary or such lesser notice period as may be accepted by the Board;
- (b) dies;
- (c) the Member becomes a person liable, or a person whose assets are liable, to any control or administration under any law relating to physical or mental health;
- (d) the Member is expelled from membership in accordance with clauses 5.8 and 5.9; or
- (e) fails to pay any Membership fee within sixty (60) days of the due date for such payment.

A Member who resigns, is expelled from the Company or whose Membership otherwise ceases in accordance with this clause 5, does not have any claim on the Company, its funds or property.

5.8 Expulsion from Membership

Subject to clause 5.9, if in the opinion of the Board:

- (a) a Member's conduct is detrimental or prejudicial to the welfare, interests, character or Objects;

- (b) a Member wilfully refuses or neglects to comply with this Constitution or any regulations made pursuant to this Constitution;
- (c) a Member ceases to satisfy the criteria for admission to Membership of the class to which the Member has been admitted,

the Board may resolve to expel such person from Membership of the Company.

5.9 Expulsion Procedure

- (a) A resolution of the Board passed at a Board meeting pursuant to clause 5.8 (**Expulsion Resolution**), will be of no force or effect unless prior to passing the Expulsion Resolution:
 - (1) the Board has given not less than fourteen (14) days prior notice in writing to the Member referred to in the proposed Expulsion Resolution (**Expulsion Notice**);
 - (2) the Expulsion Notice must include:
 - (A) the date and time of the Board meeting at which the Expulsion Resolution will be considered;
 - (B) a description of the Expulsion Resolution proposed;
 - (C) a statement containing reasonable particulars of the person's conduct to be considered by the Board; and
 - (D) a statement that the Member has a right to put their case to the Board by giving the Secretary a written statement for circulation to the Directors and appearing at the Board meeting at which the proposed Expulsion Resolution is to be considered to speak for a reasonable time.
- (b) Either prior to or at the meeting of the Board, the person may request the Chair to elaborate upon any of the particulars set out in the Expulsion Notice. The Board must use all reasonable endeavours to comply with such a request.
- (c) A Member who appears at a Board meeting to address the allegations referred to in the Expulsion Notice will be entitled to speak for a reasonable time, such time to be determined by the Chair.
- (d) A statement given under clause 5.9(a)(2)(D) must be circulated to the Board before the meeting or, if there is insufficient time, read out at the meeting before the Expulsion Resolution is considered, unless the statement is more than one thousand (1,000) words or is considered defamatory by the Chair.
- (e) An Expulsion Resolution pursuant to clause 5.8 will be a Special Resolution.
- (f) The Secretary must give the Member written notice of the passing of an Expulsion Resolution as soon as reasonably practicable after the Board meeting to consider the Expulsion Resolution is held.

6. Register of Members

- (a) The Secretary must keep the Register at the Office and must enter in the Register:
 - (1) the full names and addresses of Members;
 - (2) the category of Membership of that person;
 - (3) any alternative address nominated by a Member for the service of notices; and
 - (4) the date on which each Member becomes and ceases to be a Member.
- (b) Each Member must notify the Company in writing of any change in that Member's name, address, facsimile number or email address, within one (1) month after the change.

7. General Meetings

7.1 Annual general meeting

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

7.2 Holding of general meetings

- (a) General meetings are to be held at the times and places resolved by the Company in general meeting or, if no time or place is resolved, as resolved by the Board.
- (b) The Company may hold a general meeting at two or more venues using any Instantaneous Communication Device that gives Members as a whole a reasonable opportunity to participate, including hearing the proceedings and be heard.

7.3 Convening of general meetings

- (a) The Directors may at any time and must upon a written requisition made by at least five (5) percent of the total Membership (comprising Members who are entitled to vote) in accordance with section 249D of the Corporations Act, convene a general meeting of the Company.
- (b) Members may inspect and copy the Register by appointment with the Secretary but only for the purpose contemplated in clause 7.3(a). The Register must not be used for any other purpose.
- (c) The written request for a general meeting by the Members:
 - (1) must state the resolution/s to be proposed at the meeting;
 - (2) must be signed by all the Members requesting the meeting;
 - (3) must be given to the Company at the Office; and

- (4) may consist of several documents in similar form, each signed by one or more of the Members making the requisition.
- (d) The Board may by notice not later than seventy two (72) hours prior to the time of the meeting, change the venue for, postpone or cancel a general meeting, unless the meeting is called and arranged to be held by the Members or the Court under the Corporations Act. Any meeting postponed in accordance with this clause will be taken to have been duly convened under the first notice.
- (e) If a general meeting is called and arranged to be held under section 249D of the Corporations Act, the Directors may not:
 - (1) postpone it beyond the date by which section 249D requires it to be held; or
 - (2) cancel it without the consent of the requisitioning Members.

7.4 Notice of meetings

- (a) At least twenty-one (21) days prior notice must be given of a meeting of Members unless the Corporations Act provides otherwise. The notice must specify the place, date and time of the meeting and in the case of special business, the general nature of that business and any other information required by the Corporations Act.
- (b) A notice convening a general meeting may be given to each Member, each Director, the auditor for the time being of the Company and each other person to whom notice is required to be given pursuant to the Corporations Act.
- (c) A notice convening a general meeting may be given either personally, by post, courier, facsimile, email or any other form of wire or wireless communication.
- (d) A notice of meeting sent by post is taken to be delivered on the Business Day after it is posted.
- (e) A notice of meeting sent by facsimile or other electronic means is taken to be received on the Business Day that it is sent.

7.5 Omission to give notice

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

7.6 Ordinary and Special business

- (a) Other than items of business requiring a Special Resolution due to the provisions of the Corporations Act or this Constitution, all other items of business to be conducted at a meeting of Members will be dealt with as ordinary business and will be passed upon the vote in favour of at least fifty percent (50%) of the votes cast by Members Present and entitled to vote on the resolution.
- (b) Business conducted at an annual general meeting for:
 - (1) the confirmation of the minutes of the preceding meeting;

- (2) the receipt and consideration of the annual financial report and the reports of the Directors and the auditors;
- (3) the appointment of the auditor of the Company;
- (4) the election of Directors; and
- (5) the transaction of any business which under the Corporations Act or this Constitution is required to be transacted,

will be dealt with as ordinary business.

7.7 Resolutions to amend Constitution

- (a) A resolution to amend this Constitution or this clause 7.7 must be passed as a Special Resolution and will be decided in the affirmative where seventy five percent (75%) of the votes cast by Members Present at the meeting and entitled to vote on the resolution are cast in favour of the resolution.
- (b) The Members must not pass a Special Resolution to amend this Constitution if such amendment has the effect that the Company is no longer a charity.
- (c) The Company must notify the Australian Taxation Office, ASIC and the Australian Charities and Not for Profits Commission of any amendment to the Constitution.

8. Proceedings at general meetings

8.1 Quorum

- (a) No business is to be transacted at any general meeting unless a quorum is present at the time the meeting proceeds to business.
- (b) That number of Members Present comprising 10% of the Members of the Company or twenty (20) Members Present, whichever is the lesser, constitutes a quorum for the transaction of the business of a general meeting. Associate Members and Overseas Members will not be counted for the purposes of determining whether a quorum is present.
- (c) If a person is attending a general meeting both as a Member and as a proxy, the person may only be counted once for the purposes of this clause.

8.2 Lack of quorum

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

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

8.3 Departure of Members Affecting Quorum

If a quorum is present at the time appointed for the meeting (or within thirty (30) minutes after the time appointed) but sufficient Members depart so that there is no longer a quorum, the Members Present must adjourn the meeting until a quorum is present, at which time any business may be transacted that would have been transacted at the meeting as originally called.

8.4 Chair

- (a) The Chair of the Board must preside over every meeting of Members.
- (b) If there is no Chair or if the Chair is not present within fifteen (15) minutes after the time appointed for the meeting or is unable or unwilling or refuses to chair the meeting, the Deputy Chair (if any) must chair the meeting.
- (c) If there is no Deputy Chair, or if the Deputy Chair is not present within fifteen (15) minutes after the time appointed for the meeting or is unable or unwilling or refuses to chair the meeting, the Members Present and entitled to vote at the meeting must choose another Director to chair the meeting.
- (d) If no Director is so chosen or if none of the Directors present are willing to chair the meeting, the Members Present must choose one of their own number to chair the meeting.

8.5 Adjournment

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

8.6 Notice of adjourned meeting

It is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned general meeting, unless the meeting is adjourned for twenty-one (21) days or more, in which case new notice of the adjourned meeting must be given in accordance with clause 7.4.

8.7 Decision on resolutions

- (a) Subject to clause 8.7(e), a resolution put to the vote at a general meeting of the Company, is to be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chair (other than a resolution for the election of the Chair of a meeting or a resolution for the adjournment of a meeting) or by not less than two (2) Ordinary Members Present and having the right to vote at the meeting.
- (b) The Ordinary Members may decide, on a show of hands, to vote on any resolution at a general meeting by secret ballot.
- (c) Before a vote is taken, the Chair must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

- (d) In the event of an equality of votes on a show of hands or on a poll the Chair will have a casting vote in addition to any vote to which the Chair may be entitled as an Ordinary Member.
- (e) A question arising at a general meeting of the Company relating to the order of business, the entitlement of any person to attend or vote at the meeting, any procedure or the conduct of the meeting must be referred to the Chair of the meeting, whose decision is final.

8.8 Minutes as evidence of result

Unless a poll is duly demanded in accordance with clause 8.7(a), a declaration by the Chair that a resolution has, on the show of hands, been carried or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company signed by the Chair, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

8.9 Taking of poll

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

8.10 Rights of Officers and Advisers to attend General Meetings

- (a) Any Director and the Secretary is entitled to attend and to speak at any general meeting.
- (b) The Company's auditor (or auditor's representative) is entitled to attend and speak at any general meeting, on any part of the business of the meeting that concerns the auditor in their capacity as auditor. The auditor's right to attend and speak at any meeting is not affected by the auditor retiring at the meeting or a resolution being passed removing the auditor from office.
- (c) Any other person (whether a Member or not) requested by the Board to attend any general meeting is entitled to be present and, at the request of the Chair, to speak at that general meeting.

8.11 Circulating resolutions

- (a) Nothing in this Constitution limits the Company's power under the Corporations Act to pass a resolution as a circulating resolution.
- (b) Circulating resolutions may not be used:
 - (1) for a resolution to appoint or remove a Director or an auditor;
 - (2) for passing a Special Resolution; or
 - (3) where the Corporations Act or this Constitution requires a meeting to be held.
- (c) The Company may circulate a resolution by email to Ordinary Members and Ordinary Members may agree by sending a reply email to that effect, provided it reasonably appears to the recipient that the email has been sent by the Ordinary Member personally or on the Ordinary Member's instructions.

9. Representation and voting of members

9.1 Representation

Members will have the right to attend at meetings of Members, provided they have paid all fees due and payable at the date of the notice of meeting on or before the date on which the meeting is held.

9.2 Entitlement to vote

Subject to this Constitution and any rights or restrictions attached to any class of Membership, at a general meeting every Member Present who has been admitted as an Ordinary Member has one (1) vote, whether on a show of hands or on a poll.

10. Proxies

10.1 Appointment of proxy

Subject to section 249X(3) of the Corporations Act, an Ordinary Member may appoint one (1) proxy only, who must be an Ordinary Member of the Company, and that proxy is entitled to vote on a show of hands or on a poll.

10.2 Instrument of proxy

The instrument appointing a proxy must be in writing signed by the appointor. An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution. Where an instrument contains such direction, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated. The instrument appointing a proxy is valid for any adjournment of the meeting as well as for the meeting to which it relates, unless the contrary is stated.

10.3 Proxy to be deposited at the Office

- (a) The instrument appointing a proxy and the authority (if any) under which it is signed, or a certified copy of the authority, must be received by the Company not later than forty eight (48) hours before the general meeting or adjourned meeting or taking of the poll, at which the person named in the instrument proposes to vote. If this clause 10.3 is not complied with, the instrument of proxy will be invalid.
- (b) An instrument appointing a proxy is received when it is received at any of the following:
 - (1) the Office;
 - (2) a facsimile number at the Office; or
 - (3) a place, facsimile number or electronic address specified for the purpose in the notice of meeting.

10.4 Form of proxy

- (a) The Board must from time to time determine the form of the instrument of proxy, which will be valid, if it is signed by the Ordinary Member making the appointment.
- (b) An instrument of proxy in which the name of the appointee is not filled in is taken to be given in favour of the Chair of the meeting to which it relates.

10.5 Proxy's Authority

A proxy's authority to speak and vote for a Member at a meeting is suspended while the Member is present at the meeting, unless the Member directs otherwise.

10.6 Power to demand poll

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

10.7 Identification of proxy

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

11. Directors

11.1 Number and Composition

The Board will consist of not less than five (5) persons and not more than ten (10) persons and:

- (a) will contain up to eight (8) persons elected by Members (Member-elected Directors) of whom:

- (1) one is the Chair;
 - (2) one is the Deputy Chair;
 - (3) one is the Secretary;
 - (4) one is the Treasurer;
 - (5) one is a Clinical Immunology Director;
 - (6) one is a Nephrology Director;
 - (7) one is a Rheumatology Director;
 - (8) one is an Independent Director; and
- (b) up to two (2) persons appointed by the Board as a Community Representative.

11.2 Directors

The Directors of the Company are:

- (a) the Initial Directors; and
- (b) each other person appointed or elected as a Director in accordance with this clause 11 or clause 13.

11.3 Change to the Number of Directors

The Company in general meeting may by resolution increase or reduce the number, or alter the composition, of Directors specified in clause 11.1 and may determine the number of Directors to retire by rotation in accordance with clause 14.1(a).

11.4 Directors as Members

All Directors other than the Community Representative(s) must be Ordinary Members.

11.5 No remuneration

Except as provided for in clause 27, no Director may receive any remuneration for his or her services as a Director.

11.6 Vacancies

- (a) Subject to clause 11.3, if any vacancy of Member-elected Directors occurs, that vacancy may be filled by a person appointed by the Board.
- (b) The person filling the vacancy holds office only until the next annual general meeting and is then eligible for election by the Members for up to two (2) further terms of up to three (3) years.
- (c) The appointment of a person to fill a casual vacancy will not be taken into account in determining the Directors whose tenure is to expire by rotation at that meeting under clause 13.

11.7 Community Representatives

Subject to clause 11.3, the Board may at any time appoint a person who is an Associate Member as a Community Representative Director. The tenure of a Community Representative expires at the next Board meeting to occur after the third annual general meeting of the Company after the Community Representative is appointed. On the expiry of the tenure of a Community Representative, the Board may re-appoint him or her as a Community Representative in accordance with this clause, provided that no Community Representative may serve for more than nine (9) consecutive years in office.

12. Management of the Company

- (a) Subject to the Corporations Act, the ACNC Act and any other provision of this Constitution, the business and affairs of the Company will be managed by the Board which may exercise all the powers and do everything that the Company may exercise or do and which is not required to be exercised or done by the Company in general meeting.
- (b) Without limitation, the Board may exercise all the Company's powers to:
 - (1) borrow or otherwise raise money;
 - (2) charge Company property; and
 - (3) issue debentures or give any other security for a debt, Liability or obligation of the Company or (subject to clause 27) any other person.
- (c) The Board may from time to time make regulations (not being inconsistent with this Constitution) governing the operations and administration of the Company and such other matters as the Board thinks fit. All such regulations must be displayed on the website of the Company as soon as practicable after such regulations are made.
- (d) The Board may by resolution:
 - (1) appoint or employ a person to be an Officer, agent or attorney of the Company with powers, authorities, discretions and Duties, including those vested in or exercisable by the Board for such period and subject to such conditions as the Board thinks fit;
 - (2) authorise an Officer to delegate powers and Duties vested in that Officer; and
 - (3) subject to any provision of this Constitution, the Corporations Act or the ACNC Act to the contrary, dismiss or remove any agent, Officer or attorney, with or without cause.
- (e) The Board must decide on the responsible financial management of the Company including the manner in which electronic transfers, negotiable instruments or cheques must be authorised, signed or otherwise approved.

13. Election and Appointment of directors

13.1 Director Nominations

- (a) The Directors must, at least forty-five (45) days prior to each annual general meeting, call for nominations for election as Member-elected Directors from Members. For avoidance of doubt, such notice may be given by the Directors to the Members on the Company's website or using any other method the Directors think fit and need not be given to Members individually.
- (b) Subject to clauses 13.1(c) and 13.1(d), and provided that the relevant Member-elected Director position is to be vacated at the upcoming Annual General Meeting in accordance with clause 14.1, each Member may nominate up to a total of three (3) persons in aggregate to be elected to the relevant position(s).
- (c) Each candidate for election as Member-elected Directors must be an Ordinary Member.
- (d) Each candidate for the position of Clinical Immunology Director, Nephrology Director or Rheumatology Director must satisfy the criteria for that category of Director specified in this Constitution and in any regulations made in accordance with clause 12(c) or as otherwise advised by the Board to Members from time to time.
- (e) All nominations of candidates for election as Member-elected Directors must be received in writing at least twenty-eight (28) clear days before the relevant annual general meeting (**Nominations Closing Date**).
- (f) The nominations must be duly signed by two (2) Ordinary Members and include a consent to act as a Director signed by the candidate any other information required by the Board. The nomination must include particulars of the candidate, provided such particulars must not exceed one (1) A4 page.

13.2 Director Candidate List

- (a) The Secretary must compile a list of candidates (**Director Candidate List**) from all duly completed nominations received by the Secretary before the Nominations Closing Date.
- (b) The Board may nominate such additional candidates for inclusion in the Director Candidate List as it thinks fit.
- (c) The Secretary must provide the Director Candidate List to all Members not less than twenty-one (21) days (or such lesser period as is from time to time permitted by the Corporations Act) prior to the annual general meeting at which an election is to take place.
- (d) No person except a Member-elected Director whose tenure has expired, a person nominated in accordance with clause 13.1 or a person recommended by the Board for election in accordance with clause 13.2(b) is eligible to be included in the Director Candidate List.

13.3 Election of Directors by Members

- (a) The election of Directors will take place by way of resolution of Ordinary Members Present and having the right to vote at the annual general meeting or by ballot, in the event that more candidates have been nominated than vacancies exist on the Board, as determined by the Board.
- (b) Any ballot to elect Directors in accordance with clause 13.3(a) will be supervised by the Secretary or such other person as may be appointed by the Board to act as returning officer.
- (c) In the case of an equality of votes for two (2) or more candidates for the same position, a further ballot will be taken to determine the successful candidate.

14. Director retirement and removal

14.1 Director's retirement by rotation:

- (a) At the third annual general meeting after the Commencement Date and thereafter annually, and subject to clause 14.1(c) to 14.1(g), the tenure of at least one-third of the Member-elected Directors holding office prior to each annual general meeting (or, if their number is not a multiple of three (3), then the whole number nearest to and less than one-third of the Member-elected Directors appointed) less the number of Member-elected Directors who have retired or been removed since the last annual general meeting, will automatically expire.
- (b) For the purpose of clause 14.1(a) those Member-elected Directors whose tenure will automatically expire will be determined in the following order:
 - (1) firstly, those Directors that must resign due to the expiration of their three (3) year term of office under clause 14.1(e); and
 - (2) secondly, and subject to clause 14.1(d), those Directors (not being Board-appointed Directors) who have held the office of Director of the Company for the longest continuous period of time. If two (2) or more Directors have held office for an equal continuous period of time, then, subject to clause 14.1(c), the selection between them will be determined by lot administered by the Secretary.
- (c) Where the Member-elected Directors whose tenure will automatically expire is drawn by lot in accordance with clause 14.1(b)(2) and such draw results in two or more of the Chair, the Treasurer and the Secretary having their tenure expire, the Secretary must redraw the lot such that only one of the persons holding such office is required to retire in accordance with clause 14.1(b).
- (d) No Member-elected Director will have his or her tenure automatically expire due to the operation of clause 14.1(a) more than once in every three (3) year period.
- (e) Subject to the operation of clause 13, each Member-elected Director is elected for a term of three (3) years expiring on the commencement of the third annual general meeting held after the Director was last appointed.

- (f) Subject to clause 14.1(g), a Director whose tenure expires is eligible for re-election without needing to give any prior notice of his or her intention to submit himself or herself for re-election, provided that a Director may not serve for more than nine (9) consecutive years in office, after which that person will not be eligible to be nominated for or appointed as a Director until one (1) year has elapsed from the date that person ceases to hold office.
- (g) A Chair/Secretary/Treasurer who would otherwise compulsorily retire under clause 11.6(b) or under this clause may seek nomination for an extension of his or her office as Chair (and Director):
- (1) until a term of not more than three (3) years as Chair is completed, in the case of retirement pursuant to clause 11.6(b); and
 - (2) in any other case, for a further term of three (3) years provided however that a Chair may serve up to, but not more than six (6) consecutive years in office, from the first date on which he or she was elected Chair in accordance with clause 13, and
- in either case, such extension of office will be approved by both a resolution of Directors voting in a secret ballot at a Board meeting to be held immediately prior to the relevant Annual General Meeting and by a resolution of Members at the relevant Annual General Meeting.
- (h) A retiring Member-elected Director will be entitled to act as a Director throughout the meeting at which he or she retires.

14.2 Director Resignation

Any Director may resign from office upon giving notice in writing to the Secretary of the Director's intention to do so and such resignation takes effect upon the expiration of the notice or its earlier acceptance by the Board.

14.3 Removal of Directors

- (a) Subject to clause 14.3(b), the Company in general meeting may, by resolution, remove any Director from office.
- (b) No resolution for the removal of a Director from office is to be put to a general meeting, unless notice signed by a Member duly qualified to vote at that meeting and signifying the intention of that Member to propose that resolution is received by the Company not less than twenty-eight (28) clear days before the date appointed for holding the meeting.
- (c) The Director who is the subject of the notice referred to in clause 14.3(b) may give the Company a written statement for circulation to Members and may request and must be granted permission to speak to the motion at the meeting.
- (d) A statement given under clause 14.3(c) must be circulated to the Board before it is despatched to Members or, if there is insufficient time for the statement to be despatched to Members, read out at the meeting before the resolution is considered by the Members Present, unless the statement is more than one thousand (1,000) words or is considered defamatory by the Chair.

14.4 Disqualification of Directors

- (a) In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act or elsewhere in this Constitution, the office of a Director becomes vacant if:
- (1) the Director becomes of unsound mind or a person whose personal estate is dealt with in any way under the law relating to mental health;
 - (2) the Director becomes bankrupt or an insolvent under administration or makes any composition or arrangement with, or enters into an assignment for the benefit of, his or her creditors or any class of them;
 - (3) the Director is removed from office pursuant to this Constitution or the Corporations Act;
 - (4) the Director becomes ineligible to be a Director under the ACNC Act;
 - (5) the Director resigns by notice in writing to the Secretary or refuses to act;
 - (6) the Director is absent from three (3) consecutive meetings of the Board without leave of absence from the Chair and the Board resolves that the Director's office be vacated;
 - (7) the period for which the Director is appointed expires; or
 - (8) the Director dies or ceases to be a Member.
- (b) No proceedings of the Board, or any resolution passed at any meeting, will be invalidated by reason of any Director taking part or concurring in such meeting or resolution being then disqualified until an entry is made in the minutes of the Board of the Director's office having been so vacated.

15. Director's obligations

15.1 Performance of Duties

The Directors must ensure they are aware of and comply with their duties as directors under relevant legislation, including in particular, the duties referred to in any governance standards made under the ACNC Act.

15.2 Confidentiality

A Director must:

- (a) keep confidential all Confidential Information; and
- (b) not disclose any Confidential Information to any person, except:
 - (1) as required by law;
 - (2) with the prior written consent of the Company; or

- (3) to the Company's agents, employees or advisers in the proper performance of the Director's responsibilities and Duties under this Constitution and as may be determined from time to time by the Board.

15.3 Use

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

15.4 Confidential Information in the public domain

If any Confidential Information is lawfully within the public domain then to the extent that the Confidential Information is public, and subject to clause 15.5, a Director's obligations under clause 15.2 will cease in respect of that Confidential Information.

15.5 Uncertainty

If there is uncertainty as to whether:

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

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

15.6 Security

A Director must:

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

15.7 Delivery or destruction of Confidential Information

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

15.8 Director must not make copies

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

15.9 Obligations to continue

A Director must comply with the obligations under clauses 15.2 to 15.8 at all times during and after that person's term as a Director.

15.10 No limitation

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

15.11 Director's interests

Subject to the Corporations Act and clause 27:

- (a) a Director is not disqualified by the Director's office from contracting with the Company in any capacity and may enter into any arrangement, contract or dealing with the Company in any capacity;
- (b) no Director or proposed Director is disqualified by that office from becoming or remaining a director of any company in which the Company is in any way interested or which is in any way interested in the Company;
- (c) provided that the Corporations Act and this clause have been complied with by a Director, no contract, agreement or arrangement in which the Director is in any way interested, entered into by or on behalf of the Company can be avoided merely because of that Director's interest and the fact that the Director signed the document evidencing the contract, agreement or arrangement will not in any way affect its validity;
- (d) a Director must not, and must procure that any company in relation to which he or she is a director does not, without the Board's prior approval, directly or indirectly supply goods or services to the Company for valuable consideration where such goods or service can be satisfactorily obtained elsewhere; and
- (e) no Director who:
 - (1) enters into a contract, agreement or arrangement in which the Director has an interest; or
 - (2) is a director of the other company with which the Company has entered into the contract, agreement or arrangement,

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

company, if the Director has declared the Director's interest in the matter in accordance with clause 15.12 and not contravened this Constitution or the Corporations Act in relation to the matter.

15.12 Declaration of interest

- (a) The nature of a Director's interest in any contract, agreement or arrangement must be declared by that Director at a meeting of the Directors in accordance with the Corporations Act as soon as practicable after the relevant facts have come to his or her knowledge.
- (b) A general notice that a Director is a member of any specified firm or corporation and is to be regarded as interested in all transactions with that firm or corporation is a sufficient declaration under this clause as regards the Director and the transactions, provided that the extent of that interest is not materially greater at the time of first consideration of the relevant matter by the Board that was stated in the Notice and the Director has complied with section 192 of the Corporations Act.
- (c) After giving the general notice it is not necessary for the Director to give any special notice relating to any particular transaction with that firm or corporation.
- (d) The Secretary must record in the minutes any declaration made or any general notice given by a Director under this clause.

15.13 Votes by interested Directors

Subject to the Corporations Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors must not vote on the matter unless:

- (a) the Directors have passed a resolution that the interest does not disqualify the Director from considering or voting on the matter;
- (b) the interested Director is entitled to be present and vote as a result of a declaration or order made by the ASIC under the Corporations Act; or
- (c) the interested Director is otherwise permitted by the Corporations Act to be present and vote; and
- (d) the interested Director may not be present while the vote is taken.

15.14 Director's conflicts of interest

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

16. Office Bearers

16.1 Office Bearers

The Office Bearers of the Company will consist of a Chair, a Deputy Chair, a Treasurer and a Secretary, each of whom will be elected as a Director of the Company in accordance with clause 13.

16.2 Appointment and Termination of Office Bearers

- (a) If the position of any Office Bearer becomes vacant, the Board must elect from its members a new Office Bearer to fill that vacancy.
- (b) The Board must determine the powers and Duties of each Office Bearer.

16.3 Chair to preside at annual general meeting

Despite clause 13 and subject to clause 8.4, the person holding the office of Chair of the Board immediately before the commencement of an annual general meeting will preside as Chair of that annual general meeting.

17. Proceedings of directors

17.1 Procedure generally

- (a) Subject to clause 17.1(b), the Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (b) The Directors must meet at least three (3) times in each period of twelve (12) months at such place and time as the Board may determine.
- (c) Additional meetings of the Board may be convened a Director at any time by written notice to the Secretary and the Secretary must forthwith on the requisition of a Director, convene a Board meeting.

17.2 Quorum

- (a) Subject to the Corporations Act, the quorum for a Board meeting will, where the Directors have fixed a number for the quorum, be that number of Directors, and in any other case, four (4) Directors then holding office and entitled to vote on the relevant resolution, which Directors must include the Chair or the Deputy Chair.
- (b) No business may be conducted unless a quorum is present.
- (c) A meeting of the Directors will be adjourned if a quorum is not present within thirty (30) minutes of the time specified for the meeting, to a date and time seven days following the time of, and at the same place as, the original meeting to be notified to all Directors.
- (d) Any Directors present at any meeting adjourned due to insufficiency of quorum will constitute a quorum for that adjourned meeting.

- (e) If the number of Directors in office at any time is not sufficient to constitute a quorum at a Board meeting, the remaining Directors must act as soon as possible to:
- (1) increase the Directors to a number sufficient to constitute a quorum required under the Constitution;
 - (2) convene a general meeting of the Company for that purpose; or
 - (3) appoint additional Directors,
- and until that has happened the Directors may only act if and to the extent that there is an emergency requiring them to act.

17.3 Notice of Board meetings

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

17.4 Chair of Board meetings

The Chair will preside at every Board meeting, or if at any Board meeting the Chair is not present within ten (10) minutes after the appointed time for holding the meeting, or if being present the Chair is unwilling to preside, the Deputy Chair will preside or if the Deputy Chair is also unwilling to preside at the meeting, then the Directors who are present may choose one of their number to be the Chair of the Board meeting.

17.5 Determinations

- (a) Subject to this Constitution, questions arising at any Board meeting are to be decided by a majority of votes of Directors present and voting and such decision will for all purposes be taken as a decision of the Board.
- (b) Each Director has one (1) vote and a determination by a majority of the Directors will for all purposes be deemed a determination of the Directors.
- (c) If there is an equality of votes at a meeting at which a quorum is present, the Chair will have a second or casting vote in addition to his or her deliberative vote.

17.6 Delegation to Committees

- (a) The Board may delegate any of its powers to one (1) or more Committees consisting of one (1) or more Directors or other persons as the Board thinks fit.
- (b) Any Committee formed must comply with this Constitution, the Corporations Act and the regulations that may be imposed on it by the Board in exercising the Committee's delegated power. A power so exercised will be taken to have been exercised by the Board.

17.7 Procedure of Committees

- (a) The meetings of Committees consisting of more than one (1) person are governed by the clauses of this Constitution regulating the meetings of the Directors so far as they are applicable and are not superseded by any regulations made by the Directors under this Constitution.
- (b) The number of members whose presence at a meeting of a Committee is necessary to constitute a quorum is the number determined by the Board, and if not so determined is two (2).
- (c) Minutes of all the proceedings and decisions of every Committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Corporations Act to be made, entered and signed.

17.8 Validation of irregular acts

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

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

17.9 Written resolutions

- (a) If a document:
 - (1) is sent to all those entitled to receive notice of a Board meeting at which a resolution could be put;
 - (2) contains a statement that the signatories to it are in favour of that resolution;
 - (3) the terms of the resolution are set out or identified in the document; and
 - (4) has been signed by not less than seventy-five percent (75%) of all Directors of the Company entitled to vote on that resolution,

a resolution in those terms is passed on the day on which and at the time at which the document was signed by the last of such Directors and the document is as valid and effectual as if it had been passed at a duly held Board meeting.

- (b) For the purposes of clause 17.9(a):
- (1) "signed" will include an email from or on behalf of a Director indicating assent to the resolution, provided it reasonably appears to the recipient that the email has been sent by the Director personally or on the Director's instructions;
 - (2) two (2) or more separate documents containing statements in identical terms, each of which is signed by one (1) or more Directors will together be taken to constitute one document containing a statement in those terms signed by those Directors at the time at which the last of those documents to be signed was signed by a Director; and
 - (3) a facsimile or email which is received by the Company or an agent of the Company and is sent by a Director will be taken to be signed by that Director not later than the time of receipt of the facsimile or email by the Company or its agent in legible form.

17.10 Board Meetings by Instantaneous Communication Device

- (a) For the purposes of this Constitution and the Corporations Act, each Director, on becoming a Director (or on the adoption of this Constitution) consents to the use of an Instantaneous Communication Device for calling or holding a Board meeting.
- (b) The contemporaneous linking together by Instantaneous Communication Device of a number of Directors not less than the quorum, whether or not any one (1) or more of the Directors is out of Australia, is deemed to constitute a Board meeting and all the provisions of this Constitution as to the Board meetings will apply to such meetings held by Instantaneous Communication Device so long as the following conditions are met:
- (1) all the Directors for the time being entitled to receive notice of the Board meeting to be linked by Instantaneous Communication Device receive notice of such meeting. Notice of any such meeting may be given by the Instantaneous Communication Device or in any other manner permitted by this Constitution;
 - (2) at the commencement of the Board meeting each Director taking part in the meeting by Instantaneous Communication Device is able to hear each of the other Directors taking part;
 - (3) at the commencement of the Board meeting each Director must acknowledge his or her presence for the purpose of the Board meeting to all the other Directors taking part;
 - (4) a minute of the proceedings of a meeting by Instantaneous Communication Device is sufficient evidence of those proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair, and
- all proceedings of the Board will be as valid and effective as if conducted at a meeting at which all of the Directors were present.
- (c) A Director may withdraw the consent given under this clause in accordance with the Corporations Act, provided that such withdrawal is notified to the Company within a

reasonable period before the meeting at which an Instantaneous Communication Device is proposed to be used.

18. Minutes

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

- (a) of the names of the Directors present at each Board meeting and of any Committee;
- (b) of all appointments of Officers;
- (c) of all orders made by the Board and of any Committee; and
- (d) of all resolutions and proceedings of general meetings of the Company, Board meetings and meetings of Committees, and

such minutes if purporting to be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting, will be receivable as prima facie evidence of the matters stated in such minutes. Once signed, all minutes must be provided to the Secretary for retention on behalf of the Company as soon as practicable.

19. Chief Executive Officer

19.1 Appointment

- (a) The Directors may at any time engage a person to perform the office of Chief Executive Officer for any period and on any provisions decided by the Directors.
- (b) The Directors may at any time revoke the engagement of the Chief Executive Officer, subject to the provisions of any applicable engagement agreement and all applicable employment laws.

19.2 Remuneration

The Directors may at any time decide the remuneration of the Chief Executive Officer, subject to the provisions of any applicable engagement agreement.

19.3 Powers

- (a) The Directors may confer upon the Chief Executive Officer any powers exercisable by the Directors, subject to any provisions or restrictions decided by the Directors.
- (b) Any delegated powers may be concurrent with, or exclude, the powers of the Directors.
- (c) The Directors may at any time revoke or vary any delegated powers conferred on the Chief Executive Officer.

20. Establishment and operation of Gift Fund

20.1 Establishment and Maintenance of Gift Fund

- (a) The Board must cause the Company to establish and maintain a Gift Fund to assist the Company to achieve its Objects.
- (b) All Gifts and any income derived from money, property or other investments arising out of such Gifts must be paid into or credited to the Gift Fund, and no other money or property may be received by the Gift Fund.
- (c) A separate bank account must be opened and maintained for the Gift Fund and all Gifts and income derived from such Gifts or the investment of such Gifts must be kept separate from the other funds of the Company.
- (d) Receipts for donations of property to the Gift Fund are to be issued in the name of the Gift Fund and show its Australian Business Number.
- (e) The Gift Fund must be invested on an arm's length basis so as to ensure that the use of the funds reflects the Objects and not as a means of excessive accumulation of investment assets.
- (f) The Company must use any Gifts and any money received as a result of the Gifts solely to achieve its Objects.
- (g) Notwithstanding any other provision in this Constitution, if on the first occurrence of the revocation of the Company's endorsement as a deductible gift recipient under sub-division 30-B of the Tax Act or the winding up of the Gift Fund, there remains, after the satisfaction of all of the debts and liabilities of the Gift Fund, any property or money whatsoever, the surplus assets must be given or distributed to some other (one or more) funds, authorities or institutions determined by the Board, which are charitable at law and which are a named fund, authority or institution known to have been approved under sub division 30-B of the Tax Act or a fund, authority or institution falling under one or more of the items listed in the tables in sub division 30-B of the Tax Act.

20.2 Future Gifts

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

21. Financial records

21.1 Financial and other records

- (a) The Directors must cause proper financial and other records to be kept that:
 - (1) correctly record and explain its transactions and financial position and performance; and

- (2) enable true and fair financial statements to be prepared and audited, and ensure such records are retained by the Company for at least seven (7) years; and
- (b) provide annual financial reporting to Members, as required by the Corporations Act and the ACNC Act.
- (c) Directors have the right to access the Company's financial records at any reasonable time.
- (d) The Directors must from time to time determine whether and to what extent and at what times and places and under what conditions or regulations any financial or other records of the Company are to be open to the inspection of Members who are not Directors.
- (e) No Member (who is not a Director) has the right to inspect any records of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.

21.2 Time for financial reports

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

21.3 Financial Year

- (a) Subject to the Corporations Act, the financial year of the Company will run from 1 January to 31 December each year.
- (b) In accordance with the Corporations Act, the Company's books of account must be audited by a properly qualified auditor (not being a member of the Company) appointed by the Members at the annual general meeting. Audits must be conducted at regular intervals of not more than 12 months.

21.4 Reporting to Members

Unless the Corporations Act provides otherwise, the Board must send Members copies of the financial report for each financial year, the Directors' report for the year and the auditor's report on the financial report, which must include a profit and loss statement for the year, a balance sheet as at the end of the year and a statement of cash flows for the year and every other document required by law to be attached to such reports by the time specified in clause 21.2.

21.5 Consideration of Accounts at the AGM

The Board must cause to be laid before each annual general meeting the financial report, the Directors' report and the auditor's report for the last financial year that ended before the annual general meeting.

22. Notices

22.1 Entitlement to Notice

Any Member who has not left at or sent to the Office a place of address, facsimile number or an email address (for registration in the Register) at or to which all notices and documents of the Company may be served or sent will not be entitled to receive any notice.

22.2 Notices to Members

The Company may give notice to a Member by:

- (a) serving it on the Member personally;
- (b) sending it by post to the Member or leaving it at the Member's address as shown in the Register or the address supplied by the Member to the Company for the giving of notices;
- (c) sending it to the fax number or transmitting it to the electronic mail address (if any) supplied by the Member for the giving of notices; or
- (d) in any other way allowed under the Corporations Act.

22.3 Deemed service

Subject to clause 7.4:

- (a) a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected at the time at which the letter would be delivered in the ordinary course of post;
- (b) a notice sent by fax is taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on production of a transmission report by the machine from which the fax was sent which indicates that the fax was sent in its entirety to the fax number of the recipient if produced before 5.00pm on a Business Day, otherwise on the next Business Day;
- (c) a notice sent by electronic mail is taken to be effected by properly addressing and sending the notice and to have been effected on the day of transmission, if transmitted before 5.00pm on a Business Day, otherwise on the next Business Day; and
- (d) a notice sent by electronic mail is deemed not to be served only if the computer system used to send it reports that delivery failed.

22.4 Persons entitled to notice of general meeting

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

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

Except as required by the Corporations Act, no other person is entitled to receive notices of general meetings.

23. Disputes and mediation

23.1 Application

- (a) The grievance procedure set out in this clause applies to disputes under this Constitution between:
 - (1) a Member and another Member;
 - (2) a Member and the Company.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within ten (10) Business Days after the dispute came to the attention of all of the parties.

23.2 Mediation

- (a) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend the meeting, then the parties must, within ten (10) Business Days, hold a meeting in the presence of a mediator.
- (b) The mediator must be:
 - (1) a person chosen by agreement between the parties; or
 - (2) in the absence of agreement:
 - (A) in the case of a dispute between a Member and another Member, a person appointed by the Board; or
 - (B) in the case of a dispute between a Member and the Company, a person who is a mediator appointed or employed by the Australian Commercial Disputes Centre.
- (c) A mediator can be a Member but not a party to the dispute.
- (d) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (e) The mediator, in conducting the mediation must:
 - (1) give the parties to the mediation every opportunity to be heard; and
 - (2) allow due consideration by all parties of any written statement by any party; and
 - (3) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (f) The mediator must not determine the dispute.

- (g) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Corporations Act or otherwise at law.

24. Winding up or dissolution

- (a) In the event of the Company being dissolved, the amount which remains after such dissolution and the satisfaction of all debts and liabilities (Surplus) must not be paid to nor distributed amongst Members but must be distributed in accordance with clause 24(b) or, if that is not applicable, clause 24(c).
- (b) At or before the winding up or dissolution of the Company, the Members may determine that the Surplus must be given or transferred to one or more institutions or entities provided the institution or entity:
- (1) has objects similar to those of the Company;
 - (2) prohibits the distribution of its income or property amongst its members to an extent at least as great as imposed under this Constitution; and
 - (3) has been granted Deductible Gift Recipient status under the Tax Act by the Australian Taxation Office (**DGR Status**).

If there is a determination in accordance with this clause 24(b), the Surplus must be transferred to the institution or entity after the winding up or dissolution of the Company. If there is more than one institution or entity specified in the determination, the Surplus must be transferred in the proportion specified in the determination or, if there is no such proportion specified, then, in proportions as determined by the Directors.

- (c) If there is no determination made in accordance with clause 24(b), the Surplus must be given or transferred to another organisation in Australia, as determined by the Board, which has substantially similar objects to those of the Company and which prohibits the distribution of its income or property amongst its members to an extent at least as great as imposed under this Constitution, in such manner as the Directors determine.
- (d) If and so far as effect cannot be given to clause 24(c), the Surplus must be applied in Australia to some charitable object.
- (e) If the Company has been granted DGR Status and the DGR Status is revoked, the Company must transfer all remaining Gifts, deductible contributions and any money received in respect of such Gifts and contributions to another organisation with DGR Status on winding up or on revocation of endorsement, whichever occurs first.

25. Indemnity of officers

- (a) The Company must indemnify each Officer out of the assets of the Company to the Relevant Extent against any Liability incurred by the Officer in or arising out of the conduct of the business of the Company or a subsidiary of the Company or in or arising out of the discharge of the Duties of the Officer, except where the Liability:

- (1) is owed to the Company or a Related Body Corporate;
 - (2) arises out of conduct involving a lack of good faith;
 - (3) is for a pecuniary penalty order under section 1317G of the Corporations Act;
 - (4) is for a compensation order under section 1317H of the Corporations Act; or
 - (5) is for legal costs.
- (b) To the Relevant Extent, the Company must indemnify each Officer against any Liability for legal costs incurred in defending an action for a Liability incurred as an Officer, except if the costs are incurred:
- (1) in defending or resisting proceedings in which the person is found to have a Liability for which they could not be indemnified under clause 25(a);
 - (2) in defending or resisting criminal proceedings in which the person is found guilty;
 - (3) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
 - (4) in connection with proceedings for relief to the person under the Corporations Act in which the court denies the relief.

Clause 25(b)(3) does not apply to costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.

- (c) The Company may, to the Relevant Extent:
- (1) purchase and maintain insurance; or
 - (2) pay or agree to pay a premium for insurance,
- for any person to whom this clause 25 applies against any Liability incurred by the person as an Officer.
- (d) The Company may give an Officer a loan or advance in respect of legal costs for defending an action for a Liability incurred as an Officer, provided that such loan or advance does not contravene the Corporations Act.
- (e) Subject to the Corporations Act, where the Board considers it appropriate, the Company may execute a documentary indemnity or insurance policy in any form in favour of any Officer.
- (f) Subject to the Corporations Act, where the Board considers it appropriate, the Company may:
- (1) make payments or agree to make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an Officer against

any Liability incurred by the Officer in or arising out of the conduct of the business of the Company or a subsidiary of the Company or in or arising out of the discharge of the Duties of the Officer other than one for legal costs, conduct involving a wilful breach of duty in relation to the Company or contravention of section 182 or 183 of the Corporations Act; and

- (2) bind itself and amend any contract or deed with any Officer to make the payments.
- (g) The benefit of each indemnity given in clauses 25(a) and 25(b) continues, even after its terms or the terms of this clause are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

26. Powers and Capacity

Subject to the Corporations Act and clause 27, the Company has the legal capacity of a natural person including the capacity to exercise the powers set out in section 124 of the Corporations Act, which powers may only be used to carry out the Objects.

27. Non-profit

The income and property of the Company must be applied solely towards the promotion of the Objects. In particular, no portion of the income and property of the Company is to be paid or transferred directly or indirectly by way of dividend or distribution of profit to Members or paid to Directors as fees for their services as Directors. This clause does not prevent the payment in good faith:

- (a) of remuneration to any Officers or servants of the Company for any services rendered in a professional or technical capacity to or as an employee of the Company, where the amount payable is not more than an amount that would be commercially reasonable for the service;
- (b) for goods supplied by Members or Directors in the ordinary and usual course of business at fair and reasonable prices or prices more favourable to the Company;
- (c) of interest on money borrowed from any Member at a rate not exceeding from time to time the Company's overdraft rates of interest paid for moneys borrowed from its bankers;
- (d) of reasonable and proper rent for premises leased or licensed by any Member to the Company;
- (e) of out of pocket expenses (including travel and accommodation) incurred by a Director in performing Duties to the Company or otherwise on Company business if such payment is approved by the Board; or
- (f) in connection with the indemnification of, or payment of premiums on contracts of insurance for any Director, to the extent permitted by law and this Constitution,

provided that any such payment is first approved by the Board.

28. Limited liability

The Company is a company limited by guarantee and the Liability of the Members is limited to the amount provided in clause 29 of this Constitution.

29. Members' guarantee

Every Member undertakes to contribute an amount not exceeding \$20.00 to the property of the Company if the Company is wound up while he or she is a Member or within one (1) year after ceasing to be a Member, for:

- (a) payment of the debts and liabilities of the Company contracted before they ceased to be a Member;
- (b) the costs, charges and expenses of winding up the Company; and
- (c) for an adjustment of the rights of contributories among themselves.

30. Application of the Corporations Act

30.1 What parts of the Corporations Act apply

Unless the contrary intention appears:

- (a) an expression used in this Constitution that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act; and
- (b) subject to clause 30.1(a), an expression in a clause of this Constitution that has a defined meaning for the purposes of the Corporations Act has the same meaning when used in this Constitution.

30.2 Actions authorised under Corporations Act or ACNC Act

Where the Corporations Act or the ACNC Act authorises or permits a company to do any matter or thing if so authorised by its constitution, the Company is and will be taken by this clause to be authorised or permitted to do that matter or thing, despite any other provision of this Constitution.

30.3 Replaceable rules displaced

- (a) The clauses of this Constitution displace each provision of a section or sub-section of the Corporations Act that applies (or would apply but for this clause) to the Company.
- (b) The replaceable rules do not apply to the Company except:
 - (1) where repeated in this Constitution; or
 - (2) where a rule is specifically made applicable to the Company by a provision of this Constitution;

- (3) rules which operate as mandatory rules for public companies limited by guarantee under the Corporations Act.

30.4 Inconsistencies

While the Company is a registered charity under the ACNC Act, the ACNC Act and the Corporations Act override any clauses in this Constitution to the extent of any inconsistency.

Schedule – Classes of Members

The three initial classes of Members are:

1. Ordinary Member, being an individual who:

- (a) is ordinarily resident in Australia or New Zealand; and
- (b) is a clinician, researcher, trainee, or scientist involved in research, education and/or the clinical care of Patients or otherwise with an interest in vasculitis; and
- (c) satisfies such other criteria as set out in the Regulations,

but excluding any person who is engaged in any substantial commercial activities involving the sale or marketing of vasculitis related products (except as an incidental or minor adjunct to their clinical practice, teaching or research activities);

2. Associate Member, being an individual who:

- (a) is a clinician, researcher, trainee, or scientist involved in research, education and/or the clinical care of Patients or otherwise with an interest in vasculitis and whom is not ordinarily resident in Australia or New Zealand; or
- (b) is a Patient, relative of a Patient, health professional providing services to persons with vasculitis or any other person who has an active interest in the provision of services to, treatment of or research in respect of vasculitis and whom is ordinarily resident in Australia or New Zealand; and
- (c) satisfies such other criteria as set out in the Regulations,

but excluding any person who is engaged in any substantial commercial activities involving the sale or marketing of vasculitis related products (except as an incidental or minor adjunct to their clinical practice, teaching or research activities).

Associate Members will have no rights in their capacity as Associate Members to vote at meetings of Members or to become Directors, but may, in all other respects, participate in the activities of the Company, receive notices and publications and may attend and speak at any general meeting of the Company; and

3. Industry Member, being an individual who:

- (a) is engaged in any commercial activities involving the sale or marketing of vasculitis related products; and
- (b) satisfies such other criteria as set out in the Regulations; and
- (c) is ordinarily resident in Australia or New Zealand.

Industry Members will have no rights in their capacity as Industry Members to vote or speak at meetings of Members or to become Directors, but may receive notices and publications and attend any general meeting of the Company.