Constitution of Primary Care Diabetes Society of Australia Limited

A COMPANY LIMITED BY GUARANTEE

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1 Definitions and Interpretation

1.1 Definitions

In this Constitution, unless the context indicates otherwise the following words and phrases mean:

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

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

Affiliate Member means an individual admitted to membership of the Company as an Affiliate Health Professional under the By Laws and whose membership has not been terminated.

Affiliate Health Professional means hospital-based or other health practitioners that do not constitute Primary Health Professionals.

Annual General Meeting means the General Meeting to be held in accordance with clause 7.3.

Applicable Person has the meaning set out in clause 11.1.

Applicant means the individual who wishes to apply for membership of the Company.

Application for Membership means the form, the content of which can be determined by the Board from time to time, which is to be used by the Applicant.

Board means the board of Directors of the Company at any time.

By Laws means by laws made by the Directors from time to time pursuant to clause 8.8**.**

Business Day means:

(a) in relation to receipt of any notice – a day that is not a Saturday, Sunday or Public Holiday in the locale of the recipient;

(b) in any other case – a day that is not a Saturday, Sunday or Public Holiday in the locale of the Company's Registered Office.

Chairperson means the Chairperson for the time being elected by the Board in accordance with clause 10.1.

Chief Administrator means the person appointed by the Board to be the chief administrative officer of the Company for the time being, whether or not given the title of chief administrator, chief executive officer or any other title.

Code of Conduct means any code of conduct, rules and regulations made or adopted by the Board from time to time pursuant to clause 8.8(e).

Committee means a committee to which any powers have been delegated pursuant to clause 8.9(a).

Company means THE PRIMARY CARE DIABETES SOCIETY OF AUSTRALIA LIMITED and shall be taken to mean the same entity by whatever name and from time to time it may be called.

Deputy Chairperson means the Deputy Chairperson for the time being elected by the Board in accordance with clause 10.1.

Directors means the directors for the time being of the Company.

Dispute means any difference, disagreement or dissension arising out of any question or matter which in the opinion of the Board relates to the receipt, payment, sharing, division, reimbursement, distribution or disposition of or other interest in, any remuneration whether by way of commission or otherwise or any costs, charges or expenses or any other money related thereto or with respect to any duties, obligations, rights or entitlements otherwise pertaining thereto.

General Meeting means a meeting of the Members conducted in accordance with the Corporations Act and clause 7 of this Constitution.

Member means an individual whose name is entered in the Register as a member of the Company.

Member's Guarantee means the guarantee of an amount not exceeding $1.00 to defray such liabilities and expenses of the Company upon its winding up or dissolution.

Member Representative means a natural person who will represent an absent Member at a meeting of Members or for the purposes of signing a resolution reduced to writing and includes a proxy, an attorney or a corporate representative of the Member.

Objects means the objects for which the Company was established as described in clause 3.

Officer means an officer as set out Section 9 of the Corporations Act.

Ordinary Resolution means:

(a) in relation to the Company, an ordinary resolution of the Members entitled to vote;

(a) in relation to the Directors, an ordinary resolution of the Directors.

Primary Health Professionals means health professionals significantly involved in the primary care management of diabetes and legally entitled to practice, including, but not limited to, medical practitioners, diabetes educators, nutritionists and dieticians, podiatrists, pharmacists, practice nurses, community-health nurses and aboriginal health workers.

Primary Member means an individual admitted to membership of the Company as a Primary Health Professional under the By Laws and whose membership has not been terminated.

Professional Indemnity Insurance Policy means a contract of insurance that in whole or in part indemnifies a person against civil liability, including liability for costs, arising from the conduct of their business.

Register means the Register of Members.

registered charity means a charity that is registered under the ACNC Act.

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

Related Body Corporate means related body corporate as set out in Section 50 of the Corporations Act.

Replaceable Rules means replaceable rules in the Corporations Act.

Returning Officer means the person nominated by the Board to perform the duties of returning officer.

Seal or Common Seal means any common seal of the Company (if any).

Secretary means the secretary for the time being of the Company, and if there are joint secretaries, any one or more of them.

Service Address is set out in clause 4.5(b).

Special Resolution has the meaning given to in section 9 of the Corporations Act.

Treasurer means the treasurer for the time being elected by the Board in accordance with clause 10.1.

Voting Member means a Member who has been granted membership of a class of membership which confers an entitlement to vote at a general meeting.

2 Interpretation and Replaceable Rules

2.1 Interpretation

(a) The *Acts Interpretation Act 1901* (Cth) shall apply in the interpretation of this Constitution as if it were an act of the Commonwealth.

(b) While the company is a registered charity, the ACNC Act and the Corporations Act override any clauses in this constitution which are inconsistent with those Acts.

(c) If the company is not a registered charity (even if it remains a charity), the Corporations Act overrides any clause in this constitution which is inconsistent with that Act.

(d) Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.

(e) Words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.

(f) 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.

(g) Entitlement to vote on a resolution includes entitlement to:

(i) notice of any meeting that considers the resolution;

(ii) attend that meeting;

(iii) vote in person or by proxy (in accordance with this Constitution);

(iv) vote in any show of hands, poll or circulating resolution including the motion;

(v) call for a poll (in accordance with this Constitution).

(h) Unless stated otherwise, a reference to voting is a reference to voting in any manner permitted by this Constitution, whether by show of hands, a poll or otherwise.

2.2 Replaceable Rules

The Replaceable Rules do not apply to the Company except to the extent they are expressly contained in this Constitution.

3 Objects

3.1 Purpose

The Company is a not-for-profit entity established for the following objects:

(a) to engage in and promote medical research into the causes, prevention, delivery of care and management of diabetes;

(b) to educate and support health professionals to deliver high-quality, clinically effective care to people with diabetes;

(c) to promote best practice standards in the primary care delivery of diabetes health care;

(d) to promote the advancement of education and learning in the field of diabetes health care;

(e) to collaborate with health professionals and health organisations in order to improve the standards of diabetes primary care across Australia;

(f) to provide high-quality education, information and leadership regarding holistic and clinically effective care for people with diabetes; and

(g) to do such things as may be necessary or ancillary to any of the objects aforesaid in relation to diabetes, prediabetes or predisposing factors to diabetes;

in order to prevent and manage diabetes in humans.

3.2 Non-profit character of Company

The assets and income of the Company will be applied solely and exclusively in the furtherance of its abovementioned objects and no portion will be either distributed directly or indirectly (by way of dividend, bonus or otherwise) to the Members or be paid by way of directors' fees to the Directors. However, this clause does not prevent:

(a) the payment in good faith of remuneration to any employee of the Company or to any Member or other person in return for any services actually rendered to the Company;

(b) the payment to a member of the Board of travelling, accommodation, fees, allowances and other expenses incurred in carrying out the duties of the Director when the amounts do not exceed an amount set out in policies approved by the Board from time to time; or

(c) the payment to a member of the Board for any service rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board.

4 Membership

4.1 Eligibility

Any natural person committed to the objects of the Company may become a Member of the Company provided all eligibility requirements and other membership qualifications as set out in the By Laws or elsewhere have been met.

4.2 Application

An individual may apply for membership of the Company online by submitting to the Secretary an Application for Membership, which will include an agreement to provide a Member's Guarantee and to be bound by the Constitution of the Company.

4.3 Admission

The criteria for admission to the categories of membership in clauses 4.4(b)(i) and 4.4(b)(ii) and the procedures for processing such applications for membership shall be as determined by the Board and contained in the By Laws.

4.4 Classes of Membership

(a) The Board may create different classes of membership and may confer on each such newly created class of membership such rights, privileges or benefits as the Board sees fit.

(b) As at the date that this Constitution is adopted, the classes of membership of the Company are as follows:

(i) Primary Members; and

(ii) Affiliate Members; and

the rights, privileges and benefits of each such class are as set out in this Constitution and the By Laws.

(c) Where different classes of membership have been created, the Board may, on accepting an Applicant's Application for Membership, admit an Applicant to a class of membership which appears appropriate to the Board at its sole discretion.

4.5 Register of Members

(a) The Secretary shall cause to be maintained an up-to-date Register of Members, which shall include information required by the Corporations Act and any additional information required by the Board from time to time pursuant to the By Laws.

(b) The Service Address of a Member in the Register will be the address nominated by the Member for the purpose of receiving notices from the Company and may be:

(i) an email address;

(ii) a postal address;

(iii) a business address; or

(iv) a residential address.

(c) The Company shall use its best endeavours to use the Service Address nominated by each Member for the purpose of delivering notices.

(d) Each Member must notify the Chief Administrator within 28 days of any change of name or Service Address of the Member and each such change shall be recorded in the Register.

4.6 Rights of Members

(a) In respect of any resolution put before a General Meeting, each Primary Member shall have an entitlement to vote and will have one vote.

(b) Affiliate Members shall not have any entitlement to vote.

(c) All Primary Members shall have the right to receive notices of, and attend, General Meetings.

(d) Affiliate Members:

(i) shall have no right to receive a notice of any General Meeting;

(ii) may attend the Annual General Meeting but have no right to attend any other General Meeting.

(e) The rights of any Member will not be transferable.

4.7 Liability of Members

The liability of a Member is limited to the extent of the Member's Guarantee. This liability shall continue for the duration of the membership of a Member and for a period of 12 months following the cessation of membership of a Member.

4.8 Maintaining membership

(a) An individual admitted to membership shall remain a Member so long as:

(i) the Member renews their membership annually;

(ii) the Member continues to satisfy the conditions of admission to membership; and

(iii) the membership is not terminated in accordance with this Constitution or the By Laws.

(b) The Board may at any time require a Member to supply to the Secretary, within 14 days, any information or documents to ascertain whether the Member continues to comply with the requirements for membership of the Company prescribed by the Constitution or By Laws, including documents that evidence that the Member is registered appropriately, if required.

5 Cessation of Membership

5.1 Cessation of Membership

Membership of the Company will cease upon:

(a) subject to clause 5.2, the Chief Administrator receiving from a Member a letter of

resignation;

(b) a Member having its membership of the Company suspended or terminated in accordance with this Constitution; or

(c) the death of a Member.

5.2 Resignation

(a) A Member may, subject to the provisions of clause 5.2(b), by notice in writing addressed to the Chief Administrator, resign their membership with immediate effect or with effect from a particular date, not being more than three months after the service of the notice on the Chief Administrator.

(b) If at the time a Member gives notice of resignation, that Member is the subject of any disciplinary action or Dispute under the By Laws, then the resignation shall be deemed not to take effect until;

(i) such time as the disciplinary action or Dispute has been determined in accordance with the By Laws; and

(ii) the resigning Member has paid to the Company all money owing to the Company.

(c) During the period set out in clause 5.2(b), such Member shall not be entitled to exercise any of the rights and privileges of membership.

5.3 Termination of membership, no appeal

Upon the Board becoming aware of the happening of one the following events or circumstances, the Board shall, by notice in writing, terminate with immediate effect the membership of any Member who:

(a) has ceased to satisfy an eligibility requirement or other membership qualification as set out in the By Laws or elsewhere and who fails to again satisfy such requirement or qualification within the period set out in a notice given by the Board requiring the Member to do so;

(b) has had its relevant professional accreditation or registration surrendered or cancelled within the preceding six months;

(c) becomes a represented person within the meaning of the *Guardianship and Administration Board Act 1986* (Vic);

(d) during the period of membership, whether within Australia or elsewhere, has been convicted of a criminal offence or had proven against them a criminal offence punishable by imprisonment of three months or more; or

(e) fails to renew their membership with the Company within the period set out in a notice given by the Board requiring the Member to do so.

5.4 Grounds for suspension or termination

Upon the Board becoming aware of the happening of one the following events or circumstances, the Board may, at its discretion, by notice in writing suspend or terminate the membership of any Member who:

(a) in the opinion of the Board, is no longer a fit and proper person to be a Member;

(b) engages in or supports or encourages another in conduct which may be detrimental or prejudicial to the reputation, image, interests, or welfare of the Company or its Members or the public.

5.5 Appeal rights

(a) A person whose membership rights have been suspended or terminated under clause 5.4 may give notice to the effect that he or she wishes to appeal against the suspension or terminated.

(b) The notice must be in writing and given:

(i) to the Board immediately after the vote to suspend or terminate the person's membership is taken; or

(ii) to the Secretary not later than 48 hours after the vote.

(c) If a person has given notice under 5.5(b), a disciplinary appeal panel of five Primary Members who were not involved in the original decision to suspend or terminate the person's membership must be convened by the Board as soon as practicable, but in any event not later than 21 days, after the notice is received.

(d) Notice of the disciplinary appeal meeting must be given to each Panel Member as soon as practicable and must specify the date, time and place of the meeting; and state:

(i) the name of the person against whom the disciplinary action has been taken;

(ii) the grounds for taking that action; and

(iii) that the Panel Members, at the disciplinary appeal meeting, must vote on whether the decision to suspend or expel the person should be upheld or revoked.

5.6 Conduct of disciplinary appeal meeting At a disciplinary appeal meeting:

(i) no business other than the question of the appeal may be conducted;

(ii) the board must state the grounds for suspending or terminating the person's membership and the reasons for taking that action; and

(iii) the person whose membership has been suspended or terminated must be given an opportunity to be heard.

(b) After complying with clause 5.6, the Panel Members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or terminate the person's membership should be upheld or revoked.

(c) The decision is upheld if not less than three of the Members voting at the meeting vote in favour of the decision.

5.7 Consequences of cessation of Membership

(a) A Member whose membership of the Company ceases shall be liable for all moneys due by that Member to the Company in addition to any sum not exceeding the

Member's Guarantee for which the Member is liable under clause 15.2 of this Constitution.

(b) A Member whose membership ceases will not make any claim, monetary or otherwise, on the Company, its funds or property except as a creditor.

(c) Any person who for any reason ceases to be a Member shall no longer represent themselves in any manner as being a Member and loses all of the rights and privileges of membership of the Company.

(d) Any Member whose membership of the Company ceases may at any time apply to the Board to be re-admitted as a Member.

(e) No person may be a Director following that Member being expelled or having their membership terminated or during suspension of their membership unless such a person is subsequently re-admitted as a Member.

6 Grievance procedure

6.1 Application

(a) The grievance procedure set out in this clause applies to disputes under this Constitution between:

(i) a Member and another Member;

(ii) a Member and the Board;

(iii) a Member and the Company.

(b) A Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

6.2 Parties must attempt to resolve the dispute The parties to a Dispute must attempt to resolve the Dispute between themselves within 14 days of the Dispute coming to the attention of each party.

6.3 Appointment of mediator If the parties to a Dispute are unable to resolve the Dispute between themselves within the time required by rule 26, the parties must within 10 days:

(i) notify the committee of the Dispute; and

(ii) agree to or request the appointment of a mediator; and

(iii) attempt in good faith to settle the Dispute by mediation.

(b) The mediator must be:

(i) if the Dispute is between a Member and another Member – a person appointed by the Board; or

(ii) if the Dispute is between a Member and the Board or the Company – a person appointed or employed by the Dispute Settlement Centre of Victoria.

(c) A mediator appointed by the Board may be a Member or former Member of the

Company but in any case must not be a person who:

(i) has a personal interest in the Dispute; or

(ii) is biased in favour of or against any party.

6.4 Mediation Process The mediator to the Dispute, in conducting the mediation, must:

(a) give each party every opportunity to be heard; and

(b) allow due consideration by all parties of any written statement submitted by any party; and

(c) ensure that natural justice is accorded to the parties throughout the mediation process; and

(d) the mediator must not determine the Dispute.

6.5 Failure to resolve Dispute by Mediation

If the mediation process does not resolve the Dispute, the parties may seek to resolve the Dispute in accordance with the Corporations Act or otherwise at law.

7 Meetings of Members

7.1 Convening meetings of Members

(a) The Board may whenever it thinks fit convene a meeting of Members.

(b) The Board must convene a meeting of Members on the request of Members in accordance with section 249D of the Corporations Act.

(c) The Members may convene a meeting of Members in accordance with sections 249E and 249F of the Corporations Act.

7.2 Notice of General Meetings

(a) A notice of a General Meeting shall specify:

(i) the place, the day and the time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);

(ii) the general nature of the business to be transacted at the meeting; and

(iii) such other information as is required by section 249L of the Corporations Act.

(b) The Company may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

(c) Subject to the provisions of the Corporations Act relating to agreements for shorter notice, at least 21 days' notice must be given of a General Meeting.

(d) Notice of every General Meeting shall be given in the manner authorised by clause 12.5 to:

(i) every Primary Member and to every Director; and

(ii) the auditor for the time being of the Company.

No other person is entitled to receive notice of a General Meeting.

7.3 Annual General Meeting

(a) Subject to the Corporations Act, a General Meeting shall be held at least once in every calendar year and within the period of five months after the end of the financial year at such time and place as may be determined by the Directors.

(b) The business of the Annual General Meeting may include any of the following, even if not referred to on the notice of meeting:

(i) the consideration of the annual financial report, directors' report and auditor's report;

(ii) the election of Directors;

(iii) the appointment of an auditor;

(iv) the fixing of the auditor's remuneration.

7.4 Chairperson of General Meetings

The chairperson of a General Meeting shall be:

(a) the Chairperson if present at the meeting;

(b) if the Chairperson is not present at the meeting, the Deputy Chairperson;

(c) if neither of the Chairperson or the Deputy Chairperson is present at the meeting, a Director elected by the Voting Members present at the meeting.

7.5 Quorum for General Meetings

(a) No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

(b) Subject to the provisions of this Constitution, a quorum is the higher of:

(i) 5 Primary Members; or

(ii) 10% of Primary Members;

entitled to vote and attend at a General Meeting.

(c) For the purpose of determining whether a quorum is present, a person attending as a proxy of a Primary Member shall be deemed to be a Primary Member.

7.6 Adjournment of General Meetings

(a) If a quorum is not present within half an hour from the time appointed for the meeting:

(i) where the meeting was convened upon the request of Primary Members, the meeting shall be dissolved; or

(ii) in any other case:

(A) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and

(B) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, then the meeting shall be dissolved.

(b) The Chairperson shall adjourn a General Meeting from time to time and from place to place if the Members present with a majority of votes that may be cast at that meeting agree or direct the Chairperson to do so. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(c) When a General Meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(d) Except as provided by clause 7.6(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

7.7 Voting at General Meetings

(a) At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless, before a vote is taken or before or immediately after the declaration of the result of the show of hands, a secret ballot is demanded:

(i) by the Chairperson; or

(ii) by at least 75% of Primary Members (present in person or by proxy or representative) entitled to vote on the resolution.

(b) If a secret ballot is duly demanded in accordance with clause 7.7(a), it shall be taken in such manner and, subject to clause 7.7(c), either at once or after an interval or adjournment or otherwise as the Chairperson directs, and the result of the secret ballot shall be the resolution of the meeting at which the secret ballot was demanded.

(c) A secret ballot demanded on the election of a Chairperson or on a question of adjournment shall be taken immediately.

(d) In the case of an equality of votes, whether on a show of hands or on a secret ballot, the Chairperson of the meeting at which the show of hands takes place or at which the secret ballot is demanded has a casting vote in addition to any vote the Chairperson may have in the capacity as a Primary Member.

(e) Subject to any rights or restrictions for the time being attached to any Member:

(i) at General Meetings or at meetings of classes of Members each Member entitled to vote may vote in person or by proxy or attorney or representative;

(ii) on a show of hands every person present who is a Member entitled to vote, or a representative of a Member entitled to vote, has one vote.

(f) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the Chairperson of the General Meeting, whose decision is final.

(g) A vote not disallowed pursuant to clause 7.7(f) is valid for all purposes.

7.8 Proxies

(a) A Member entitled to vote at a meeting may appoint another person to vote on their behalf at that meeting if the Member is unable to attend.

(b) A proxy may only be given in favour of another person entitled to attend and vote at the meeting the Member is unable to attend.

(c) An instrument appointing a proxy shall be in a form that is similar as the circumstances allow to the form shown in Schedule 1.

(d) An instrument appointing a proxy shall not be treated as valid unless received by the Company addressed to the Chief Administrator not less than one Business Day before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote.

(e) A vote given in accordance with the terms of an instrument of proxy or of a power of attorney shall be valid notwithstanding:

(i) the previous death or the unsoundness of mind of the appointer; or

(ii) the revocation of the instrument (or of the authority under which the instrument was executed) of the power; or

(iii) the Member who has given the instrument of power ceasing to be a Member of the Company;

if no intimation in writing of:

(A) death;

(B) unsoundness of mind;

(C) revocation or cessation of membership,

has been received by the Company addressed to the Chief Administrator before commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

8 Directors

8.1 General

(a) Subject to clause 8.2, the number of Directors shall be no less than 5 and not more than 9.

(b) Each person appointed or elected as a Director, whether or not a Member, must not be ineligible to be a director under the Corporations Act or the ACNC Act.

(c) A Member may only nominate or be nominated for and be elected as a Director if the Member is a Primary Member.

(d) A Member may not nominate or be nominated for and elected as a Director if the Member has had a disciplinary action taken against:

(i) the Member; or

(ii) another person or another Member when the conduct of the Member nominating or being nominated as Director, has given rise to the disciplinary action;

in accordance with the By Laws or by a court, tribunal or any governmental body or authority within the preceding three years or such other period determined by the Board in its sole discretion.

8.2 Additional Directors

(a) The Company may from time to time by resolution passed at a General Meeting appoint a Primary Member to be a Director.

(b) The Board shall have power to appoint, from time to time and for such period as it deems appropriate, two additional Directors who may or may not be Members.

8.3 Election of Directors

(a) In the case of Directors appointed at General Meeting:

(i) elections for the Directors are conducted annually;

(ii) a Director may only be elected to and hold office for nine consecutive years unless an extension, up to a maximum extension of one year, is approved by Members in general meeting;

(iii) a Director takes office on 1 November in the year of their election and holds such for three years commencing on that date; and

(iv) upon the expiration of the term of office referred to in clause 8.3(a)(iii), the Director shall be eligible for re-election for a maximum of another two continuous terms.

(b) In the case of Directors appointed by the Board:

(i) a Director may only be appointed to and hold office for three consecutive years;

(ii) a Director holds office for one year commencing from the date of appointment; and

(iii) upon the expiration of the term of office referred to in clause 8.3(b)(ii), the Directors shall be eligible for re-appointment for a maximum of another two continuous terms.

8.4 Rectifying a Casual Vacancy of Directors

(a) Subject to clause 8.4(b), in the event of a casual vacancy the Board may appoint a Primary Member for the remainder of the Director's unexpired term.

(b) In the event of a vacancy in the office of Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a General Meeting for that purpose.

8.5 Loss of Office

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

(a) becomes ineligible to be a director under the ACNC Act;

(b) dies or becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

(c) resigns from office by notice in writing to the Company;

(d) without the consent of the Board, is absent from 50% or more of the meetings of the Directors, which the Director is eligible to attend, in the preceding 12 month period;

(e) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of that interest as required by clause 9.8, unless agreed otherwise by all of the other Directors; or

(f) is suspended as a Member or has his/her membership terminated in accordance with clauses 5.3 or 5.4.

8.6 Defects in Appointment of Directors

All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of the committee, or to act as, a Director, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

8.7 Remuneration of Directors

A Director shall be entitled to receive:

(a) such travelling, accommodation, fees, allowances and other expenses associated with Company's business as may be determined by the Board from time to time;

(b) payment for any service rendered to the Company in a professional or technical capacity where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms;

(c) payment as an employee of the Company where the terms of employment have been approved by resolution of the Board;

but shall not be entitled to any remuneration as a Director of the Company except as unanimously agreed by the Board.

8.8 Powers and Duties of Directors

(a) The Board shall manage the business of the Company and may exercise all powers and do all such acts and things as the Company may by law or by the Constitution exercise and do.

(b) Without limiting the generality of clause 8.8(a), the Board:

(i) may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking and property or any part thereof and to issue securities as security for any debt, liability, or obligation of the Company or of any business in which the Company has an interest;

(ii) may from time to time establish any committee, division, chapter, section or group of Members and may at any time disband any committee, division, chapter, section or group which it had previously established and may introduce, alter or amend any rules or regulations governing the procedures of such committee, division, chapter, section or group.

(iii) shall obtain the advice of appropriately qualified or experienced people as and when the Directors consider it necessary, and may invite any such person to attend and participate in discussions at meetings of the Directors but not to vote at such meetings;

(iv) shall have the power to make By Laws concerning membership application and qualification for membership of the Company and any other matter which the Board believes suitable for including in such By Laws; and

(v) shall, through the By Laws, establish procedures for dealing with Complaints and Disputes.

(c) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, all electronic transfers of funds and payments, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed or authorised, as the case may be, in such manner as the Board may from time to time determine.

(d) The Board shall from time to time appoint a Chief Administrator who shall be an employee of the Company. The Chief Administrator shall be the chief administrative officer of the Company and shall be subject to the direction and control of the Board or such office holders as agreed to by the Board. The Board may from time to time remove or dismiss the Chief Administrator from office and appoint another or others in their place. The Chief Administrator shall receive such remuneration as the Board may determine and shall have the powers and duties conferred from time to time by the Board.

(e) Subject to the Corporations Act and this Constitution, the Board shall have the power from time to time to make, adopt and vary By Laws, codes of conduct, practice notes, regulations and rules for the observance of all Members and otherwise in connection with the affairs of the Company. Copies of such By Laws, codes of conduct, regulations and rules and all amendments thereto shall be made available to all Members.

(f) The Directors may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.

(g) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

8.9 Delegation of Powers

(a) The Directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.

(b) A Committee shall exercise the powers delegated in accordance with any directions of the Directors and a power so exercised shall be deemed to have been exercised by the Directors.

(c) The Board shall appoint the chairperson of each Committee.

(d) Where a meeting of a Committee is held and the appointed chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act for all or part of the meeting, those members of the Committee present shall elect one of their number to be chairperson of the meeting or part of it.

(e) A Committee may meet and adjourn as it thinks proper.

(f) Questions arising at a meeting of a Committee shall be determined by a majority of votes of the members present and voting.

(g) In the case of an equality of votes, the chairperson of the Committee shall not have a casting vote in addition to any vote the chairperson may have in the capacity as a Committee member.

9 Meetings of Directors

9.1 Frequency of Board Meetings

The Board shall meet for the dispatch of business, adjourn, make rules for the conduct of meetings and of debate and otherwise regulate their meetings as they think fit, provided that such meetings shall take place at the office of the Company unless otherwise determined by the Board. The meetings shall be held at least three times each year, one of which shall be held in August of each year.

9.2 Convening Board Meetings

The Chief Administrator shall, upon the request of the Chairperson or upon the written request of three Directors stating reasons, summon a meeting of the Board. At least seven days' notice in writing of every Board meeting shall be given to each Director.

9.3 Quorum for Board Meetings

At a meeting of the Directors, the number of Directors whose presence is necessary to constitute a quorum is such number as is from time to time determined by the Directors and, unless so determined, is 50% of those Directors then appointed.

9.4 Chairperson of Board Meetings

The Chairperson shall chair meetings of the Board. In the absence of the Chairperson at a meeting, the Deputy Chairperson shall chair that meeting.

9.5 Voting At Board Meetings

(a) Subject to this Constitution, questions arising at a meeting of the Board shall be decided by a majority of votes of Directors present at the meeting and voting and any

such decision shall for all purposes be deemed a decision of the Directors. A Director may not vote by proxy.

(b) Each Director shall have a single vote.

(c) In a case of an equality of votes, the Chairperson of the meeting shall have a casting vote in addition to any vote the Chairperson may have in the capacity as a Director.

9.6 Electronic Meetings of Directors

(a) Without limiting the generality of clause 9.1, a meeting of Directors may be called or held using any technology consented to by all the Directors. A consent of a Director for the purposes of this clause may be a standing one. A Director may only withdraw his/her consent within a reasonable time before a meeting of Directors.

(b) For the purposes of this Constitution, the contemporaneous linking together by an instantaneous communication device of a number of Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, shall be deemed to constitute a meeting of the Directors and all the provisions of this Constitution as to meetings of the Directors shall apply to any such meeting held by an instantaneous communication device so long as the following conditions are met:

(i) all the Directors for the time being entitled to receive notice of the meeting of Directors shall be entitled to notice of a meeting held by an instantaneous communication device and to be linked by an instantaneous communication device for the purpose of such meeting. Notice of any such meeting shall be given on the instantaneous communication device or in any other manner permitted by this Constitution; and

(ii) each of the Directors taking part in the meeting by an instantaneous communication device must be able to hear each other of the Directors taking part at the commencement of the meeting.

(c) A Director may not leave a meeting held by an instantaneous communication device by disconnecting his/her instantaneous communication device unless he has previously expressly notified the Chairperson of the meeting of his/her intention to leave the meeting and a Director shall be conclusively presumed to have been present and to have formed part of the quorum at all times during such a meeting until such notified time of his/her leaving the meeting.

(d) Minutes of the proceedings at meetings held by an instantaneous communication device shall be sufficient evidence of such proceeding and of the observance of all necessary formalities if certified as a correct minute by the Chairperson of the meeting.

(e) For the purpose of this clause “instantaneous communication device” shall include telephone, television, computer or any other audio and/or visual device which permits instantaneous communication.

9.7 Circulating Resolutions

(a) If all the Directors entitled to vote on a resolution have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors

signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director.

(b) For the purposes of clause 9.7(a), two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate document.

9.8 Directors' Conflicts of Interest

(a) Subject to the Corporations Act, no Director shall be disqualified by his/her office from contracting or entering into any arrangement with the Company either as vendor, purchaser, or otherwise, nor shall any such contract or arrangement or any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or agreement, by reason of such Director holding that office or of the fiduciary relation thereby established, but every Director shall observe the provisions of Section 191 of the Corporations Act relating to the disclosure of the interest of Directors in contracts or proposed contracts with the Company or of any office or property held by Directors which might create duties or interests in conflict with their duties or interests as Directors as if the Company were a proprietary company.

(b) Subject to the Corporations Act, a Director shall not as a Director vote in respect of any contract or arrangement in which such Director is interested or be present at a meeting of Directors where such contract or arrangement is being considered.

10 Officers of the Company

10.1 Election of Officers

(a) The Board shall at its first meeting on or after the Annual General Meeting every year elect:

(i) Chairperson;

(ii) Deputy Chairperson; and

(iii) Treasurer.

(b) The Officers of the Company shall hold office until the first general meeting of the Board after the Annual General Meeting in the following year.

10.2 Chairperson

(a) In addition to the duties set out elsewhere in this Constitution, the Chairperson:

(i) is the official spokesperson for the Company;

(ii) officiates at all major Company functions;

(iii) leads the Company in contact with its Members and stakeholders;

(iv) provides leadership and guidance to the Chief Administrator on strategic and management issues associated with implementing the business plans and budgets approved by the Board; and

(v) signs all documents requiring the Chairperson's signature.

(b) Notwithstanding clause 8.7, the Chairperson is entitled to an allowance and expenses for the conduct of official duties as the Board may determine from time to time or as set out in the in the By Laws.

10.3 Deputy Chairperson

In addition to the duties set out elsewhere in this Constitution, the Deputy Chairperson shall perform the duties of the Chairperson, when the Chairperson is unable, for any reason, to perform the duties of the S Chairperson under this Constitution.

11 Insurance and Indemnity of Applicable Persons

11.1 Applicable Persons

The provisions of this clause 11 shall apply to Applicable Persons, which expression shall include:

(a) every person who is or has been an Officer of the Company;

(b) every person who is or has been an Officer of a Related Body Corporate of the Company;

(c) if the Directors determine, an employee or former employee of the Company or a Related Body Corporate of the Company;

(d) if the Directors determine and to the extent permitted under the Corporations Act, an auditor or former auditor of the Company or a Related Body Corporate of the Company.

11.2 Insurance

(a) To the extent permitted under the Corporations Act, the Company may pay, or agree to pay, a premium in respect of a contract insuring any one or more Applicable Persons against any liability incurred by the Applicable Person provided that the liability does not arise out of conduct involving:

(i) a wilful breach of duty in relation to the Company or a Related Body Corporate of the Company; or

(ii) a contravention of section 182 or 183 of the Corporations Act.

(b) To the extent permitted under the Corporations Act, the Company may pay, or agree to pay, an Applicable Person for costs and expenses incurred by that Applicable Person in defending proceedings, whatever the outcome of the proceedings.

11.3 Indemnity

(a) The Company does not exempt an Applicable Person from a liability to the Company incurred in their capacity as an Applicable Person.

(b) To the extent permitted by the Corporations Act, the Company indemnifies any Applicable Person against non legal costs incurred as an Applicable Person except:

(i) for a liability owed to the Company or a Related Body Corporate of the Company;

(ii) for a liability for a pecuniary penalty order under section 1317G or compensation order under section 1317H or section 1317HA of the Corporations Act;

(iii) for a liability owed to a third party arising out of conduct involving a lack of good faith.

(c) To the extent permitted by the Corporations Act, the Company indemnifies any Applicable Person against legal costs incurred in defending an action for a liability incurred as an Applicable Person except:

(i) in defending or resisting proceedings in which the Applicable Person is found to have a liability for which they could not be indemnified under clause 11.3(b); or

(ii) in defending or resisting criminal proceedings in which the Applicable Person is found guilty; or

(iii) in defending or resisting proceedings brought by the Australian Securities and Investments Commission (and any of its successors) or a liquidator for a court order if the grounds for making the order are found by a court to have been established; or

(iv) in connection with proceedings for relief to the Applicable Person under the Corporations Act in which the Court denies relief.

(d) Where the costs and expenses incurred by an Applicable Person under clauses 11.3(a), 11.3(b) or 11.3(c) are recovered by the Company under an insurance policy taken out or paid for by the Company pursuant to clause 11.2, the extent of the indemnification of an Applicable Person shall be reduced accordingly.

11.4 Loan to an Applicable Person

(a) To the extent permitted by the Corporations Act, the Directors may give a loan or advance to an Applicable Person to assist with the payment of costs and expenses of the Applicable Person which may be incurred under clause 11.3, where, in the opinion of the Directors, the costs and expenses are likely to become an amount for which the Company may become liable.

(b) If, upon a determination of the proceedings, the costs and expenses for which the loan or advance was given are not the liability of the Company, the loan or advance given to the Applicable Person shall be recoverable according to the terms of the loan or advance.

(c) In clauses 11.2, 11.3 and 11.4, the term "proceedings" means any proceedings and any appeal in relation to any proceedings, whether civil or criminal, being proceedings in which it is alleged that the Applicable Person has done or omitted to do some act, matter or thing in his/her capacity under which the person has become an Applicable Person (including proceedings alleging that the Applicable Person was

guilty of negligence, default, breach of trust or breach of duty in relation to the Company or a Related Body Corporate).

12 Administration

12.1 Minutes

(a) The Directors shall cause minutes of:

(i) all proceedings and resolutions of meetings of Members;

(ii) all proceedings and resolutions of meetings of the Directors, including meetings of a committee of Directors;

(iii) resolutions passed by Members without a meeting;

(iv) resolutions passed by Directors without a meeting;

to be duly entered into the books kept for that purpose in accordance with the Corporations Act.

(b) A minute recorded and signed in accordance with the Corporations Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

12.2 Inspection of Records

(a) Books containing the minutes of Members and resolutions passed by Members without a meeting will be available for inspection by any Member free of charge.

(b) Subject to the Corporations Act, the Directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in meeting of Members.

12.3 Execution of Documents

The Company may execute a document in accordance with section 127(1) of the Corporations Act or in any other manner authorised by the Board.

12.4 Amendment of Constitution

The Company may only alter this Constitution by Special Resolution passed at a General Meeting.

12.5 Notices

(a) A notice may be given by the Company to any Member either:

(i) by serving it on him personally; or

(ii) by sending it by post to him at his/her address as shown in the Register or to the Service Address supplied by him to the Company for the giving of notices to him.

(b) Where a notice is sent by:

(i) post, service of the notice shall be deemed to be effective by properly addressing, prepaying and posting a letter containing the notice, and to have been effected, in the case of a notice of a Member, on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.

(ii) by facsimile transmission, service of the notice shall be deemed to be effected within 24 hours of the transmission, unless the Company receives notification that the transmission was not successful.

(iii) by electronic transmission, service of the notice shall be deemed to be effected within 24 hours of the transmission, unless the Company receives notification that the transmission was not successful.

13 Financial Matters

13.1 Application of Income and Property

(a) The income and property of the Company however derived will be applied solely towards the promotion of the Objects, and no portion of the income or the property of the Company will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to Members of the Company.

(b) Nothing in this Constitution shall prevent the payment in good faith:

(i) of the payments contained in clause 8.7 and 10.2(b);

(ii) of insurance premiums to the extent permitted by the Corporations Act; and

(iii) of indemnification to the extent permitted by the Corporations Act and this Constitution.

13.2 Dividends and Reserves

No payment of dividends or other distributions to Members shall be made.

13.3 Accounts and Reports

(a) The Board shall cause proper accounting and other records to be kept and shall distribute copies of financial statements as required by Section 295 of the Corporations Act to Voting Members. Financial Statements shall be distributed:

(i) in accordance with clause 12.5; or

(ii) may be posted on a website advised from time to time by the Company.

(b) The books of accounts shall be kept at the Registered Office of the Company or at such other place or places as the Board thinks fit and shall at all times be available for inspection by any Director.

(c) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions and regulations the books of account of the Company or any of them shall be open to inspection by Members and no Member shall have any right to inspect any books of account or document of the Company except as conferred by law or authorised by the Board or by a Special Resolution of the Company in a General Meeting.

(d) Unless otherwise determined by the Board, the financial year of the Company shall commence on 1 July in each year and end on 30 June in the following year.

13.4 Audit

(a) A registered company auditor must be appointed. No appointment of an auditor shall be effective unless the auditor has first tendered to the Company a signed consent to so act.

(b) The auditor may not be an officer of the Company.

(c) The Company must at any Annual General Meeting, if there is a vacancy in the office of auditor, appoint an auditor to fill the vacancy.

(d) An auditor appointed pursuant to clause 13.4(c) shall hold office until resignation or removal from office or until the auditor is not capable of acting as auditor for any reason.

(e) An auditor may be removed by resolution passed at a General Meeting.

(f) Where an auditor resigns or is removed in accordance with clause 13.4(e), the Board may appoint another person to be the auditor.

(g) The auditor appointed pursuant to clause 13.4(f) shall remain as auditor until the next Annual General Meeting, whereupon his/her appointment shall be subject to the ratification or otherwise of the Members.

14 Public fund

14.1 Operation of public fund

(a) The Company may, and if granted endorsement as a tax deductible gift recipient shall, establish a public fund for the purpose of receiving donations in order to carry out and administer the objects of the Company as described in this Constitution.

(b) All gifts of money made to the Company as trustee of the public fund and all income received by the Company as trustee of the public fund as gifts or donations from any member of the public or from any other source are to be deposited to one or more separate bank accounts operated by the Company and, in the books of account of the Company, credited to one or more separate accounts. For the purposes of this Constitution, any such bank account will be referred to, and described in the books of account of the Company, by such name as may be approved, where such approval is required, by the Treasurer of the Commonwealth of Australia, his delegate or other approving authority.

(c) All gifts or donations of a non-monetary nature or type must be specifically identified on a gift register and all such items must in the books of account of the Company be credited to the public fund account.

(d) A receipt must be given by the Company as trustee of the public fund to the donor of all gifts or donations, whether of a monetary or non-monetary nature. The receipt must show the following items:

(i) name of the Company; and

(ii) the Australian Business Number applicable to the public fund;

(iii) if the gift or donation is of a monetary nature, the quantum of money received; or

(iv) if the gift or donation is of a non-monetary nature, a full and accurate description of the item or items the subject of the gift or donation; and

(v) a statement that the receipt is for a gift.

(e) The funds standing to the credit of the public fund account must be used solely in pursuance of the purposes of the public fund. Detailed records are to be maintained of all amounts debited to the public fund account.

(f) All income and property received by the Company from all sources other than from:

(i) gifts or donations from the public; or

(ii) any other source such as government grants, funds from sponsors, proceeds of raffles, fundraising activities and the like;

are to be credited to such other accounts in the books of account of the Company and under no circumstances shall any such income be credited to the public fund account.

15 Winding Up

15.1 Procedure

The Company may be dissolved by a special resolution of Members at a General Meeting.

15.2 Contribution of Members on winding up

Every Member of the Company undertakes to contribute to the assets of the Company in the event of the Company being wound up while he or she is a Member, or within one year of ceasing to be a Member such amount as may be required not exceeding $1.00, for the payment of the debts and liabilities of the Company contracted whilst the Member or past Member as the case may be was a Member of the Company, and the costs charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves.

15.3 Revocation of endorsement

(a) If the Company's endorsement as a deductible gift recipient is withdrawn or revoked, any surplus of the following assets shall not form part of the Company's assets or property but will be transferred to another entity:

(i) gifts of money or property for the principal purpose of the Company;

(ii) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company;

(iii) money received by the Company because of such gifts or contributions.

(b) The recipient of the assets and property referred to in clause 15.3(a), must:

(i) be approved to receive donations of money and/or property that are deductible from the taxable income of the donor;

(ii) have similar objects to the Objects;

(iii) prohibit the distribution of income, profits or assets to its members; and

(iv) be approved as an entity whose income is exempt from taxation.

15.4 Distribution of property on winding up

Where on the winding up or dissolution of the Company, there is a surplus of assets after satisfying all the Company's liabilities and expenses and after making the transfers under clause 15.3, the surplus will not be paid or distributed to the Members of the Company but will be given or transferred to another institution or company that has similar objects to the Objects, that prohibits the distribution of its income, profit or assets to its Members and that is recognised as an entity whose income is exempt from taxation. Such institution or company will be determined by the Members at General Meeting on or before the time of such winding up or dissolution. Failing such determination, the institution or company shall be determined by application to the Supreme Court in the State of incorporation.

Schedule 1 - Form of Proxy

Primary Care Diabetes Society of Australia Ltd

I/We .....…….....,

being a Member/Members of the above named Company, hereby appoint

…….....of.....…….
or, in his/her absence,

…….....of.....…….

as my/our proxy to vote for me/us on my/our behalf at the meeting of the Members of the Company to be held on the ..... day of ....., 20... and at any adjournment of that meeting.

SIGNED this ..... day of .....…….....…., 20...

SIGNATURE
OF MEMBER: _____

[SIGNATURE]

This form is to be used * in favour of/* against the resolution(s).

* Strike out whichever is not desired.
# To be inserted if desired.