# AUSTRALIAN DIABETES EDUCATORS ASSOCIATION

# Constitution

Australian Diabetes Educators Association Limited

1.1.1 ACN 008 656 522

1.1.2 Corporations Law

1.1.3 Association Limited by Guarantee

Revised November 2025

| Version | AGM Date | Description | Decision |
|---|---|---|---|
| 1.0 | 26 Aug 2004 | New Constitution | Adopted |
| 2.0 | 1 Sept 2011 | Amendments to the Constitution | Adopted |
| 3.0 | 11 July 2015 | New Constitution | Adopted |
| 4.0 | 23 Aug 2019 | Amendment to clauses 12.1 and 12.2 of the ADEA Constitution to allow the appointment of an additional Full Member CDE Director, bringing the maximum number of Full Member CDE Directors to six. | Adopted |
| 5.0 | 12 August 2021 | Amendments to align the Constitution with current legal and regulatory requirements. | Adopted |
| 6.0 | 12 August 2021 | Amendments to the Constitution to enable unification with Diabetes Australia. | Adopted |
| 7.0 | 9 August 2022 | Amendments to clauses proposed at the 2022 ADEA Annual General Meeting. | Adopted |
| 8.0 | 8 November 2025 | Amendments to clauses proposed at the 2025 ADEA Annual General Meeting. | Adopted |

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# 1 DEFINITIONS AND INTERPRETATION

## 1.1 Intention

In this constitution unless the contrary intention appears:

**'Annual General Meeting'** means the yearly meeting of the Association under Section 250N of the Corporations Act;

**'Associate Member'** means a member of the Association admitted as an Associate Member under clause 5.3;

**'Association'** means Australian Diabetes Educators' Association Limited (ACN 008 656 522);

**'Auditor'** means the Association's auditor;

**'Board'** means the Directors acting as the board of the Association;

**'Branch'** means a branch established pursuant to clause 19;

**'By-laws'** means by-laws made by the Board pursuant to clause 14.2;

**'Constitution'** means the constitution of the Association as amended from time to time;

**'Consumer'** means a person with diabetes, or a family member or a carer of a person with diabetes, who can provide the Board with a current insight into living with diabetes but who may not otherwise have the skills or capabilities required to be appointed as a Director;

**'Corporate Member'** means a member of ADEA admitted as a Corporate Member pursuant to clause 5.4; and

**'Corporations Law'** means the *Corporations Act 2001* (Cth);

**'Credentialing'** is voluntary and consists of the Credentialing Program and the Re-Credentialing Program. It is based on a points system, Credentialing Points (CPs), equating to the ADEA's benchmark of the minimum hours of professional development and clinical diabetes education practice required to maintain a high standard of practice through updating and retaining specialist diabetes knowledge and skills;

**'Diabetes Australia'** means Diabetes Australia Limited (ACN 008 528 461);

**'Diabetes Australia Nominee Director'** means a Director appointed to the Board pursuant to clause 12.10;

**'Diabetes Australia Member'** means Diabetes Australia pursuant to clause 5.5

**'Diabetes Australia Member Delegate'** means a person appointed by Diabetes Australia to represent it at general meetings of the Association.

**'Director'** means a person elected or appointed to the Board pursuant to clauses 12.4, 12.5 or 12.10;

**'Full Member'** means a person admitted as a Full Member pursuant to clause 5.2;

**'General Meeting'** means a meeting held at such times and places as the Board determines in accordance with clause 9;

**'Health Professional'** means an individual with the qualifications to provide evidence based health Care;

**'Independent Director'** means a Director appointed pursuant to clause 12.5 who is a person with specific skills deemed relevant to Board operations, but who is not eligible to be a Full Member of the Association or, if not for their appointment as an Independent Director, would not be eligible to be a Full Member of the Association;

**'Member'** means a Full Member, an Associate Member, a Diabetes Australia Member or a Corporate Member;

**'Office'** means the Association's registered office;

**'Office Bearers'** are the officers referred to in clause 13.1;

**'Proxy'** is an instrument of proxy appointed in accordance with clause 9.5;

**'Register'** means the register of Members of the Association;

**'Secretary'** means any person appointed by the Board to perform any of the duties of a secretary of the Association and if there are joint secretaries, any one or more of such joint secretaries;

**'Special Matter'** means a decision of the Board in relation to the following matters:

a. borrow, raise money or enter into another form of financial accommodation;
b. invest other than in deposits with an Authorised Deposit-taking Institution;
c. the purchase or sale of a major asset (such as real property);
d. amendments to the Constitution of ADEA;
e. a resolution to wind up ADEA; or
f. the approval of any annual plan/budget with a deficit outcome;

**'Special Member Matter'** means a decision of the Members in relation to the following matters:

a. amendments to the Constitution of ADEA;
b. a resolution to wind up ADEA.

## 1.2 Interpretation

1.2.1 In this Constitution, unless the contrary intention appears:

a. the singular includes the plural and vice versa and words importing a gender include other genders;
b. words importing natural persons include corporations;
c. words and expressions defined in the Corporations Law have the same meaning in this constitution;
d. headings are for ease of reference only and do not affect the construction of this constitution; and
e. a reference to the Corporations Law is a reference to the Corporations Law as modified or amended from time to time.

1.2.2 To the extent permitted by law, the replaceable rules in the Corporations Law do not apply to the Association.

1.2.3 The Association may exercise any power which under the Corporations Law may be exercised by an Association limited by guarantee if authorized by its Constitution.

# 2 THE ASSOCIATION

## 2.1 Nature of the Association

2.1.1 The Association is:
a. a public company limited by guarantee incorporated in Australia;
b. will operate solely for the promotion, development and attainment of its objects;
c. will apply its profits (if any) or other income in promoting its objects; and
d. is not carried on for the purpose of profit or gain to its Members

2.1.2 The Association is the national body representing those health professionals from disciplines particularly concerned with the self-management, education, research and clinical management of people with diabetes.

2.1.3 The Office of the Association must be at a location determined by the Board.

## 2.2 Principal Objects

2.2.1 The principal objects of the Association are to:
a. Promote best practice in diabetes education and care nationally and internationally through:
i. Development and dissemination of standards
ii. Supporting and promoting implementation of best practice
iii. Providing a credentialing program to members
iv. Accrediting and endorsing diabetes education courses
v. Advocating for equitable access to quality diabetes education services for all people affected by diabetes.
vi. Promoting and conducting research to guide quality diabetes education and

care and actively disseminating research results.

b. Provide a national voice on matters of diabetes education and care.
c. Promote the goal of optimal health and quality of life for all people affected by diabetes.
d. Liaise and collaborate with relevant bodies in Australia and other countries to advance the practice of diabetes education and to assist people with or at risk of developing diabetes to achieve and maintain optimal health and quality of life.
e. Undertake all necessary activities to achieve the principal objects of the Association.

### 2.3 Patron

2.3.1 The Association may appoint one or more eminent persons as its patrons. The Board will determine the criteria for and role of the Patron.

## 3 MANAGEMENT OF INCOME, PAYMENTS AND PROFITS

### 3.1 Management of Income, Payments and Profits

3.1.1 The income and property of the Association will only be applied towards the promotion of the objects of the Association set out in clause 2.2.

3.1.2 No income or property will be paid or transferred directly or indirectly to any Member except for payments in good faith of or to any Member for:

a. any services rendered to the Association, whether or not as an employee;
b. goods supplied in the ordinary and usual course of business to the Association;
c. rent for premises leased or let by any Member to the Association; or
d. any reasonable out of pocket expenses incurred by the Member on behalf of the Association;

provided that the payment must not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

### 3.2 Payments to Directors

3.2.1 No payment will be made to any Director except under the following circumstances:

a. Where the payment is:
   i. to reimburse a Director for reasonable out of pocket expenses incurred by the Director in the performance of his or her duties as a Director of the Association;
   ii. for any service rendered to the Association by a Director in a professional or technical capacity, other than in their capacity as a Director, provided that the provision of the service and the amount payable has the prior approval of the Board;

provided that the payment must not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction;

b. A payment relating to an indemnity in favour of the Directors and permitted by section 199A of the Corporations Law or a contract of insurance permitted by section 199B of the Corporations Law;

c. A payment or honorarium to the President for undertaking the role of President, provided that:

   i. any such payment or honorarium must be agreed by seventy five per cent (75%) of the Board;

   ii. in determining whether to make a payment or honorarium to the President pursuant to clause 3.2.1(c)(i), the President shall not be entitled to vote on that resolution;

   iii. the payment must not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction. (For clarity, the payment or honorarium to the President of the Association should not exceed the payment or honorarium ordinarily received by a President or equivalent office bearer or other similar organisations.)

# 4 MEMBERSHIP

## 4.1 Membership of the Association

4.1.1 There is no restriction on the number of members of the Association

4.1.2 A person is qualified to be a Member if the person:

a. has applied for membership in accordance with clause 4.2.1; and

b. has been approved for membership of the Association in accordance with criteria set by the Board.

## 4.2 Nomination for Membership

4.2.1 An application of a person for membership of the Association must be made in writing in the form approved by the Board from time to time.

4.2.2 Where a nominee satisfies the criteria set by the Board for membership of the Association, the nominee shall be approved for membership and shall be requested to pay (where applicable) the:

a. entrance fee; and

b. annual subscription fee; and

c. any further fee, subscription or levy as set out in the by-laws of the Association.

4.2.3 The Secretary must, on payment by the nominee of the amounts mentioned in clause 4.2.2, enter the nominee's name in the register of members and, on the name being so entered, the nominee becomes a Member of the Association.

### 4.3 Liability of Members

4.3.1 A Member has no liability as a Member except as set out in clause 22.1.1.

## 5 MEMBERSHIP CATEGORIES

### 5.1 Classification of Membership

5.1.1 The membership of the Association shall be divided into the following classes:

a. Full Member;
b. Associate Member;
c. Corporate Member;
d. Diabetes Australia Member; and
e. Such other categories or sub-classes of membership as the Board may determine from time to time and as set out in the by-laws of the Association.

### 5.2 Full Member

5.2.1 The following may apply for Full Membership of the Association:

a. a person who is:
   I. a Health Professional engaged in providing services, including services in education, management, training, research and public health, for the benefit of people affected by diabetes; and
   II. who has completed an Australian Framework Qualification 8 or equivalent qualification in diabetes education;

   or

b. a person who at the date of adoption of this Constitution is a Full Member of the Association.

5.2.2 Notwithstanding anything in clause 5.2.1, a person who is appointed as an Independent Director of the Association shall, for the term of their appointment as an Independent Director, be conferred with Full Membership of the Association.

5.2.3 Full Members of the Association shall be every person admitted by the Board as a 'full member'. Each Full Member is entitled to one (1) vote in a general meeting.

### 5.3 Associate Members

5.3.1 A person who is not eligible to apply for admission as a Full Member but who demonstrates an interest in diabetes education and care may apply to be admitted as an Associate Member

5.3.2 The Associate Members of the Association shall be every person admitted as an 'associate member'.

5.3.3 While Associate Members are entitled to receive notice of, and attend at, general meetings of the Association pursuant to clause 9.4.1, Associate Members shall have no voting rights in a general meeting.

### 5.4 Corporate Members

5.4.1 Any group or organisation that is interested in supporting the objects of the Company may apply to be admitted as a Corporate Member.

5.4.2 Corporate Members of the Association shall be every organisation admitted as a 'corporate member'.

5.4.3 While Corporate Members are entitled to receive notice of, and attend at, general meetings of the Association pursuant to clause 9.4.1, Corporate Members shall have no voting rights in a general meeting.

### 5.5 Diabetes Australia Member

5.5.1 The sole member of the Diabetes Australia Member class shall be Diabetes Australia.

5.5.2 The Diabetes Australia Member is entitled to one (1) vote in a general meeting.

5.5.3 Diabetes Australia shall appoint a person as the Diabetes Australia Member Delegate to attend general meetings and vote on behalf of the Diabetes Australia Member in a general meeting.

## 6 MEMBERSHIP FEES

### 6.1 Obligation to pay membership fees

6.1.1 The annual subscription fee of the Association for each class of membership shall be as determined by the Board.

6.1.2 In addition to the annual subscription fees, the Members are liable to pay any further fees, subscriptions or levies as set out in the by-laws from time to time.

6.1.3 The fees payable by Members pursuant to clauses 6.1.1 and 6.1.2 are payable at such time and in such manner as are set out in the by-laws.

# 7 CESSATION OF MEMBERSHIP

## 7.1 Cessation, Termination and Expulsion

7.1.1 A person ceases to be a Member of the Association if that Member:

a. dies or, in the case of a corporation, has a liquidator or provisional liquidator appointed to it, is wound up, dissolved or otherwise ceases to exist;
b. resigns such membership by written or electronic notice;
c. is expelled from the Association under clause 8;
d. is deregistered from their primary discipline;
e. fails to pay any fee within three (3) months after its due date; or
f. has been found guilty of an indictable offence.

7.1.2 If a person ceases to be a Member, the secretary must make an appropriate entry in the register of members to record the date the member ceased to be a Member.

## 7.2 Membership not transferable

7.2.1 A right, privilege or obligation which a person has by reason of being a Member is not able to be transferred or transmitted to another person.

7.2.2 A right, privilege or obligation which a person has by reason of being a Member terminates upon cessation of that person's membership.

## 7.3 Rejection of membership

7.3.1 If an application to become a Member is rejected, the Association must give written notice to the applicant.

7.3.2 If an application to become a Member is rejected, the Association must refund in full the fee (if any) paid by the applicant.

# 8 REPRIMAND, SUSPENSION AND EXPULSION OF MEMBERS

8.1.1 The disciplining of Members shall be carried out by the Association in accordance with the procedures set out in the by-laws from time to time.

8.1.2 A Member's right of appeal to any decision of the Board to discipline that Member are as set out in the by-laws from time to time.

8.1.3 The procedures in the by-laws for the disciplining of Members and a Member's right of appeal to any decision must:

a. require that hearings be conducted in accordance with the principles of natural justice;
b. afford a Member, appellant or complainant an opportunity to make oral

representations at a hearing; and

c. permit a Member, appellant or complainant to have an advisor present at the hearing.

# 9 General Meetings

## 9.1 Holding of Annual General Meeting

9.1.1 An annual general meeting of the Association may be held but, subject to any requirements of the Corporations Law to the contrary, is not required to be held.

9.1.2 Where the Association does not hold an annual general meeting, the Association must take reasonable steps to ensure that:

a. the Association is accountable to its members; and

b. the Association's members have an adequate opportunity to raise concerns about the governance of the Association.

9.1.3 In taking reasonable steps in accordance to clause 9.1.2 the Association must, but is not limited to:

a. provide Members with an annual report, including financial information and achievements towards the Association's purpose; and

b. provide for elections for the Directors;

c. provide Members with an opportunity to propose resolutions and to vote upon those resolutions.

## 9.2 Calling of and Business of Annual General Meeting

9.2.1 If held, the business of an annual general meeting is to:

a. Confirm the minutes of the last annual general meeting and of any general meeting held since that meeting;

b. receive the Association's financial statements

c. the Directors' statement and report

d. the auditor's report on the financial statements

e. to transact any other business which under this Constitution or the Corporations Law is to be transacted at an annual general meeting.

9.2.2 An annual general meeting must be specified as such in any notice calling it in accordance with clause 9.4.

9.2.3 Any annual general meeting must be conducted in accordance with the provisions of this clause 9.

## 9.3 Convening of General Meetings

9.3.1 The Board may, whenever it considers appropriate, call a general meeting of the Association.

9.3.2 Subject to the Corporations Law, general meetings are to be held at such times and places as the Board determines.

9.3.3 A Member may:

a. only request the Board to call a general meeting in accordance with the Corporations Law; and
b. not request or call and arrange to hold a general meeting except under the Corporations Law.

## 9.4 Notice

9.4.1 Subject to the provisions of the Corporations Law, the Secretary must, at least twenty one (21) days before the date fixed for the holding of the general meeting, send by prepaid post or electronically to each Member at the Member's address appearing in the register of Members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

9.4.2 No business other than that specified in the notice calling a general meeting may be transacted at the meeting except, for an annual general meeting, business that may be transacted under clause 9.2.1.

9.4.3 If:

a. Full Members with at least 5% of the votes that may be cast at a general meeting; or
b. at least 100 Full Members entitled to vote at a general meeting;

give written notice to the secretary of a resolution that they propose to move at a general meeting:

c. the resolution is to be considered at the next general meeting that occurs more than two (2) months after the notice is given; and
d. the secretary shall cause notice of that resolution to be given to the Members at the same time, or as soon as practicable afterwards, as it gives notice of that general meeting.

9.4.4 A general meeting shall notwithstanding that it is called by notice shorter than is required be deemed to be duly called if it so agreed in accordance with the Corporations Law.

9.4.5 The accidental omission to give notice of a general meeting, or the non-receipt of notice of a general meeting by any person entitled to such notice shall not invalidate the meeting or the proceedings at that meeting, unless there has been an accidental omission to give notice of the meeting to more than five per cent (5%) of the members entitled to vote at that meeting.

9.4.6 When a general meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one (1) month or more.

### 9.5 Appointment of Proxies

9.5.1 Each Member is entitled to appoint another Member as proxy by written notice given to the secretary no later than forty eight (48) hours before the time of the meeting for which the proxy is appointed.

9.5.2 The notice appointing the proxy must be in the form as approved by the Board from time to time.

9.5.3 The Board may determine in its sole discretion that an appointment of a proxy is valid even if it only contains some of the information required by the Corporations Law.

### 9.6 Cancellation or Postponement of Meeting

9.6.1 The Board may cancel or postpone the holding of any general meeting.

9.6.2 The Board may notify the Members of such cancellation or postponement by such means as they see fit.

9.6.3 If the general meeting was called by requisitioning Members or in response to a requisition by Members, the Board may only cancel or postpone the holding of it with the consent of a majority of the requisitioning Members.

### 9.7 Entitlement to Attend General Meetings

9.7.1 The following persons are entitled to attend a general meeting of the Association:

a. each Member, apart from any Member who under this Constitution or by the terms of issue of any membership is not entitled to attend;
b. each Director;
c. the Auditor;
d. each person who is a Proxy of a Member; and
e. such other persons who have the leave of the chairperson of the meeting, subject to any relevant terms or conditions imposed on that leave.

## 10 PROCEEDINGS AT GENERAL MEETINGS

### 10.1 Quorum

10.1.1 No business may be transacted at a general meeting unless a quorum of Members is present.

10.1.2 Subject to clause 10.1.6,a quorum of Members is:

a. five per cent (5%) of the Full Members; or
b. if at the time of the general meeting the total number of Full Members is less than fifty (50), the quorum is the lower of twenty five (25) Full Members or seventy five per cent (75%) of the total number of Full Members at that time.

10.1.3 Where more than one Proxy or representative of a Member is present, only one of those persons is counted.

10.1.4 Where a person is present as a Member and as a Proxy or representative of another Member, that person is counted separately for each appointment provided that there is at least one other Member present.

10.1.5 If within half an hour from the time appointed for the meeting a quorum is not present:
a. if convened upon the requisition of the Members the meeting shall be dissolved; or
b. in any other case the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day and such other time and place as the Directors may determine.

10.1.6 If a Special Member Matter is to be discussed or determined at a general meeting, the Diabetes Australia Member Delegate must be present in order for there to be a quorum.

10.1.7 If a Special Member Matter is not able to be determined due to the quorum requirement in clause 10.1.6, the quorum for the subsequent adjourned meeting pursuant to clause 10.1.5 will be
a. five per cent (5%) of the Full Members; or
b. if at the time of the general meeting the total number of Full Members is less than fifty (50), the quorum is the lower of twenty-five (25) Full Members or seventy-five per cent (75%) of the total number of Full Members at that time.

## 10.2 Chairperson of meeting

10.2.1 The President of the Association, or in that person's absence the Vice-President of the Association, shall preside as chairman at every general meeting.

10.2.2 If neither of those persons is present at any general meeting within fifteen (15) minutes after the time appointed for holding such meeting, or neither of them is willing to take the chair, the Board present may choose one of their number as a chairperson.

10.2.3 If no Director present is willing to take the chair in accordance with clause 10.2.2, the Board may choose a person, a Full Member and if no Full Member is present may choose an Associate Member, as chairperson of the meeting.

10.2.4 Where the Board fails to choose a person to take the chair in accordance with clause 10.2.3, the Members present must elect a person, whether a Member or not, to be chairperson of the meeting.

## 10.3 Passing the Chair

10.3.1 If the chairperson of a general meeting is unwilling or unable to be the chairperson for any part of the business of the meeting that chairperson may withdraw as chairperson for that part of the business and may nominate any person who would be entitled under clause 10.2 to chair the meeting for that part of the business.

10.3.2 After that part of the business is completed, the person so nominated must cease to chair the meeting upon the request of the prior chairperson and the prior chairperson is entitled to resume as the chairperson of the meeting.

## 10.4 Responsibilities of Chairperson

10.4.1 The chairperson of a general meeting is responsible for the general conduct of the meeting and the business transacted at it.

10.4.2 For this purpose the chairperson of the meeting may, without limitation but acting reasonably:

a. delay the commencement of the meeting if that person determines it is desirable for the better conduct of the meeting;
b. make, vary or rescind rulings;
c. prescribe, vary or revoke procedures;
d. in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the concurrence of the meeting if that person determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
e. determine conclusively any dispute concerning the admission, validity or rejection of a vote.

## 10.5 Adjournment of Meeting

10.5.1 The chairperson of a general meeting at which a quorum is present may at his or her discretion adjourn the general meeting with the meeting's consent, and must adjourn the general meeting if the meeting directs him or her to do so.

## 10.6 Business at Adjourned Meeting

10.6.1 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.

10.6.2 No notice need be given of an adjournment or of the business to be transacted at an adjourned general meeting unless it is adjourned for one (1) month or more.

10.6.3 Where a general meeting is adjourned for one (1) month or more, notice must be given in accordance with clause 9.4.6.

10.6.4 An adjourned general meeting may take place at a different venue to the initial general meeting.

### 10.7 Electronic Attendance at General Meetings

10.7.1 In providing notice of a general meeting pursuant to clause 9.4, the Secretary may notify the Members that they may attend a general meeting by way of video conferencing or teleconferencing.

10.7.2 A Member's ability to attend a general meeting by way of video conferencing or teleconferencing pursuant to clause 10.7.1 is subject to technical availability and the sole discretion of the Board, and is not to Members as a right for every general meeting.

10.7.3 Where a Member desires to attend a general meeting by way of video conferencing or teleconferencing, after receiving notice that such facilities will be available for a general meeting, a Member must notify the Secretary of their intention to attend electronically no later than forty eight (48) hours before the time of the meeting.

10.7.4 A Member attending a general meeting electronically, and who is eligible to attend the general meeting:

a. shall be counted for the purposes of determining whether a quorum of Members is present; and
b. shall have the same right to vote at the general meeting as if they were physically present at the meeting.

10.7.5 The procedure by which a Member may attend and vote electronically at a general meeting shall be as set out in the By-Laws from time to time.

## 11 VOTING AT MEETINGS OF MEMBERS

### 11.1 Entitlement to vote

11.1.1 Members shall have the right to attend and vote at a general meeting of the Association, subject to the voting rights (if any) of the class membership to which they belong.

### 11.2 Number of Votes

11.2.1 Each Member who in accordance with clause 11.1 is eligible and entitled to vote, has:

a. on a show of hands (or on the voices), only one (1) vote regardless of how many Members for which the person holds a recognised Proxy; and
b. on a poll, one (1) vote for the membership held by that person and one (1) vote for each Member for whom the person holds a recognised Proxy.

### 11.3 Method of Voting

11.3.1 Every resolution put to a vote at a general meeting (except where there is an election of Directors by ballot) must be determined by the voices or a show of hands (as determined by the chairperson of the meeting) unless a poll is properly demanded either before the vote is taken, before the voting results are declared or immediately after the declaration of the result of the voices or the show of hands.

## 11.4 Declaring Result of Vote on Show of Hands

11.4.1 At any general meeting (unless a poll is so demanded) a declaration by the chairperson of the meeting that a resolution has been carried, or carried by a particular majority, or lost, or has not been carried by a particular majority and an entry in the book containing the minutes of proceedings of the Association is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

## 11.5 Demand for Poll

11.5.1 A demand for a poll may be made by:

a. the chairperson of the general meeting;
b. at least five (5) persons present in person or by proxy at the meeting having the right to vote at the general meeting;
c. any person or persons present having the right to vote at the meeting who have at least five per cent (5%) of the total voting rights of all the Members having the right to vote at the general meeting.

## 11.6 Conduct of Poll

11.6.1 The demand for a poll may be withdrawn by the person(s) who demanded it.

11.6.2 If a poll is duly demanded in accordance with clause 11.5 and the demand not withdrawn, the poll must be taken in such manner and at such time as the chairperson of the meeting directs.

11.6.3 A poll demanded on any question of adjournment must be taken at the meeting and without an adjournment.

11.6.4 The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

11.6.5 The result of a poll at a general meeting of Members is a resolution of that meeting.

## 11.7 Circulating Resolutions of Members

11.7.1 Unless the Corporations Law requires otherwise, the Members may pass a resolution without a general meeting being held if all of the Members who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

11.7.2 Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

11.7.3 The resolution is taken to be passed, as if it had been passed unanimously at a duly convened general meeting.

### 11.8 Casting Vote of Chairperson

11.8.1 In addition to any vote the chairperson has in their capacity as a Member, if on a show of hands or on a poll the votes are equal, the chairperson of the meeting has a casting vote.

### 11.9 Objections

11.9.1 A vote at any meeting, or adjourned meeting, is to be treated as valid unless:

a. an objection is made at that meeting, or adjourned meeting, as to the validity of the vote; and
b. the objection is upheld and the vote is disallowed.

11.9.2 In recording votes the latest copy of the Register held in the Office must be adopted and acted on as the voting roll.

### 11.10 Ruling on Votes

11.10.1 The chairperson of the meeting is the sole judge of the validity of every vote tendered at the meeting and the determination of the chairperson is final and conclusive.

## 12 APPOINTMENT AND REMOVAL OF DIRECTORS

### 12.1 Number of Directors

12.1.1 At all times, the Association must have a minimum of six (6) and a maximum of ten (10) Directors (collectively known as the "Board").

### 12.2 Board Composition

12.2.1 The Board will always seek to attract and retain Directors with the requisite skills, diversity and capabilities to achieve the best governance of the Association.

12.2.2 The Board shall consist of:

a. A minimum of five (5) Directors, all of whom must be Full Members of the Association and Credentialled Diabetes Educators; and
b. up to four (4) Independent Directors, one of whom may be a Consumer; and
c. one (1) Diabetes Australia Nominee Director appointed pursuant to clause 12.10.

### 12.3 Term

12.3.1 Any Director elected to the Board will hold office for a three (3) year term, expiring on the third anniversary following their appointment as a Director.

12.3.2 No person may be elected or appointed as a Director for more than three (3) consecutive terms, but after standing down as a Director for a term of at least one year, may be re-elected as if they had not previously been elected as a Director.

12.3.3 All Directors holding office at the date of adoption of this Constitution will continue in office as Directors until the expiry of their terms determined in accordance with the constitution that was in effect prior to the date of adoption of this Constitution.

12.3.4 If there is a vacancy or vacancies in the Board such that the number of Directors is below the minimum number required under this Constitution, the Board must appoint a member or members of the Association to fill the vacancy or vacancies so that there are the minimum required number of Directors.

12.3.5 The Board may not use the power of appointment set out in clause 12.3.4 appoint a Director in excess of the minimum required number of Directors under this Constitution.

12.3.6 A Member appointed pursuant to clause 12.3.4 holds office, subject to this Constitution and the By-Laws of the Association, until the conclusion of the earlier of the next:

a. general meeting;
b. annual general meeting; and
c. election called

after the date of the appointment. If a general meeting is scheduled to occur prior to an annual general meeting, the election of replacement Directors for any whose terms expire pursuant to this clause must be listed as an item of business in the notice calling that meeting.

## 12.4 Procedure for Nomination and Election of Directors

12.4.1 Subject to clause 12.3.2, an Elected Director is eligible to stand for re-election.

12.4.2 All other Members who are eligible to hold office as an Elected Director, and who wish to stand for election to the Board, shall be nominated in the manner required by clause 12.4.4.

12.4.3 No later than eight (8) weeks prior to a Director's term being due to expire, the Board shall determine to call either an annual general meeting, general meeting or election.

12.4.4 If it is proposed that an election of Directors be held at a general meeting or annual general meeting, at least twenty one (21) days before the date fixed for the meeting at which the election is to take place, the Secretary shall send to each Member who is eligible to vote a notice specifying:

a. the date of the forthcoming meeting at which the election of Directors will take

place;

b. the names of the Directors whose terms conclude at the end of the annual general meeting;
c. which of those Directors are eligible for re-election; and
d. calling for nominations to be provided to the Association not less than seven (7) days before the date fixed for the meeting at which the election is to take place.

12.4.5 If it is proposed that an election of Directors occur other than a general meeting or annual general meeting:

a. at least six (6) weeks before the date upon which the relevant Elected Director's term is due to expire, the Secretary shall send to each Member who is eligible to vote a notice specifying:
   i. the names of the Directors whose terms are due to conclude and the dates upon which they conclude;
   ii. which of those Directors are eligible for re-election; and
   iii. calling for nominations to be provided to the Association not less than fourteen (14) days after the date of the notice;
b. at least twenty-one (21) days before the date upon which the relevant Elected Director's term is due to expire, the Secretary shall send to each Member who is eligible to vote :
   i. a notice specifying the Members who have nominated for election and the date by which any votes must be cast;
   ii. a voting form listing all eligible nominees should the Member wish to cast their vote by returning a paper voting form;
   iii. details of any other means by which Members may cast their vote, electronically or otherwise.

12.4.6 The notice of nomination of a candidate for election must be in the form as approved by the Board from time to time.

12.4.7 If insufficient nominations are received to fill all vacancies subject to the election, the candidates nominated are taken to be elected. If the election is proposed to take place at a meeting of the members, further nominations may be received at that meeting.

12.4.8 If insufficient further nominations are received (or the election is proposed to have occurred other than at a meeting of Members such that no further nominations may be received), any vacant positions remaining are taken to be vacancies.

12.4.9 If the number of nominations received is equal to the number of vacancies to be filled, the people nominated are taken to be elected.

12.4.10 If the number of nominations received exceeds the number of vacancies to be filled, a ballot must be held.

## 12.5 Appointment of Independent Directors

12.5.1 The Independent Directors shall be nominated and appointed by the Board from time to time.

## 12.6 Resignation of Director

12.6.1 Any Director may resign from office by giving notice in writing to the Association of the Director's intention to do so.

12.6.2 Unless the notice of resignation specifies a date on which the resignation will take effect, the resignation is deemed to take effect immediately.

## 12.7 Removal of Director

12.7.1 The Association in general meeting may by resolution remove any Director from their office on the Board before the end of that Director's term of office.

12.7.2 Where a Director:

a. has disrupted the operations of the Board or the Association; or
b. has failed to adequately perform their duties as a Director;

the Board may by special resolution resolve to call a general meeting of the Association and recommend that the Members vote to remove that Director from their office on the Board before the end of that Director's term of office.

## 12.8 Vacation of Office

12.8.1 In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Law or other provisions of this Constitution, the office of a Director is vacated if that Director:

a. dies;
b. ceases to be a Member of the Association;
c. becomes bankrupt or personally insolvent;
d. is prohibited by the Corporations Law from holding office or continuing as a Director;
e. becomes in the reasonable opinion of the Board incapable for reasons of physical or mental incapacity of performing his or her duties;
f. is absent from two consecutive Board meetings without leave of absence from the Board;
g. is directly or indirectly interested in any material contract or proposed contract with the Association and fails to declare the nature of the interest as required by the Corporations Law; or
h. has been disqualified by the Commissioner for the Australian Charities and Not-For-Profits Commission for being a Responsible Entity of a Registered Entity (both as defined under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth)), except where otherwise specifically permitted by the Commissioner for the purpose of being a Director of the Association.

## 12.9 Director Duties

12.9.1 In addition to any other requirements set out in the Corporations Law, each Director must comply with the following duties:

a. to exercise the Director's powers and discharge the Director's duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Association;
b. to act in good faith in the Association's best interests, and to further the purposes of the Association;
c. not to misuse the Director's position;
d. not to misuse information obtained in the performance of the Director's duties as a Director of the Association;
e. to disclose perceived or actual material conflicts of interest of the Director;
f. to ensure that the Association's financial affairs are managed in a responsible manner;
g. not to allow the Association to operate while insolvent.

12.9.2 For the purposes of clause 12.9.1(e), a perceived or actual material conflict of interest must be disclosed to the other Directors in writing as soon as reasonable practicable.

## 12.10 Diabetes Australia Nominee Director

12.10.1 The Board will, by resolution, appoint a person to the office of Diabetes Australia Nominee Director for a specified term not exceeding 3 years.

12.10.2 Prior to the appointment of a Diabetes Australia Director, Diabetes Australia must nominate to the Board a suitable eligible person for appointment as a Diabetes Australia Nominee Director.

12.10.3 A person is not eligible for appointment as a Diabetes Australia Nominee Director unless the person is:

a. of sound mind;
b. physically and mentally capable of performing the functions of a Director;
c. not disqualified from managing corporations under the Law;
d. a director or senior employee of Diabetes Australia.

12.10.4 A Diabetes Australia Nominee Director must not hold office (without re-appointment by the Board) for more than 3 years.

12.10.5 Excluding any period in office prior to 28 January 2021, a Diabetes Australia Nominee Director must not cumulatively hold office for more than nine (9) years.

12.10.6 A Diabetes Australia Nominee Director who has served the maximum cumulative tenure set out in clause 12.10.5 must retire from office as a Diabetes Australia Nominee Director immediately upon reaching that cumulative tenure and is not eligible for re-appointment.

12.10.7 If a Diabetes Australia Nominee Director retires or is removed from the Board, the Board will appoint a replacement Diabetes Australia Nominee Director in accordance with the process set out in this clause 12.10.

# 13 OFFICE BEARERS

## 13.1 The Office Bearers of the Association

13.1.1 The Office Bearers of the Association are:

a. President;
b. Vice-President; and
c. Finance Director.

## 13.2 Conditions on Appointment

13.2.1 The Finance Director must:

a. be a Member of the Association;
b. be a member of the Board.

13.2.2 The President and the Vice-President must:

a. be a Full Member of the Association;
b. currently hold the qualification of Credentialled Diabetes Educator from the Association; and
c. be a member of the Board.

13.2.3 Where an Office Bearer ceases to be a member of the Board, their appointment as an Office Bearer is deemed to have expired on and from the date on which they ceased to be a member of the Board.

13.2.4 Where the President or the Vice-President ceases to hold the qualification of Credentialled Diabetes Educator from the Association, their appointment as President or Vice-President is deemed to have expired on and from the date on which they ceased to hold the qualification of Credentialled Diabetes Educator from the Association.

13.2.5 The Directors must appoint each Office Bearer by resolution of the Board in accordance with the procedure set out in the By-Laws.

13.2.6 Subject to this Constitution the term of an Office Bearer is three (3) years for a maximum of three (3) terms.

## 13.3 Appointment of Office Bearers

13.3.1 The Board must, if the term of an Office Bearer has expired, subject to the requirements of clause 13.2 appoint, or re-appoint, an Officer Bearer from among the Directors at that time.

# 14 POWERS AND DUTIES OF THE BOARD

## 14.1 The Business of the Association

14.1.1 The business of the Association is managed and controlled by the Board who, subject to the Corporations Law, this Constitution and the By-Laws:

a. may exercise all powers of the Association not required to be exercised by the Association in general meeting;

b. has the power to perform all acts and do all things that appear to the Board to be necessary or desirable for the proper management of the affairs of the Association.

## 14.2 By-Laws

14.2.1 The Board shall have the power to make, alter and rescind any by-laws that it considers necessary for the effective administration of the Association's affairs provided that no by-law may be inconsistent with this constitution.

14.2.2 A By-law is binding on all Members.

# 15 PROCEEDINGS OF THE BOARD

## 15.1 Board meetings

15.1.1 The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they see fit.

15.1.2 Meetings will be scheduled at a time and place that will optimise attendance of the Board Directors.

## 15.2 Mode of Meetings

15.2.1 A meeting of the Board may be called or held using any technology consented to by all the Directors. Any such consent by a Director may be a standing one, which may be withdrawn by the Director at any time.

15.2.2 Where a Director withdraws a standing consent within one (1) months of the date of a Board meeting, the withdrawal is deemed not to take effect until after the conclusion of that meeting.

## 15.3 Quorum

15.3.1 Subject to clause 15.3.3, a quorum for a meeting of the Board is fifty per cent (50%) of the Directors as at the time scheduled for the commencement of the meeting, or such greater number as is fixed by the Board.

15.3.2 No resolution may be passed by the Board unless a quorum is present and, if within half an hour after the time appointed for the meeting to commence a quorum is not present, the meeting stands adjourned to the same place and at the same hour of the same day in the following month.

15.3.3 If a Special Matter is to be discussed or determined at a meeting of the Board, the Diabetes Australia Nominee Director must be present in order for there to be a quorum.

15.3.4 If a Special Matter is not able to be determined due to the quorum requirement in clause 15.3.3, the quorum for the subsequent adjourned meeting pursuant to clause 15.3.2 will be fifty per cent (50%) of the Directors as at the time scheduled for the commencement of the meeting, or such greater number as is fixed by the Board.

15.3.5 Diabetes Australia may appoint

15.3.5.1 its President in the first instance; or

15.3.5.2 if its President is unavailable, its Company Secretary;

as an alternate director to the Diabetes Australia Nominee Director.

## 15.4 Chairperson Calling A Meeting

15.4.1 The President of the Association, or in that person's absence the Vice-President of the Association, may at any time call a meeting of the Board to be held at such time and place as that person chooses.

## 15.5 Director Calling A Meeting

15.5.1 A Director may at any time call a meeting of the Board to be held as soon as is practicable at such time and place as is convenient to the Board.

## 15.6 Notice of Meeting

15.6.1 The person calling a Board meeting must ensure that notice of the Board meeting is given to each Director at least three (3) days before the meeting or at another time determined by Board resolution, except that:

a. the Directors may waive in writing the required period of notice for a particular meeting; and
b. it is not necessary to give notice of a meeting of the Board to a Director who has been given a leave of absence by the Board.

## 15.7 Appointment of Chairperson

15.7.1 The President of the Association, or in that person's absence the Vice-President of the Association, is entitled to take the chair at each meeting of the Board.

15.7.2 If neither of those persons is present at any meeting of the Board within fifteen (15) minutes after the time appointed for holding such meeting, or neither of them is willing to take the chair, the Directors present may choose one of their number as a chairperson.

## 15.8 Votes at Board Meetings Questions Arising

15.8.1 The Directors must attempt to resolve all matters raised at any meeting of the Board by consensus.

15.8.2 Only where the Directors are unable to reach consensus on any matter raised at a meeting of the Board, the matter in question shall be put to a vote of the Board.

15.8.3 Each Director has one (1) vote.

15.8.4 If there is an equality of votes the chairperson has a second or casting vote.

## 15.9 Circular Resolution of the Board

15.9.1 If a majority in number of the eligible Directors have signed a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document, a resolution in those terms is treated as having been passed at a meeting of the Board held on the day on which the document was signed.

15.9.2 If the Directors sign the documents on different days, on the day on which the document was last signed by a Director thereby constituting a majority in number of the eligible Directors unless the document, by its terms, is said to take effect from an earlier date.

15.9.3 For the purposes of this clause 15.9, the eligible Directors are all the Directors of the Association at the time the document was issued for signing but excluding those Directors then outside Australia.

15.9.4 An electronic transmission purporting to be a copy of the document signed by a Director is to be treated as an original copy of the document signed in writing by such Director.

15.9.5 The document or documents referred to in this clause 15.9 are treated as constituting a minute of that meeting and must be entered in the books of the Association kept for that purpose and signed by the chairperson.

## 15.10 Validity of Acts of Directors

15.10.1 All acts done at a meeting of the Board or by a person acting as a Director are valid, even if it is afterwards discovered that:

a. there was a defect in the appointment or continuance in the office of a person as Director or of the person so acting;
b. a person acting as a Director was disqualified or was not entitled to vote.

# 16 DIRECTOR'S INTERESTS

## 16.1 Contracts or Arrangements made by Directors

16.1.1 No contract made by a Director with the Association and no contract or arrangement entered into by or on behalf of the Association in which any Director may be in any way materially interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office, providing that the terms of the contract or arrangement or the particulars of the interest are disclosed to and approved by the Directors.

## 16.2 Personal Interests of Directors

16.2.1 A Director who has a material personal interest in a matter that is being resolved at a Board meeting must declare that interest at the meeting and must not be present while the matter is being considered.

16.2.2 A Director who has a material personal interest in a matter that is being resolved at a Board meeting cannot vote on the matter, unless permitted by the Corporations Law to do so, in which case the Director may:

a. be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
b. sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
c. vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

16.2.3 A Director may become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Association or in which the Association may be interested as a vendor, shareholder or otherwise and is not accountable to the Association for any remuneration or other benefits received by the Director as a Director or officer of, or from having an interest in, that body corporate.

# 17 DELEGATION (COMMITTEES)

## 17.1 Delegation of Powers

17.1.1 The Board may, in writing, delegate to one (1) or more committees the exercise of the functions of the Board that are specified in the written instrument, other than:

a. this power of delegation; and
b. a function that is a function imposed on the Board by the Act, the Corporations Law, or by resolution of the Association in general meeting.

17.1.2 The Board may, in writing, revoke wholly or in part any delegation under this clause.

### 17.2 Committees of the Board

17.2.1 If the Board has delegated a function to a committee, that committee may exercise that function unless and until the delegation has been revoked by the Board.

17.2.2 When delegating a function, the Board may set conditions or limitations on the exercise of the function.

17.2.3 Despite any delegation under this clause, the Board may continue to exercise any function delegated.

17.2.4 Any act or thing done or suffered by a committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the Board.

17.2.5 Any committee of the Board will be regulated by the Board's direction.

17.2.6 The President is ex-officio a member of any Board committee.

17.2.7 Questions arising at a meeting of any committee appointed by the Board are decided by a majority of the votes of members of the committee present at the meeting.

17.2.8 Each Member present at a meeting of any committee appointed by the Board (including the person presiding at the meeting) is entitled to one (1) vote but, if the votes on any question are equal, the person presiding may exercise a second or casting vote.

## 18 CHIEF EXECUTIVE OFFICER

### 18.1 Appointment of Chief Executive Officer

18.1.1 The Board may at any time appoint a Chief Executive Officer of the Association on such terms and conditions as determined by the Board, with such terms and conditions to be set out in writing between the parties.

18.1.2 The Chief Executive Officer must not be a Director of the Association.

18.1.3 If the Chief Executive Officer becomes at any time in any way incapable of acting as such the Board may, subject to the terms of the written agreement between the parties, appoint any other person to act temporarily as the Chief Executive Officer.

## 19 BRANCHES

### 19.1 Establishing and disestablishing Branches

19.1.1 The Board may establish or disestablish such Branches of the Association as it determines from time to time in accordance with the terms of the By-Laws.

# 20 MINUTES AND REGISTERS

## 20.1 Minute Recording

20.1.1 The Secretary must cause minutes to be made of:

a. the names of the Directors present at all Board meetings and persons present at all meetings of committees;
b. all proceedings, orders and resolutions of general meetings, Board meetings and meetings of committees;
c. all appointments and resignations of officers of the Association;
d. all disclosures of interest under clause 16.

## 20.2 Signing of Minutes

20.2.1 All Minutes must be signed by the Chair of the meeting or the Chair of the next meeting of the relevant body

# 21 COMPANY SECRETARY

21.1.1 There must be a Secretary of the Association appointed by the Board for a term and at remuneration and on conditions determined by them.

21.1.2 The Secretary is entitled to attend and be heard on any matter at all Board and general meetings.

21.1.3 The Board may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

21.1.4 The Secretary must keep minutes of:

a. all elections and appointments of office-bearers and Directors; and
b. the names of members of the Board present at a Board meetings, committee meetings or a general meeting;
c. all proceedings at Board meetings, committee meetings and general meetings.

21.1.5 Minutes of proceedings at a meeting kept by the Secretary must be signed by the person presiding at the meeting or by the person presiding at the next succeeding meeting.

# 22 INSPECTION OF RECORDS

22.1.1 Except as otherwise required by the Corporations Law, the Board may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Association or any of them will be open for inspection by Members other than Directors.

22.1.2 A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Board.

# 23 AUDIT AND ACCOUNTS

23.1.1 The Board must cause the Association to keep written financial records in relation to the business of the Association in accordance with the requirements of the Corporations Law.

23.1.2 The Board must cause the financial records of the Association to be audited in accordance with the requirements of the Corporations Law.

# 24 WINDING UP

## 24.1 Winding up of the Association

24.1.1 If the Association is wound up each member undertakes to contribute to the property of the Association for the:

a. payment of debts and liabilities of the Association (in relation to a person who has ceased to be a Member, contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
b. adjustment of the rights of the contributories amongst themselves, such as may be required not exceeding $50.00.

## 24.2 Management of Surplus

24.2.1 If any surplus remains following the winding up of the Association, or revocation of deductible gift recipient endorsement (whichever occurs first), the surplus will not be paid to or distributed amongst Members, but will be given or transferred to one or more corporations which, by their constitution, are:

a. required to apply profits (if any) or other income in promoting its objects;
b. prohibited from making any distribution to its members;
c. are able to receive income tax deductible gifts; and
d. such corporations to be determined by the Members in general meeting at or before the winding up and in default, by application to the Supreme Court for determination.

# 25 INDEMNITY

## 25.1 Indemnity of Officers

25.1.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Law, the Association indemnifies every person who is or has been an officer of the Association against any liability (other than for legal costs) incurred by that person as such an officer of the Association (including liabilities incurred by the officer as an officer of a subsidiary of the Association where the Association requested the officer to accept that appointment).

25.1.2 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Law, the Association indemnifies every person who is or has been an officer of the Association against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Association (including such legal costs incurred by the officer as an officer of a subsidiary of the Association where the Association requested the officer to accept that appointment).

25.1.3 For the purposes of this clause 25, 'officer' means:

a. a Director; or
b. a Association Secretary.

# 26 COMMON SEAL

## 26.1 Custody of the Common Seal

26.1.1 The Board must provide for the safe custody of the common seal of the Association.

26.1.2 The common seal must not be affixed to an instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by the Board on its behalf.

26.1.3 Every instrument to which the common seal is affixed must be signed by a Director and countersigned by another Director, the Secretary or by some other person appointed by the Board for that purpose.