

THIS MEMORANDUM OF AGREEMENT is made on the 17 October 2014.

PARTIES

- 1 **AUSTRALIAN AND NEW ZEALAND COLLEGE OF ANAESTHETISTS**
ABN 82 055 042 852
of 630 St Kilda Road, Melbourne, Victoria 3004
("College")
- 2 **AUSTRALIAN SOCIETY OF ANAESTHETISTS**
ABN 16 095 377 370
of Level 8, 121 Walker Street, North Sydney NSW 2059
- 3 **NEW ZEALAND SOCIETY OF ANAESTHETISTS**
NZ GST No 60-037-515.
of Level 1, Central House, 26 Brandon Street, Wellington 6011 New Zealand

STATEMENT OF PRINCIPLES AND PURPOSE

- 1 The objective of this Memorandum of Agreement (MoA) is to facilitate negotiation, cooperation and collaboration between the parties in the Australian and New Zealand Tripartite Anaesthetic Data Committee (ANZTADC). The MoA identifies the objectives to be achieved by ANZTADC and describes the methodology of the operations of ANZTADC.
- 2 The parties: the Australian and New Zealand College of Anaesthetists (ANZCA), the Australian Society of Anaesthetists (ASA) and the New Zealand Society of Anaesthetists (NZSA) agree that each will act in a spirit of cooperation, giving due consideration to the needs of the other parties so as to ensure at all times the negotiations and collaborations are striving towards the mutually agreed goals and intended shared benefits.
- 3 The three organisations agree to jointly participate in the management process of the ANZTADC in accordance with this MoA. The management structure is designed to permit each organisation to contribute to ANZTADC while exercising governance in accordance with their respective Constitutions and the prevailing and relevant national companies legislation.

NOW THE PARTIES AGREE THAT:

- 4 **THE OBJECTIVES OF THE MOA ARE:**
 - 4.1 Provide an enduring capability to contribute to the improvement of safety and quality of anaesthesia in Australia and New Zealand.
 - 4.2 Provide a capacity to capture, analyse and disseminate de-identified information relative to the safety and quality of anaesthesia.
 - 4.3 Provide advice to the three organisations and health authorities on safety and quality of anaesthesia.
 - 4.4 Provide six monthly written reports to the three parent bodies on achievements, objectives and financial matters.

- 4.5 Coordinate and facilitate initiatives that capture, analyse and disseminate advice arising from anaesthetic incidents.
- 4.6 Establish and maintain liaison with organisations, authorities and representatives responsible for anaesthesia, safety, quality and in Australia, New Zealand and, as required, internationally.
- 4.7 Undertake any other related activities that, from time to time, the parent organisations unanimously agree to be undertaken by ANZTADC.

5 THE ORGANISATION OF ANZTADC:

- 5.1 The ANZTADC consists of seven members, three from the Australian and New Zealand College of Anaesthetists (ANZCA), three from Australian Society of Anaesthetists (ASA) and one from the New Zealand Society of Anaesthetists (NZSA). In addition the President's and Chief Executive Officers of the respective parent bodies are voting ex officio members of ANZTADC.
- 5.2 ANZTADC will have up to two face to face meetings each year and will communicate via email or via teleconferences as and when required.
- 5.3 Face to face meetings will usually be held at ANZCA or alternatively ASA but may be conducted at the NZSA as the need arises.
- 5.4 Motions of ANZTADC require the majority of members' agreement (at least 4) to be accepted.
- 5.5 A chairperson will be appointed by the Presidents of the three parent organisations on the recommendation of the members of ANZTADC. Ideally the Chairperson must be appointed from the members of ANZTADC. If it is desired to appoint a Chairperson from outside ANZTADC then a member must stand down, such that ANZCA: ASA: NZSA representation remains at 3.3.1. This appointment will be made every two years by the Presidents of the three parent organisations with a view to ensuring that it is held by the most suitable person. A chairperson may hold this position for a maximum of six years.

6 RESPONSIBILITIES OF PARENT ORGANISATIONS

- 6.1 Each organisation will fund the attendance of their representatives at ANZTADC meetings and teleconferences.
- 6.2 ANZTADC will establish an annual budget for approval by their parent organisations. The budget is to be prepared in September for the following year. The funding ratio for ANZTADC is:
 - a) ANZCA -45%
 - b) ASA - 45%
 - c) NZSA - 10%

- 6.3 Administrative support includes employment and management of contractors, staff and secretarial services, financial accounting and expenditure, meeting support and, if appropriate, research and preparation of material.
- 6.4 The parent organisation providing administrative support will provide tax invoices for services provided during the preceding three months. Invoices will be sufficiently detailed as to describe the item, rate and quantity supplied as a service to ANZTADC.
- 6.5 Financial accounts are to be audited by an independent auditor in accordance with the current company practices and a copy of the annual report provided to parent organisations for the respective Presidents approval every twelve months.
- This provides assurance that the ANZTADC funds were expended in accordance with the purpose of the MoA and all transactions were accounted for in accordance with the Australian Accounting Standards.
- 6.6 Should ANZTADC determine it desirable to establish an incident reporting capability, the requirements will be defined in detail. A projected budget to fund the capability will be developed for approval by the parent organisations prior to tenders being called for the supply of services.
- 6.7 Parent organisations may only pass on actual expenses incurred as management costs.

7 DURATION OF AND CHANGES TO THE MOA

- 7.1 The MoA is binding between the three parent organisations. It is an agreement on the sharing of resources, responsibilities and information for the benefit of Australian and New Zealand patients and anaesthetists. Consequently, the arrangements entered into between the three organisations have financial and governance issues to which the parties agree to be bound.
- 7.2 The MoA remains valid for a period of 60 months from the date of the agreement. It will be reviewed after 30 months by the three parent organisations.
- 7.3 The MoA may be amended or extended by mutual agreement of the three parent organisations at any time.

8 CONFIDENTIALITY, PUBLICITY AND OWNERSHIP OF INFORMATION

- 8.1 Information captured, reviewed or disseminated is the intellectual property of ANZTADC and will be shared by the parent organisations, each of which shall have full access to all such information.
- 8.2 In questions relating to intellectual property the ANZTADC will follow the principles outlined in the document ANZCA Intellectual Property Policy, dated 2014 (Appendix 1). For the avoidance of doubt, any intellectual property created through the activities of the ANZTADC, or purchased by the ANZTADC, will be jointly owned by the three parent bodies, and if any financial value is realized, this will be shared in the proportions defined in section 15.

- 8.3 The parent organisation acknowledge that the information captured analysed or published, while it will be de-identified, carries a potential risk if unauthorised access occurs.
- 8.4 ANZTADC will act in accordance with privacy legislation requirements in both New Zealand and Australia. ANZTADC will be mindful of the interests of its members' and their patients in the recording of the information, for example, by complying with any relevant quality assurance obligations or privacy principles.
- 8.5 Intellectual property owned by a party at the time of entering this Agreement remains vested in that party.
- 8.6 Each party shall keep confidential any information that it receives from another party which is marked as confidential or which a party notifies the other party is confidential.
- 8.7 A party shall not, without the prior written approval of the other parties, disclose to any person any confidential information contained in material considered as part of this Agreement or received from another party.
- 8.8 The obligation under clause 8.7 shall not be taken to have been breached where the information referred to is legally required to be disclosed, save that a party disclosing for this purpose shall notify the other parties of such disclosure.
- 8.9 ANZTADC will follow the policies of the organisation that provides administrative support.

9 SCOPE OF COOPERATION

- 9.1 The ANZTADC is an independent committee established within the guidelines of this MoA and direction, agreed unanimously by parent organisation, from time to time.
- 9.2 Parent organisations may request ANZTADC to undertake certain tasks or to desist from activities.

10 PROJECT MANAGEMENT

- 10.1 Potentially there is scope to expand the level of administrative support. This level of support will be subject to factors including, but not limited to, commercial outsourcing of data collection, scale of analysis undertaken and integration or data exchange with other organisations.

11 USE OF LOGOS

- 11.1 Each parent organisation approves the use of their logo by ANZTADC. All ANZTADC material and communications will be branded accordingly.

12 DISPUTE RESOLUTION & TERMINATION

- 12.1 ANZTADC is expected to manage its business, financial and analytical processes internally. If a matter cannot be resolved it is to be referred to a joint meeting of the Presidents for review.
- 12.2 In the event of a dispute arising that the parties cannot resolve by negotiation, both parties shall attempt to resolve the dispute with the assistance of a mediator acceptable to all parties.
- 12.3 Any parent organisation may withdraw from this MoA by providing three months advice to ANZTADC and the other parent organisations. The parent organisation is responsible for its share of expenditure to the date of actual withdrawal.
- 12.4 Should the parent organisations determine it appropriate to terminate the ANZTADC, a plan identifying the reconciliation of finances, recovery of project material and disposal of intellectual property is to be prepared by the ANZTADC and presented to each parent organisation for approval. Unanimous approval of the termination plan is required prior to its implementation.

13 DEFINITIONS AND INTERPRETATIONS

In this Agreement unless the contrary intention appears:

- 13.1 **“Agreement”** means this Memorandum of Understanding between ANZCA, ASA and NZSA.
- 13.2 **“Confidential Information”** means information that is by its nature confidential, is designated by a party as confidential, or that a party knows or ought to know is confidential.
- 13.3 **“Intellectual Property”** includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), rights in circuit layouts, registered and unregistered trademarks (including service marks), registered designs and confidential information from intellectual activity in the industrial, scientific, literary or artistic fields.
- 13.4 Clause headings in this Agreement are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.
- 13.5 Words in the singular number include the plural and words in the plural number include the singular.