

Adventist HealthCare Research

AHCL Legal Naming Convention

PROCEDURE

On all legal documents Sydney Adventist Hospital must be listed as follows;

Name of Institution: Adventist HealthCare Limited as trustee for the Sydney Adventist Hospital Trust.

Address: Sydney Adventist Hospital
185 Fox Valley Road
Wahroonga NSW 2076 Australia

ABN: 76 096 452 925

In this context 'legal document' refers to any document that is used for any formally executed written document, and formally expresses a legally enforceable act, process, or contractual duty, obligation, or right, and therefore evidences that act, process, or agreement. For example, CTN/CTA, CIRA, CTRA, Indemnity and Insurance Documents, Non-Disclosure Agreement, Institution-Investigator Agreement, etc.

In addition to the above, adding the standard wording regarding the Capacity of AHCL, is important (see next page). Used in combination with the reference to the Sydney Adventist Hospital Trust ensures that all parties understand that AHCL is entering the legal document in its capacity as trustee.

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Using the standard wording in below box is just as important as getting the legal name correct.

Capacity of AHCL

Definitions

In this clause1:

- (a) **Trust** means the trust relationship pursuant to which AHCL holds trust property for the purposes set out in the Trust Documentation. The trust relationship is commonly referred to as the "Sydney Adventist Hospital Trust"; and
- (b) **Trust Documentation** means the terms of the Trust as contained in the constitution of AHCL.

Capacity of AHCL

AHCL enters into this document as trustee of the Trust and not in any other capacity. AHCL is not liable to any person under, or in connection with, this document in any capacity other than as trustee of the Trust.

Warranty of AHCL

AHCL warrants that:

- (a) it is the sole trustee of the Trust and has power under the Trust Documentation to enter into and to perform its obligations under this document; and
- (b) it has the right to be indemnified out of the trust property in relation to liabilities arising in connection with the proper performance of its rights and obligations under this document.

Limitation

A party to this document must not sue AHCL in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to the property of the Trust), a liquidator, an administrator or any other similar person to AHCL or prove or claim in any liquidation of or affecting AHCL (exception in relation to the property of the Trust). Notwithstanding the foregoing, nothing herein shall limit the [reference to other party in agreement i.e. creditor / Sponsor / CRG] ability to sue the Trustee in its capacity as trustee of the Sydney Adventist Hospital Trust and seek to enforce any claim against the assets of the trust.

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QUESTIONS AND ANSWERS

Q: Can you please confirm that Adventist HealthCare Limited are the trustee manager of the Sydney Adventist Hospital Trust?

A: Adventist HealthCare Limited is a corporation that has been appointed as the trustee for the Sydney Adventist Hospital Trust. It is the sole trustee. As such it has management control and governance over the activities of the Sydney Adventist Hospital Trust. The ACNC website can be accessed for more information.

Q: Please confirm if Adventist HealthCare Limited are signing as a trustee for a trust or for the hospital?

A: Adventist HealthCare Limited enters into contractual arrangements in its capacity as trustee for the Sydney Adventist Hospital Trust. The Sydney Adventist Hospital Trust is the hospital. In its capacity as trustee, Adventist HealthCare Limited is responsible for the day-to-day activities of the Sydney Adventist Hospital Trust.

Q: Please provide details for the individual trustee who will be signing for the Sydney Adventist Hospital - name and position.

A: Being a corporate trustee, Adventist HealthCare Limited has a Board of Directors. Under the *Delegated Authority Policy and Schedule of Approval Limits*¹ approved by the Board of Directors, below listed staff are empowered to sign a contract or agreement. Because of this delegation, it is not possible to name the specific individual who will sign any particular document. Please refer to below excerpt from the *Delegated Authority Policy and Schedule of Approval Limits*:

16.2. Authority to sign research agreements (including clinical trial research agreements, institution investigator agreements, research agreements, external entity agreements and research confidentiality agreements)	<ul style="list-style-type: none">• Chief Executive Officer• Director of Research• Medical and Clinical Governance Executive Any one to sign
16.3. Grant authorisation for research studies or clinical trials to commence at an AHCL site	<ul style="list-style-type: none">• Chief Executive Officer• Director of Research• Medical and Clinical Governance Executive Any one to sign

¹ *Delegated Authority Policy and Schedule of Approval Limits*; Adventist HealthCare-AHCL Corporate Governance Manual-S02; Dated 06-Dec-2021

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Q: Is it possible to sight a copy of the Trust Documentation?

A: The Company Secretary of AHCL advised and confirmed as follows:

- AHCL is corporate trustee for the Sydney Adventist Hospital Trust (SAHT);
- AHCL is the sole trustee of this Trust;
- The rights, responsibilities and obligations of AHCL as a corporate trustee are enshrined in the AHCL Constitution;
- In today's business and legal environment it is usual for a written Trust Deed to exist which outlines the nature of the Trust, and any conditions or obligations associated with the Trust;
- The Sydney Adventist Hospital Trust does not have a formal trust document. However, the trust relationship is best described as an implied trust, ie the actions and activities of the Sydney Adventist Hospital (SAH) and the South Pacific Division of the Seventh-day Adventist Church (SPD) over more than 119 years are evidence of a trust relationship being in existence;
- The SPD created the entity called Adventist HealthCare Limited;
- When creating the AHCL Constitution, the SPD outlined the rights, responsibilities and obligations of AHCL (which are prima-facie evidence of the nature of the trust relationship of the SPD and the SAH); and
- The SPD appointed AHCL to be the corporate trustee of SAHT.

Thus, whilst it is usual in this day and age for a Trust to have a formal trust deed, this is not mandatory at law. The existence of a trust relationship is implied by the actions of the SAH and the SPD over more than a century. The obligations of AHCL as a trustee are enshrined in the AHCL Constitution, thereby providing prima-facie evidence of the existence and nature of the trust relationship between the SPD and the SAH.