



Clinical Oncology Society of Australia

CONSTITUTION

OF

CLINICAL ONCOLOGY SOCIETY OF AUSTRALIA LIMITED

ABN 97 631 209 452

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**Approved by the COSA membership at the AGM held
14 November 2012**

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CLINICAL ONCOLOGY SOCIETY OF AUSTRALIA

1. NAME AND INTERPRETATION

1.1 Company Name

The name of the company is Clinical Oncology Society of Australia (COSA).

1.2 Definitions

In this Constitution, if not inconsistent with the subject or context, the following words shall have the following meanings:

“Act” means the *Corporations Act 2001* (Cth) and regulations and any statutory modification of the Act or any statutory provisions substituted for the Act

“Annual General Meeting” means the annual general meeting of the company as prescribed in the *Corporations Act 2001* (Cth) and under sub-clause 9.1

“Annual Scientific Meeting” means the conference sponsored by COSA, or by COSA in collaboration with other organisations, and so designated by the Board

“Auditor” means the Auditor of the Company as appointed by the Board under clause 18

"Board" means the board of directors of this company

“Chair” means the person appointed to that office under sub-clause 13.4 and, where appropriate, shall extend to a person authorised in writing to act on behalf of the Chair

“Company” means the company named in sub-clause 1.1

“Company Limited by Guarantee” means an entity incorporated under the *Corporations Act 2001* (Cth) formed on the principle of having the liability of its members limited to the respective amounts that the members undertake to contribute to the property of the company if it is wound up as described under sub-clause 7.6

"Constitution" means this Constitution and all supplementary substituted or amending Constitution for the time being in force

"Corporations Act" means the *Corporations Act 2001* (Cth) and regulations and any statutory modification of the Act or any statutory provisions substituted for the Act

"COSA" means the company named in sub-clause 1.1

"COSA Council" means the body named in Clause 12

“Directors” means the persons constituting the Board or any one of them as circumstances require

“General Meeting” means meetings of the Members, other than an Annual General Meeting

“In Writing” means written or produced by any substitute for writing

“Member” means an organisation or person appointed as such under this Constitution and as described in clause 6

“Office Bearers” means those persons holding office as named under sub-clause 14.3

“Officer” means an individual with the responsibility and authority to contract or otherwise act on behalf of the corporation

“Person” means natural person

“President” means the person appointed the office of President as described under sub-clause 13.2

“President Elect” means the person appointed the office of President Elect as described under sub-clause 13.3

“Secretary” means any person appointed to perform the duties of the Secretary of COSA

“Society” means the company named in sub-clause 1.1

“Special Resolution / Special Business” means a resolution or business moved or raised at a general meeting regarding an important decision regarding or a fundamental change to the structure and/or Constitution of the company

1.3 Interpretation

- (a) Unless otherwise defined above, all words or expressions shall be interpreted in accordance with the provisions of the Act as in force at the date at which this Constitution becomes binding in the Company
- (b) A gender includes all genders
- (c) Singular includes plural and conversely
- (d) Headings are for convenience and will be disregarded for interpretation of the Constitution

1.4 Replaceable Rules

The Replaceable Rules contained in the Act do not apply to COSA.

2. OBJECTS AND POWERS

2.1 Objects of COSA

The objects for which COSA has been established are:

- (a) to promote excellence in the multidisciplinary care and research relating to cancer – from prevention, diagnosis and treatment to follow-up, palliation and survivorship;
- (b) to encourage multidisciplinary collaboration of all professionals involved in cancer care and research; and
- (c) to foster and promote cancer research.

2.2 Powers of COSA

- (a) The Board may exercise all the powers of COSA to borrow money and to mortgage or charge its property, or any part thereof, and to issue debentures and other securities whether outright or as security for any debt liability, or obligation of COSA.
- (b) The Company has the power to employ staff; raise funds; lease, hire or purchase property; take out insurance; and liaise with other organisations.

In addition to the powers conferred on the Company by the Act, this Constitution and consistent with the assigned authorities in Clause 14, the Company has all such powers as are necessary or convenient to carry out its objects and, in particular, shall have the following powers solely for and consistent with the purpose of carrying out the aforesaid objects and not otherwise to ~

- 2.2.1 Employ, appoint and/or engage and at its discretion remove, dismiss or suspend any employees, officers, staff, servants, agents, contractors, tradespersons or professional persons;
- 2.2.2 Determine wages, salaries and gratuities of appointees and employees;
- 2.2.3 Establish and support, or aid in the establishment and support, of services, institutions, funds, trusts, schemes and conveniences calculated to benefit employees or past employees of the Company and their dependants, and the granting of pensions, allowances or other benefits to employees or past employees of the Company and their dependants, and the making of payments towards insurance or superannuation in relation to any of those purposes;
- 2.2.4 Print and publish by any technological means newsletters, periodicals, books, leaflets or other documents;
- 2.2.5 Receive or make gifts, grants, devises, bequests, subscriptions or donations from or to any person, fund, authority, organisation or institution and accept any gift whether subject to special trust or not and to act as trustee of money or other property vested in the association on trust;
- 2.2.6 Take any measures from time to time as the Company may deem expedient or appropriate for the purpose of procuring contributions to the funds of the Company, whether by way of donations, subscriptions, grants or otherwise;
- 2.2.7 Draw, make, accept, endorse, discount and issue cheques, draft, bills of exchange, promissory notes and other negotiable instruments;
- 2.2.8 Borrow or raise money in such manner and on such terms as the Company may think fit;

- 2.2.9 Secure the repayment of money raised or borrowed or the payment of a debt or liability of the Company by giving mortgages, charges or securities upon or over all or any of the real or personal property of the Company;
- 2.2.10 Invest in authorised trustee investments of any monies of the Company not immediately required for any of its objects or purposes in any manner in which trustees are authorised by law to administer money held on trust;
- 2.2.11 Enter into contracts;
- 2.2.12 Establish and support or aid in the establishment or support of, any other like service formed for any of the objects, consistent with any of the aforesaid objects of the Company;
- 2.2.13 Establish, maintain and manage any building or works and arrange for the construction maintenance and alteration of buildings or works and expend money and do any other thing necessary, convenient or advisable in relation to any building or works to achieve the aims of the Company;
- 2.2.14 Purchase, take on lease or in exchange and the hiring or otherwise acquiring of any real or personal property that may be deemed necessary or convenient to achieve the aims of the Company;
- 2.2.15 Buy, sell and supply of and deal in, goods or services of any kind to achieve the aims of the Company;
- 2.2.16 Do any other lawful act as may be necessary, incidental or conducive to the achievement of the aforesaid objects of the Company including to co-operate with any person or organisation on matters relating to the objects of the Company;
- 2.2.17. Appoint an Auditor as required pursuant to the Corporations Act;
- 2.2.18 Appoint a Secretary as required pursuant to the Corporations Act.

3. INCOME AND PROPERTY

The income and property of COSA must be applied solely towards promoting COSA's objects. No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, fee or otherwise, to any of the Members or directors. However, this clause 3 does not prohibit making a payment approved by the directors for:

- (a) out of pocket expenses incurred by a director in performing a duty as a director of COSA; or
- (b) a service rendered to COSA by a director in a professional or technical capacity or as an employee of COSA, other than in the capacity as a director of COSA, where:
 - (i) the provision of the service has the prior approval of the directors; and
 - (ii) the amount payable is not more than an amount that commercially would be reasonable payment for the service,

or prohibit payment:

- (c) in good faith to any member for goods supplied in the ordinary and usual course of business;
- (d) of reasonable and proper interest on money borrowed from a Member; or
- (e) of reasonable and proper rent for premises let by any Member to COSA,
- (f) or indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this Constitution.

4. ESTABLISHMENT AND OPERATION OF GIFT FUND

4.1 Maintaining the Gift Fund

COSA may maintain for its principal objects a fund (Gift Fund):

- (a) to which gifts of money or property for those objects are to be made;
- (b) to which any money received by COSA because of those gifts is to be credited; and
- (c) that does not receive any other money or property.

4.2 Limits on use of Gift Fund

COSA must use the following only for its objects:

- (a) gifts made to the Gift Fund; and
- (b) any money received because of those gifts.

4.3 Winding up of the Gift Fund

At the first occurrence of:

- (a) the winding up of the Gift Fund; or
- (b) COSA ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the Income Tax Assessment Act 1997,

any surplus assets of the Gift Fund must be transferred to an institution:

- (c) which is charitable at law;
- (d) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in clause 3; and

- (e) gifts to which are deductible under Division 30 of Income Tax Assessment Act 1997 due to it being characterised as a charitable institution whose principal activity is to promote the prevention or control of disease in human beings as described in item 1.1.6 of section 30-20 of Income Tax Assessment Act 1997.

The identity of institution must be decided by the directors.

5. ACCOUNTS

- (a) True accounts shall be kept of the sums of money received and expended by COSA and the matter in respect of which such receipt and expenditure takes place and of the property, credits and liabilities of COSA and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with this Constitution shall be open to the inspection of the members.
- (b) Once at least in every year the accounts of COSA shall be examined by one or more properly qualified Auditor or Auditors who shall report to the members in accordance with the provisions of the Corporations Act [s.308].

6. MEMBERSHIP

6.1 Types of Membership

There shall be two types of membership, as further defined in Schedule 1:

- (a) Individual membership, herein referred to as *COSA Members*
- (b) Organisational membership, herein referred to as *Affiliated Organisations*

The Board may establish any number of types of membership as they deem fit from time to time and determine the qualifications, privileges, obligations and rights attached to each class and of which each member shall belong to in accordance with Clause 6.9.

All types of membership shall be defined and described in the Schedule of the Constitution.

6.2 Other Types of Membership

The Board may:

- (a) establish new and/or change existing types of Membership; and
- (b) introduce new and/or change existing types of Membership.

6.3 Qualification for COSA Membership

The criteria upon which COSA Membership is to be determined are as follows:

- (a) professional qualifications in accordance with the objects of COSA; and
- (b) cancer health professionals including medical nursing and allied health or professionals in training; or
- (c) epidemiologists and scientists or other professionals in the cancer field who devote a majority of their professional activity to cancer patient care and/or research.

6.4 Application for COSA Membership

Every application for COSA Membership shall be made in writing. The applicant shall be nominated by a Member of COSA and made on a form approved by the Board from time to time and the applicant shall provide details of qualifications, professional status, appointments, and special interests in relation to clinical oncology.

6.5 Qualification for Affiliated Organisation

The criteria upon which Organisations may become Affiliated with COSA is to be determined are as follows:

- (a) A not for profit company, institution or organisation is eligible for admission as an Affiliated Organisation if the company, institution or organisation has similar interests to the Objects of COSA as outlined in sub-clause 2.1.
- (b) The Board shall have the power to extend membership by invitation to a not for profit company, institution or organisation it deems worthy of such membership and may appoint such company, institution or organisation to be an Affiliated Organisation, and approve their nomination for representation on COSA Council.

6.6 Form of Application for Affiliated Organisation

- (a) Application for Affiliated Organisations shall be made in writing to the Board, signed by a duly recognised officer of the organisation, and shall provide details of the organisation's objects, membership, interests and activities in relation to clinical oncology. The applicant shall be nominated by a Member of COSA and seconded by another Member of COSA.
- (b) Affiliated Organisation applications shall nominate one individual to represent that organisation on COSA Council as outlined in clause 12. Such nominees must be COSA Members or agree to join as per sub-clauses 6.3 and 6.4

6.7 Board Determination of Applications

At the next meeting of the Board after the receipt of any application for membership such application shall be considered by the Board who shall thereupon:

- (a) determine upon the admission or rejection of the applicant; or

- (b) postpone the consideration of the application and request further information to support the application from the applicant.

6.8 Board Not Required to Give Reasons for Determinations

In no case shall the Board be required to give any reason for the rejection of an applicant.

6.9 Notice to be given to Applicant

When an applicant has been accepted for membership the Secretary shall forthwith send to the applicant written notice of acceptance. The notice shall set out the class into which the applicant has been admitted. Upon acceptance the applicant shall become a member of COSA in the nominated class.

6.10 New Member Appointment

The Board shall have power to make decisions concerning membership save that all such decisions shall be reported to the Annual General Meeting of COSA. New Members shall be welcomed at the Annual General Meeting.

7. RIGHTS AND OBLIGATIONS OF COSA MEMBERS AND AFFILIATED ORGANISATIONS

7.1 Rights of COSA Members

- (a) Vote at the COSA Annual General Meeting
- (b) Access to COSA publications, resources and secure members website
- (c) Discounted rates at COSA scientific sessions as defined under sub-clause 7.1(g)
- (d) Eligibility to apply for COSA grants and awards
- (e) Eligibility to join and form Groups of COSA as prescribed in clause 11
- (f) Representation in COSA Council through COSA Group(s) as prescribed in sub-clause 12(c)
- (g) All COSA Members may register to participate in the COSA Annual Scientific Meeting, and may register to participate in all other COSA conferences, meetings and workshops, subject to participation in any such activity being restricted to certain COSA Groups or where participation is by invitation only, all such restrictions being the prerogative of the Board.

The abovementioned rights of COSA Members are not transferable.

7.2 Obligations of COSA Members

- (a) Membership of the Company involves a commitment to the objects of the Company and responsibility towards the maintenance of a sustained interest in the affairs and objects of the Company.
- (b) Membership of COSA Members to COSA Groups is not mandatory – those members that elect to join COSA Groups agree to undertake active contribution to those Groups.
- (c) Members at all times must comply with the Constitution.

7.3 Rights of Affiliated Organisations

- (a) Seat on COSA Council as prescribed in sub-clause 12(c)
- (b) Vote for COSA Board as prescribed in sub-clause 12(f)
- (c) Discounted COSA membership for members of Affiliated Organisations
- (d) Provide advice to the COSA Board and Council

7.4 Obligations of Affiliated Organisations

- (a) Affiliated Organisations shall nominate one individual to represent that organisation on COSA Council as outlined in clause 12. Such nominees must be COSA Members or agree to join as per sub-clauses 6.3 and 6.4
- (b) Attend more than 50% of COSA Council meetings annually
- (c) For the purposes of attendance at COSA Council meetings, if the nominated individual is unable to attend, a proxy can be nominated in advance. Such proxies must be COSA Members
- (d) Contribute to strategic advice to the COSA Board
- (e) Become members of COSA Committees as required
- (f) Advise COSA on particular issues as and when requested
- (g) Actively promote COSA within its organisation and networks

7.5 Liability

The liability of the Members is limited to the contribution required under sub-clause 7.6.

7.6 Contribution on Winding up

Every Member of COSA undertakes to contribute to the property of COSA in the event of the same being wound up while he is a member for payment of the debts and liabilities of COSA contracted before he ceases to be a member, and of the costs,

charges, and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten dollars (\$10.00) or such other sum as may be determined by the Board from time to time.

7.7 Annual Membership Fee

Every Member of COSA undertakes to pay the annual membership fee, if any, as determined by the Board. The Board may determine differing annual membership fees for different members, and/or members of particular categories.

7.8 Notice of Change of Address

A Member shall notify the Secretary of any change of address and of any additional qualifications or distinctions gained since commencement of membership of COSA.

8. CESSATION OF MEMBERSHIP

8.1 Resignation from Membership

A COSA Member or Affiliated Organisation may at any time by giving notice in writing to the Secretary resign from membership of COSA.

8.2 Effect of Notice

Upon receipt of such notice of resignation the Board may direct that the member be removed from the Register of Members.

8.3 Notice of Change of Address

A member shall notify the Secretary of any change of address and of any additional qualifications or distinctions gained since commencement of membership of the Company.

8.4 Lapse of Payments of Fees

If Membership fees are not received within the designated times, and after due notice to the effect of non-payment, Membership will lapse.

8.5 Disciplining of Members

If the Board is of the opinion that a member has:

- (i) refused or neglected to comply with the Constitution, or
- (ii) acted in a manner inconsistent with the Objects of the Company, or
- (iii) been guilty of conduct unbecoming a member, or
- (iv) acted in a manner prejudicial to the interests of the Company,

the Board may:

- (a) censure that member and issue notice to that effect; or
- (b) fine that member an amount not exceeding the annual subscription fee; or
- (c) suspend that member from membership of the Company for a specified period; or
- (d) expel that member from the Company

That Member shall at a Board meeting called for the purpose, have an opportunity of giving orally or in writing any explanation or defence the Member may think fit.

9. GENERAL MEETINGS

9.1 Annual General Meeting

An Annual General Meeting of COSA shall be held in accordance with the provisions of the Corporations Act. All Meetings other than the Annual General Meetings shall be called General Meetings.

9.2 Business of an Annual General Meeting

- (a) The business of any Annual General Meeting may include, even if not referred to in the notice of the meeting,
 - (i) the consideration of the annual financial report, director's report and auditor's report;
 - (ii) the election of directors;
 - (iii) the appointment of the auditor;
 - (iv) the fixing of the auditor 's remuneration.
- (b) The business of an Annual General Meeting may also include any other business which under this Constitution or the Act ought to be transacted at an Annual General Meeting.
- (c) The Chair of the Annual General Meeting must allow a reasonable opportunity for the members present at the meeting to ask any questions about or make comments on the agenda business.

9.3 Requisition by Director

Any three Directors may, whenever they think fit, convene a General Meeting and such Meetings shall be convened on such requisition or in default may be convened by such requisitionists as provided by the Act [s.249C].

9.4 General Meeting by Member Requisition

A General Meeting shall also be convened by Member requisition

- (a) as is provided for by the Act [s.249D]; or
- (b) in default maybe convened by such requisitionists as empowered to do so by the Act [s.249F].

9.5 Calling of Annual General Meetings and General Meetings

Subject to the provisions of the Act [s.249H(2)] relating to special resolutions and agreements for shorter notice twenty one (21) days notice at least (exclusive of the day on which the notice is served or deemed to be served [s.249L(1)], but inclusive of the day for which notice is given) specifying the place the day and the hour of meeting and in case of special business the general nature of that business shall be given to such persons as are entitled to receive such notices from COSA. If a special resolution is to be proposed at the meeting the notice must set out an intention to propose the special resolution and state the resolution.

10. PROCEEDINGS AT GENERAL MEETINGS

10.1 Quorum Required

No business shall be transacted at any Annual General Meeting or General Meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, thirty (30) Members present shall be a quorum. For the purpose of this Clause "Member" includes a person attending as a proxy.

10.2 Effect on Meeting if Quorum not Present

If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved, in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present (being not less than two (2)) shall be a quorum.

10.3 President to Chair General Meetings

The President shall chair every Annual General Meeting and General Meeting of COSA, or if the President is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act, then the Members present shall elect one of their number to be Chair of the meeting.

10.4 Chair may Adjourn Meeting

The Chair may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as

aforesaid it shall not be necessary to give any notice of an adjournment for the business to be transacted at an adjourned meeting.

10.5 Resolutions to be decided by show of hands unless poll demanded

At any Annual General Meeting or General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:

- (a) by the Chair; or
- (b) by at least (3) members present in person or by proxy.

10.6 When a poll may be demanded

A poll may be demanded:

- (a) before a vote is taken;
- (b) before the voting results on a show of hands are declared; or
- (c) immediately after the voting results on a show of hands are declared.

10.7 Chair may declare resolution on show of hands

Unless a poll is so demanded a declaration by a Chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of COSA shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

10.8 Chair to Inform Meeting about Proxies

Before a vote is taken the Chair must inform the meeting whether any proxy votes have been received and how the proxy votes are cast.

10.9 Poll

If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a Chair or on a question of adjournment shall be taken forthwith.

10.10 Chair to have Casting Vote

In the case of an equality of votes, whether on a show of hands or on a poll, the Chair of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

10.11 Entitlement to Vote

- (a) Only financial COSA Members are entitled to cast a vote at annual general and general meetings.
- (b) Each COSA Member who is a member of a COSA Group is entitled to attend and vote at annual general and general meetings and participate in election procedures of the Group.
- (c) Affiliated Organisations are not entitled to vote at annual meetings and general meetings.
- (d) Affiliated Organisations are entitled to vote at COSA Council meetings.
- (e) Overseas and Student members are not entitled to a vote at annual general and general meetings.

10.12 Member may vote in person or by proxy

A COSA Member may vote in person or by proxy or by attorney and on a show of hands every person present who is a member or a representative of a member shall have one vote and on a poll every member present in person or by proxy or by attorney or other duly authorised representative shall have one vote.

11. GROUPS OF THE SOCIETY

11.1 Groups Approved by the Board

- (a) The Board must, in accordance with Clause 22, constitute Groups of the Society, based primarily on the interests and objects of the Society, in which COSA Members are involved.
- (b) Where there is duplication between a COSA Group and an independent professional organisation, on advice of COSA Council the Board may elect that the professional organisation assumes the role of the COSA Group subject to that organisation being an Affiliated Organisation of COSA as prescribed in sub-clause 6.5
- (c) A new Group may be formed, subject to the approval of the Board, on the proposal of at least thirty (30) COSA Members.

11.2 Membership of Groups

Each COSA Member shall make application for membership to the appropriate Group(s).

11.3 Proceedings of Groups

- (a) Each COSA Group will have terms of reference approved by COSA Council. Such terms of reference will include agreed objectives, the establishment of an Executive Committee voted by the Group membership.

- (b) Groups and their activities will be based primarily on the objects of COSA as prescribed in sub-clause 2.1.
- (c) The Group Chair will sit on COSA Council during their elected term.
- (d) Groups must hold an annual general meeting, preferably at the COSA Annual Scientific Meeting.
- (e) Each Group is responsible to, and may be directed by the Board or their delegate as set out in accordance with the terms of reference.
- (f) Groups are required to submit to the COSA Council an annual plan outlining their planned activities and/or priorities, and support or resourcing requests from the COSA office.
- (g) An annual review of COSA Group activities and structure will be conducted as a part of good governance and Groups that are in abeyance may be dissolved at the discretion of the Board on the advice of Council.
- (h) COSA Council may disband a Group if the registered membership falls below thirty (30) members.

12. COSA COUNCIL

- (a) COSA Council is the main scientific and advisory body representing all COSA Members, COSA Groups and Affiliated Organisations.
- (b) COSA Council fulfils a role of providing advice and counsel to the Board about the manner in which the Board carries out its responsibilities on behalf of the COSA membership and is not involved directly in matters of COSA governance.
- (c) The Chair of each COSA Group and the nominee of each Affiliated Organisation will be a member of COSA Council.
- (d) The President and President Elect will be members of COSA Council.
- (e) COSA Council members act as scientific and medical advisors to Cancer Council Australia on behalf of COSA.
- (f) The COSA Council will be responsible for electing new members to the Board as described in sub-clause 13.1.
- (g) Affiliated Organisations will at no time hold more than 49% of the seats on COSA Council.

13. BOARD

13.1 Composition of Board

The Board of COSA shall consist of eight (8) to eleven (11) members: comprising the incumbent President and President Elect, and six (6) members elected by the COSA

Council from within its current or previous membership; two (2) may be co-opted as required; and one (1) shall be nominated by Cancer Council Australia.

13.2 President

- (a) The President will take office having completed two years as President Elect as prescribed in sub-clause 13.3.
- (b) The President will fulfil the role of Chairman of the Board.
- (c) At the time of formation of the Company the current President will fulfil this role.

13.3 President Elect

- (a) Once every two years the Executive Officer shall conduct a call for nominations for the position of President Elect.
- (b) Nominees must be existing members of COSA Council or have been such in the four years prior to the close of nominations.
- (c) Each nomination shall be signed by the candidate, signifying his/her consent to the nomination, and by a proposer and seconder who shall both be COSA Members.
- (d) In the event of there being more than one nomination the Executive Officer shall conduct a ballot at which all COSA Members may vote. The results of the ballot shall be recorded in the Minutes of the next scheduled COSA Council Meeting and upon such recording the ballot papers shall be destroyed and such record shall be deemed to be sufficient evidence of the results of the election.
- (e) From the date of assumption of office, if the newly elected President Elect holds other office within COSA, such as Chair of a COSA Group, they shall resign from this position and the vacancy so caused shall be filled as a casual vacancy.
- (f) The President Elect will fulfil the role of Deputy Chairman of the Board.
- (g) At the time of formation of the Company the current President-Elect will fulfil this role.

13.4 Role of the Chairman

- (a) The Chairman (and the Deputy Chairman subject to sub-clause 13.4(c)) shall:
 - i. Be the spokespersons for the Company unless a meeting of the Board resolves otherwise
 - ii. Preside at and preserve the order of all General Meetings (including Annual General Meetings) subject to sub-clause 13.4(b) and ensure

that all such meetings are conducted in accordance with the Constitution

- iii. Preside at and preserve the order of all meetings of the Board subject to sub-clause 13.4(b) and ensure that all such meetings are conducted in accordance with the Constitution
 - iv. Perform other roles and functions as may, by resolution and by instrument in writing, be determined by the Board.
- (b) Should the Chairman be absent from any General Meeting (including the Annual General Meeting) or any meetings of the Board, the Deputy-Chairman (or if he/she is also absent, one of the remaining members of the Board chosen by the members of the Board present) shall perform the functions of the Chairman to which sub-clause 13.4(a) refers.
- (c) The Deputy-Chairman shall undertake Chairman duties during a vacancy of Chairman, or when a Chairman is unable to perform the duties of office as provided for in this Constitution.

13.5 Effective date of Appointment

The members of Board, the President and the President Elect shall take office from the Annual General Meeting in the year of the election and in the case of the President shall serve a term of two years and in the case of the President Elect shall serve a term of two years and then further shall serve as President for a term of two years.

13.6 Effect of Retirement

On retirement from membership of the Board a member shall not be eligible to serve on the Board again until four years have elapsed from the date of such retirement, unless elected as President Elect.

13.7 Filling Casual Vacancies

The Board shall have power at any time, and from time to time, to appoint any person to the Board, either to fill a casual vacancy so that the total number of members of the Board shall not at any time fall below or exceed the number fixed in accordance with this Constitution. Any member of the Board so appointed shall hold office only until the next following Annual General Meeting.

13.8 Removal of Director by Resolution

- (a) If the conduct or position of an appointed Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may remove that Director.
- (b) If the conduct or position of an elected Director is such that continuance in office appears to the majority of the directors to be prejudicial to the

interests of the Company, a majority of Directors at a meeting of the directors specifically called for that purpose may suspend that Director. Within 14 days of the suspension, the Directors must call a General Meeting, at which the Members may either confirm the suspension and remove the Director from office or annul the suspension and reinstate the director.

- (c) The Company in General Meeting may by resolution, subject to the Act, remove any Director from the office of Director before the end of the Director's term of office.

13.9 Vacancy

The office of a member of the Board shall become vacant if the member:

- (a) ceases to be a member of the Board by virtue of the Corporations Act;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes prohibited from being a Director of a company by reason of any order made under the Corporations Act;
- (d) becomes of unsound mind to the extent that their affairs come under protective jurisdiction or whose person or estate is liable to be dealt with in any way under the law relating to mental health or possesses any medical conditions which preclude the Director from fulfilling their duties as a Director;
- (e) resigns their office by notice in writing to COSA;
- (f) is absent meetings for four (4) months or two (2) consecutive meetings without the prior approval of the Board;
- (g) holds any office of profit under COSA;
- (h) shall be guilty of any conduct which in the opinion of the Board is unbecoming of a member of the Board or prejudicial to the interests of COSA pursuant to sub-clause 13.8;
- (i) is directly or indirectly interested in any contract or proposed contract with COSA or has a material personal interest in a matter that relates to the affairs of the Company and fails to declare the nature of the interest in the manner required by the Corporations Act

PROVIDED ALWAYS THAT nothing in this Clause shall affect the operation of Clause 3 of the Constitution of COSA.

14. POWERS AND DUTIES OF THE BOARD

14.1 COSA Affairs to be Managed by the Board

- (a) The business of COSA shall be managed by the Board who may pay all expenses incurred in promoting and registering COSA, and may exercise all such powers of COSA as are not, by the Corporations Act or by the provisions of this Constitution, required to be exercised by COSA in General Meeting.
- (b) All acts done by any meeting of the Board (or of a committee, a delegate or by any person acting authoritatively as a Director) are valid and effective even if it is afterwards discovered that there was some defect in the appointment, election or qualification of any of them or that any of them were disqualified or had vacated office or the continuance of the appointment of the director is invalid because the Company, the Board, committee, delegate or Director did not comply with the Constitution any provision of the Act or Board sanctioned regulation or by-law.
- (c) Any member(s) shall, by written submission addressed to the Chairman through the Secretary, be permitted to submit advice, counsel, comments, feedback and express opinions regarding any governance control and strategic direction policy matters dealt with by the Board.

14.2 COSA Executive Officer

1. The Board shall appoint an Executive Officer who shall at all times be responsible to and shall report to the Board.
2. The Board may give the Executive Officer any of the powers conferred on it by this Constitution, subject to the Board's discretion, to any time period, specific purposes and any other terms and restrictions.
 - (a) The terms and conditions of the employment, delegated authorities, responsibilities, specific duties and restrictions of the Executive Officer shall be determined, outlined, and when required, reviewed by its resolution and by instrument in writing by the Board.
 - (b) All or any of these powers may be given collaterally with, or to the exclusion of the powers of Board and may be revoked or varied by the Board.
3. The Executive Officer shall:
 - (a) be entitled to attend all meetings of the Company and to attend all Board meetings (pursuant to clause 15), excluding in camera sessions unless requested to be present, and to participate in any discussions relating to any question or motion before such meetings, but shall not be entitled to vote on any Board motion;

- (b) have access to all Board documents and minutes, excluding minutes of in camera sessions unless provided by the Board, and shall receive notices of all Board meetings; and
- (c) not be a Board member of the Board, nor count towards a quorum of the Board for the purposes of sub clause 15.4.

14.3 COSA Office Bearers

The office bearers of the Company are:

- (a) the President
- (b) the President-Elect
- (c) the Secretary; and
- (d) the Executive Officer

14.4 Financial Transactions and Delegations

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all payments (which may include electronic fund transfers, writing cheques, use of credit cards, payment of cash and any other lawful means of disbursement of funds) by the Company, and all receipts for money paid to COSA, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by any two (2) members of the Board or in such other manner as the Board from time to time determines. The Board may determine that cheques, promissory notes, drafts, bills of exchange and other negotiable instruments where the face value is less than a certain sum, can be executed by one member of the Board. The Board may also determine that execution be delegated to one or more nominees.

14.5 Minutes to be Kept

The Board shall cause minutes to be made of:

- (a) the names of members of the Board present at all meetings of COSA and of the Board; and
- (b) all proceedings at all meetings of COSA and of the Board.

14.6 Minutes to be Signed by Chair

Such minutes shall be signed by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting, or if the minutes are unavailable at the next meeting then at the earliest opportunity afforded by a subsequent meeting.

15. PROCEEDINGS OF THE BOARD

15.1 Board Meetings

- (a) The Board shall hold all Board meetings as “in camera sessions” (private), but may invite, at their own discretion, any persons to attend any part of the Board meeting and be invited to speak on agenda items by permission of the Chairman to provide reports, advice, counsel and information on matters as requested by Board members.
- (b) The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. A member of the Board may at any time and the Secretary shall on the requisition of a member of the Board summon a meeting of the Board. The Board may meet personally or through any available means of electronic communication means as the Board may determine.
- (c) The Board shall meet between 6 and 8 times per year, or as otherwise frequently as the Board sees fit for the proper and dutiful conduct of business.

15.2 Board to Decide by Majority

Questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the members of the Board shall for all purposes be deemed a determination of the Board. In case of an equality of votes the Chair of the meeting shall have a second or casting vote.

15.3 Conflict of Interest

Any Director who has any direct or indirect conflict of interest or pecuniary interest in any matter or proposed matter (being material personal interest in a financial, contractual or other related matter), being considered by the Board shall, as soon as the member becomes aware of such an interest, disclose the nature and extent of such interest to the Board and any such disclosure shall be recorded in the Minutes of the Board meeting at which such disclosure is made and the Director concerned shall not take part in any deliberations or decisions of the Board with respect to that matter unless the board decide otherwise as permitted to do so by the Corporations Act [s.195].

15.4 Quorum for Board Meetings

The quorum necessary for the transaction of the business of the Board shall be a majority of Directors. If at the time of a Board meeting the current membership is an even number, the quorum will be a majority plus one.

15.5 Board may continue to act notwithstanding a vacancy

The continuing members of the Board may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to these regulations as the necessary quorum of the Board, the continuing member or members may act for the purpose of increasing the number of members of

the Board to that number or summoning a General Meeting of COSA but for no other purpose.

15.6 Chair of Meetings

The Chair shall preside at every meeting of the Board, or if there is no Chair or if at any meeting he is not present within ten (10) minutes after the time appointed for holding the meeting, the Deputy Chair shall be Chair. If the Deputy Chair is not present at the meeting then the members may choose one of their number to be Chair of the meeting.

15.7 Board may Delegate

The Board may delegate any of its powers and or functions as per the Corporations Act 2011 [s.198D] to a committee, director, employee or any other person (not being duties imposed on the Board as the Directors of the Company by the Act or the general law or this power of delegation) and to make and impose upon such delegates such rules and regulations and vary them from time to time as the Board thinks fit.

15.8 Validation of Acts

All acts done by any meeting of the Board or of a Committee or by any person acting as a member of the Board or of a Committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member of the Board or of a Committee or person acting as aforesaid or that the members of the Board or of a Committee or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Board or of a Committee as the case may be.

15.9 Flying, Circular or Written Resolutions

A resolution in writing signed by all the members of the Board for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more members of the Board.

16. SECRETARY

- (a) The Secretary shall in accordance with the Corporations Act [s.204D] be appointed by the Board for such term, at such remuneration and upon such conditions as it thinks fit and any Secretary so appointed may be removed by it.
- (b) The Secretary shall not be a Director of the Company.

17. ACCOUNTS

17.1 Proper Accounts to be Kept

The Board shall cause proper accounting and records to be kept and shall distribute copies of the financial accounts (including every document required by law to be

attached thereto) accompanied by a copy of the Auditor's report thereon as required by the Corporations Act [s.308] provided, however, that the Board shall cause to be made out and laid before each Annual General Meeting a balance sheet and profit and loss account made up to date not more than five (5) months before the date of the meeting.

17.2 Inspection of Records

The Board shall from time to time determine at what times and places and under what conditions or regulations the accounting and other records of COSA shall be open to the inspection of members not being members of the Board, and no member (not being a member of the Board) shall have any right of inspecting any account or book or paper of COSA except as conferred by statute or by this Constitution or authorised by the Board or by COSA in General Meeting.

18. AUDIT

A properly qualified Auditor or Auditors shall be appointed and the remuneration for their services fixed and duties regulated in accordance with Division 6, 2M4 of the Corporations Act [s.327B] and this Constitution.

19. NOTICES

19.1 Method of Giving Notices

A notice may be given by COSA to any Member:

- (a) personally; or
- (b) by sending it by post to the Member's registered address, or (if the member has no registered address within the State) to the address, if any, within the State supplied by the Member to COSA for the giving of notices to the member: where a notice is sent by post, service of the notice shall be deemed to be effected in the case of a notice of a meeting 3 days after it is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post; or
- (c) by sending it to the fax number or electronic address (if any) nominated by the Member. A notice sent by fax or other electronic means is deemed to be given on the business day after it is sent.

19.2 Notices of General Meetings

Notice of every General Meeting shall be given in any manner hereinbefore authorised to:

- (a) every Member except those Members who (having no registered address) have not supplied to COSA an address for the giving of notices to them; and
- (b) the Auditor or Auditors for the time being of COSA; and

- (c) each member of the Board.

20. COMMON SEAL

20.1 Board to Keep Seal Safe

The Board may provide for the safe custody of the seal if COSA has a seal. The seal shall only be used by the authority of the Board, or of a committee of the Board authorised by the members of the Board to authorise the use of the seal. Every document to which the seal is affixed shall be signed by a member of the Board and countersigned by another member of the Board, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.

20.2 Method of Execution without Seal

The Company may execute a document without using the seal if the document is signed by:

- (a) two members of the Board; or
- (b) a member of the Board and the Secretary

21. INDEMNITY AND INSURANCE

21.1 Persons to whom sub-clauses 21.2 and 21.4 apply

Sub-clauses 21.2 and 21.4 apply to:

- (a) each person who is or has been a Director or Secretary of COSA; and
- (b) any other officers or former officers of COSA or of its related bodies corporate that the Directors decide in each case.

21.2 Indemnity

COSA must

- (a) indemnify; and
- (b) if requested by a person to whom this sub-clause 21.2 applies, enter into a deed indemnifying,

on a full indemnity basis and to the full extent permitted by law, each person to whom sub-clause 21.2 applies for all losses or liabilities incurred by the person as an officer of COSA or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

- (c) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or

- (d) in connection with an application, in relation to those proceedings, in which the court grants relief to the person under the Act.

21.3 Extent of Indemnity

The indemnity in sub-clause 21.2:

- (a) is a continuing obligation and is enforceable by a person to whom sub-clause 21.2 applies even though that person has ceased to be an officer of COSA or of a related body corporate; and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

21.4 Insurance

The COSA may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this sub-clause 21.4 applies against any liability incurred by the person as an officer of COSA or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

21.5 Savings

Nothing in sub-clauses 21.2 or 21.4:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any loss or liability referred to in those clauses; or
- (b) limits the capacity of COSA to indemnify or provide insurance for any person to whom those clauses do not apply.

22. RULES, REGULATIONS AND BY LAWS

The Board may by resolution make and or prescribe (and revoke, amend and add to) any policies, regulations, rules, by laws or standing orders with respect to any matter that is necessary or convenient for the carrying out of its powers or the furtherance of the objects of COSA as delegated under this Constitution.

23. GOVERNANCE REVIEW

The Board shall carry out an independent review of this Constitution and governance processes of the Board at least once every five years or otherwise as and when deemed necessary for the purpose of ensuring that the governance system meets contemporary standards and the strategic needs of the organisation.

24. WINDING UP

24.1 Limit on Distribution of Surplus

If, on the winding up or dissolution of COSA, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to an institution:

- (a) which is charitable at law; and
- (b) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in clause 3; and
- (c) gifts to which can be deducted under Division 30 of the Income Tax Assessment Act 1997 due to it being characterised as a charitable institution whose principal activity is to promote the prevention or control of disease in human beings as described in item 1.1.6 of section 30-20 of Income Tax Assessment Act 1997.

24.2 Institution to be determined by COSA

The identity of the institution referred to in sub-clause 24.1 must be decided by the Board at or before the time of winding up or dissolution of COSA and, if the Board cannot decide, by the Supreme Court of the State.

25. ALTERING THIS CONSTITUTION

Subject to the provisions of the Act, the Constitution may be altered, rescinded or added to only by a special resolution of the Company at a General Meeting. Such amendments must then be appropriately submitted to the Australian Securities and Investments Commission.