

# **Constitution**

## **Indigenous Community Volunteers Limited**

ACN 093 123 418  
Corporations Act 2001  
Company Limited by Guarantee

## **Contents Page**

1. PRELIMINARY	2
2. MEMBERS	3
3. PROCEEDINGS OF MEMBERS	4
4. GIFT FUND	10
5. DIRECTORS	11
6. OFFICERS	12
7. POWERS OF THE COMPANY AND DIRECTORS	14
8. PROCEEDINGS OF DIRECTORS	15
9. NOTICES	18
10. WINDING UP	20
11. DEFINITIONS AND INTERPRETATION	20
12. REPLACEABLE RULES DISPLACED	22

# 1. Preliminary

## *1.1 Name and nature of the Company*

- (a) The name of the Company is Indigenous Community Volunteers Limited.
- (b) The Company is a public company limited by guarantee.
- (c) The liability of the Members is limited.
- (d) Each Member undertakes to contribute an amount not exceeding \$20 to the property of the Company if the Company is wound up:
  - (i) at a time when that person is a Member; or
  - (ii) within one year of the time that person ceased to be a Member, for:
    - (iii) payment of the debts and liabilities of the Company contracted before that person ceased to be a Member;
    - (iv) payment of the costs, charges and expenses of winding up the Company; and
    - (v) adjustment of the rights of the contributories among themselves.

## *1.2 Objects*

- (a) With the immediate aim of making a tangible contribution to the lives, goals and circumstances of Aboriginal and Torres Strait Islander people by enabling them to benefit and grow from opportunities and assets available to them and overcome social and economic disadvantage; and with the equally important aim of increasing cooperation, understanding and Reconciliation between Aboriginal and Torres Strait Islander communities and the wider Australian community, the Company's objects are to:
  - (i) undertake community development and human development programs in partnership with Aboriginal and Torres Strait Islander people to overcome disadvantage including through the relief of poverty, destitution, distress, suffering and misfortune, and through helping them to harness opportunities and build on the assets and opportunities that they have;
  - (ii) link Aboriginal and Torres Strait Islander people with volunteers that have community and human development, professional, business management, or other technical expertise that they can share;
  - (iii) provide opportunities for Australians to make a voluntary contribution to Aboriginal and Torres Strait Islander community and human development by working in partnership with Aboriginal and Torres Strait Islander people; and
  - (iv) undertake fundraising activities in, and seeking in-kind contributions from, the wider Australian community to support the work of the Company.

### *1.3 Application of Income and Capital*

(a) The assets and income of the Company shall be applied solely in furtherance of the objects of the Company contained in clause 1.2 and subject to clause 1.3(b), the Company must not make any distributions to any Members, whether by way of dividend, surplus on winding up or otherwise.

(b) Clause 1.3(a) does not prevent the Company, with the approval of the Directors and acting in good faith, paying:

- (i) reasonable remuneration to a Director or an employee of the Company irrespective of whether that Director or employee is also a Member of the Company;
- (ii) reasonable remuneration in consideration for services rendered or goods supplied by a Member to the Company in the ordinary course of business;
- (iii) interest, at a reasonable rate, on money borrowed by the Company from a Member;
- (iv) out-of-pocket expenses properly incurred for, or on behalf of, the Company by a Director or an employee of the Company irrespective of whether that Director or employee is also a Member of the Company.

### *1.4 Changes to Constitution*

Except for any alteration necessary to enable the Company to comply with the fundraising or collections legislation of any State or Territory of Australia, notwithstanding anything to the contrary in this Constitution, where it is proposed to make any material change to clauses 1.2, 1.3, 4, 5.2 and 10 of this Constitution the Commissioner of Taxation must first be notified in writing of the proposed changes.

## **2. Members**

### *2.1 Applications*

(a) Any person who agrees in writing to be bound by and to comply with this Constitution is eligible to apply to become a Member.

(b) Application for membership must be made on a form approved by the Directors.

(c) The Directors will determine whether an applicant may become a Member, without giving any reason for that determination.

(d) On approval of the applicant to membership the Secretary shall cause the applicant's name and such other particulars as may be required to be entered in the Register.

## *2.2 Rights, Privileges and Duties*

The rights of a Member are not transferable whether by operation of law or otherwise.

## *2.3 Ceasing to be a Member*

A person will cease to be a Member if:

- (a) that person resigns in accordance with clause 2.4;
- (b) a Cessation Event occurs in respect of that person; or
- (c) that person is expelled under clause 2.5.

## *2.4 Resignation*

- (a) A Member may resign as a Member by giving the Company notice in writing.
- (b) Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.

## *2.5 Expulsion*

The Directors may resolve to expel a Member if, in their absolute discretion, they decide it is not in the interests of the Company for the person to remain a Member.

# **3. Proceedings of Members**

## *3.1 Who can call meetings of Members*

- (a) Subject to the Corporations Act, the Directors may call a meeting of Members at a time and place as the Directors resolve.
- (b) The Directors must call and arrange to hold a general meeting on the request of Members made in accordance with the Corporations Act.
- (c) The Members may call and arrange to hold a general meeting as provided by the Corporations Act.

## *3.2 How to call meetings of Members*

- (a) Notice of a meeting of Members must be given to each Member, each Director and any auditor of the Company.

- (b) A notice of a meeting of Members must:
- (i) set out the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (ii) except as provided by the Corporations Act, state the general nature of the business of the meeting; and
  - (iii) set out or include any other information or documents specified by the Corporations Act.
- (c) Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid if either or both a person does not receive notice of the meeting or the Company accidentally does not give notice of the meeting to a person.
- (d) A Member's attendance at a meeting waives any objection that person may have to:
- (i) a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
  - (ii) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

### *3.3 Quorum*

- (a) No business may be transacted at a meeting, except the election of a chairperson and the adjournment of a meeting, unless a quorum of Members is present when the meeting proceeds to business.
- (b) A quorum for a meeting of Members is a majority of the Members entitled to vote at that meeting.
- (c) In determining whether a quorum for a meeting of Members is present:
- (i) where a person is present as a Member and as a proxy or attorney of another Member, that person is counted separately for each appointment provided that there is at least one other Member present; and
  - (ii) where a person is present as a proxy or attorney for more than one Member, that person is counted separately for each appointment provided that there is at least one other Member present.
- (d) A quorum for a meeting of Members must be present for the duration of the business of the meeting.
- (e) If a quorum is not present within 30 minutes after the time appointed for a meeting of Members:
- (i) if the meeting was called under clause 3.1(b) or clause 3.1(c), the meeting is dissolved; and

(ii) any other meeting is adjourned to the date, time and place as the Directors may, by notice to the Members, appoint.

### *3.4 Chairperson*

(a) The chairperson (whose turn it is to chair the meeting) must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair the meeting of Members.

(b) If the chairperson (whose turn it is to chair the meeting) is not available to chair a meeting of Members in accordance with clause 3.4(a):

- (i) the other chairperson, if present, must chair the meeting; or
- (ii) if the other chairperson is not present, the Members present may by majority vote elect one of their number to chair the meeting.

### *3.5 General conduct of meetings*

The chairperson of a meeting of Members is responsible for the general conduct of that meeting and for determining any procedural matters at that meeting.

### *3.6 Resolutions of Members*

(a) Subject to the Corporations Act, a resolution is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than against the resolution.

(b) Unless a poll is requested in accordance with clause 3.7, a resolution put to the vote at a meeting of Members must be decided on a show of hands.

(c) Unless a poll is duly demanded, a declaration by the chairperson of a meeting of Members that a resolution has on a show of hands been passed, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the meeting, are sufficient evidence of that fact, unless proved incorrect.

### *3.7 Polls*

(a) A poll may be demanded on any resolution at a meeting of Members except:

- (i) the election of a chairperson of that meeting; or
- (ii) the adjournment of that meeting.

(b) A poll on a resolution at a meeting of Members may be demanded by:

- (i) at least three Members present and entitled to vote on that resolution; or
- (ii) the chairperson of that meeting.

- (c) A poll on a resolution at a meeting of Members may be demanded:
  - (i) before a vote on that resolution is taken; or
  - (ii) before, or immediately after, the result of the vote on that resolution on a show of hands is declared.
- (d) A demand for a poll may be withdrawn.
- (e) A poll demanded on a resolution at a meeting of Members must be taken in the manner and at the time and place the chairperson directs.
- (f) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.
- (g) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

### *3.8 Adjourned, cancelled and postponed meetings*

- (a) Subject to the Corporations Act, the chairperson:
  - (i) may; and
  - (ii) must, if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so; adjourn a meeting of Members to any day, time and place.
- (b) The Company is only required to give notice of an adjourned meeting if the period of adjournment exceeds the Prescribed Period.
- (c) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
- (d) Subject to the Corporations Act and this clause 3.8, the Directors may at any time postpone or cancel a meeting of Members by giving notice, not less than 5 Business Days before the time at which the meeting was to be held, to each person to whom the notice of the meeting was required to be given.
- (e) A general meeting called under clause 3.1(b) must not be cancelled by the Directors without the consent of the Members who requested the meeting.
- (f) A general meeting called under clause 3.1(c) must not be cancelled or postponed by the Directors without the consent of the Members who called the meeting.
- (g) A notice adjourning or postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in two or more places, the technology that will be used to facilitate this).

### *3.9 Number of votes*

- (a) Subject to this Constitution and any rights or restrictions attached to a class of Membership, on a show of hands or on a poll at a meeting of Members, every Member present has one vote.
- (b) In the case of an equality of votes on a resolution at a meeting of Members, the chairperson of that meeting has a casting vote on that resolution both on a show of hands and on a poll, in addition to any vote the chairperson has in respect of that resolution.
- (c) A Member present at a meeting of Members is not entitled to vote on a resolution at that meeting where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction.
- (d) The Company must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Members where that person is not entitled to vote on that resolution.
- (e) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members is suspended while the Member is present in person at that meeting.

### *3.10 Objections to qualification to vote*

- (a) An objection to the qualification of any person to vote at a meeting of Members may only be made:
  - (i) before that meeting, to the Directors; or
  - (ii) at that meeting (or any resumed meeting if that meeting is adjourned), to the chairperson of that meeting.
- (b) Any objection under clause 3.10(a) must be decided by the Directors or the chairperson of the meeting of Members (as the case may be), whose decision, made in good faith, is final and conclusive.

### *3.11 Proxies, Attorneys, Representatives*

- (a) A Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:
  - (i) in person or where a member is a body corporate by its representative;
  - (ii) by not more than one proxy; or
  - (iii) by attorney.
- (b) A proxy of a Member must be another Member or the chairperson of the meeting.
- (c) A Member may appoint a proxy, attorney or representative for:
  - (i) all meetings of Members; or
  - (ii) anyone or more specified meetings of Members.

- (d) An instrument appointing a proxy or attorney is valid if it is signed by the appointor or the appointor's attorney and contains:
- (i) the name and address of that Member;
  - (ii) the name of the Company;
  - (iii) the name of the proxy or attorney or the name of the office held by the proxy;
- and
- (iv) the meetings of Members at which the proxy may be used.
- (e) The chairperson of a meeting of Members may determine that an instrument appointing a proxy or attorney is valid even if it contains only some of the information specified in clause 3.11(d).
- (f) Every instrument of proxy shall be in a form approved by the Directors from time to time.
- (g) Subject to the Corporations Act, the decision of the chairperson of a meeting of Members as to the validity of an instrument appointing a proxy or attorney is final and conclusive.
- (h) Unless otherwise provided in the instrument, an instrument appointing a proxy is taken to confer authority:
- (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;
  - (ii) to speak to any proposed resolution on which the proxy may vote;
  - (iii) to demand or join in demanding a poll on any resolution on which the proxy may vote;
  - (iv) even though the instrument may refer to specific resolutions and may direct the proxy how to vote on those resolutions:
    - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
    - (B) to vote on any procedural motion, including any motion to adjourn the meeting; and
    - (C) to act generally at the meeting; and
  - (v) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (i) The Company must only send a form of proxy to Members in respect of a meeting of Members which provides for the Member:
- (i) to appoint a proxy of the Member's choice, but may specify who is to be appointed as proxy if the Member does not choose; and
  - (ii) to vote for or against each resolution, and may also provide for the Member to abstain from voting on each resolution.

(j) If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is:

- (i) the person specified by the Company in the form of proxy in the case the Member does not choose; or
- (ii) if no person is so specified, the chairperson of that meeting.

(k) A Member may specify the manner in which a proxy or attorney is to vote on a particular resolution at a meeting of Members but, unless specified, the proxy or attorney may vote as he or she thinks fit.

(l) An appointment of proxy or attorney for a meeting of Members is effective only if the Company receives the instrument appointing the proxy or attorney and the authority (if any) under which the instrument is signed or a certified copy of the authority not less than 24 hours before the time scheduled for commencement of that meeting (or any adjournment of that meeting).

(m) Unless the Company has received notice in writing before the time scheduled for the commencement or resumption of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy is, subject to this Constitution, valid even if, before the person votes, the appointing Member:

- (i) dies; or
- (ii) is mentally incapacitated;
- (iii) revokes the authority under which the proxy was appointed by a third person; or
- (iv) revokes the appointment of that person.

## **4. Gift Fund**

4.1 The Company must establish and maintain a gift fund within its books of account for the sole purpose of receiving gifts from the public to the Company for the furtherance of the Company's objects as set out in clause 1.2 (**Gift Fund**).

4.2 The Company will establish a separate bank account for the Gift Fund into which all gifts or deductible contributions to the Company and all money received because of the gifts or deductible contributions to the Company must be deposited. No other money is to be deposited into this bank account.

4.3 The Company must ensure that receipts for donations of property from the public to the Company are issued to the donor in accordance with Tax Law.

4.4 If the Company is wound up or it ceases to be a deductible gift recipient in terms of ITAA 97, any property then in the Gift Fund must be transferred to another gift fund in accordance with the provisions of clause 10.

## **5. Directors**

### *5.1 Number of Directors*

(a) The Company may from time to time by resolution passed at a meeting of Members increase or reduce the number of Directors.

(b) Unless and until the Company shall otherwise resolve the minimum number of Directors shall be 5 and the maximum 10.

### *5.2 Composition of the Board of Directors*

The Board of Directors will include a majority of persons who have a degree of responsibility to the community as a whole (e.g. lawyer, medical practitioner, accountant, justice of the peace, a person officially charged with spiritual functions by a church, a person who has received formal recognition from government for services to the community or a person known to a broad section of the community because they perform a public function).

### *5.3 Appointment and Retirement of Directors*

(a) In the event the number of directors is below the maximum number determined in accordance with clause 5.1(b) the Board of Directors may appoint a new Director or Directors.

(b) At each AGM, as near as possible to one-third (rounded up to the nearest whole number) of the Directors, being those who have been Directors of the Company for the longest period (calculated from their most recent appointment) must retire as Directors of the Company. Where more than one-third of Directors have served for the same period of time, the Directors who must retire may be chosen by ballot or any other method approved by the Board of Directors;

(c) For the purposes of clause 5.3(b), a Director who is appointed under clause 5.3(a) or 5.4(b) must retire at the AGM immediately following their appointment and will form part of the one-third of Directors who must retire at that AGM in accordance with clause 5.3(b);

(d) Subject to clause 5.3(g) a Director who is appointed under clause 5.3(a) or 5.4(b) or who retires at an AGM is eligible for re-appointment;

(e) Any person, including Directors retiring in accordance with clauses 5.3(b) or 5.3(c) who wish to be considered for appointment as a Director at an AGM must prior to the AGM advise the Company in writing of their intention to offer themselves for appointment as a Director and where they have not already done so, provide a written consent to act as director of the Company;

(f) Following the retirement of Directors in accordance with clauses 5.3(b) or 5.3(c) the Members may consider and appoint Directors at the AGM based on notices received by the Company in accordance with clause 5.3(e);

(g) Notwithstanding anything to the contrary in this Constitution, a Director may only hold the office of a Director for a total period of nine years, after which they are no longer eligible for re-appointment as a Director;

(h) The provisions and time limits set out in this clause 5.3 apply from the date of adoption of this Constitution. For the avoidance of doubt, the time any Director has held office prior to adoption of this Constitution shall be disregarded for the purposes of this clause 5.3.

#### *5.4 Vacation of office*

(a) A Director may resign from office by giving the Company notice in writing.

(b) Subject to the Corporations Act and clause 5.4(c), in addition to the Members power to appoint Directors at an AGM the Company in general meeting may, by ordinary resolution, remove any Director and, if thought fit, appoint another person in place of that Director.

(c) A Director ceases to be a Director if the Corporations Act so provides or immediately upon that Director:

- (i) becoming of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health;
- (ii) being absent without the consent of the Directors from all meetings of the Directors held during a period of six months and the other Directors resolving that their office be vacated;
- (iii) resigning or being removed under this Constitution; or
- (iv) committing any act of bankruptcy or calling or threatening to call any meeting with a view to entering into a composition or arrangement with their creditors.

## **6. Officers**

### *6.1 Chief Executive Officer*

(a) The Directors may appoint a person as the Chief Executive Officer, for any period and on any terms (including as to remuneration) as the Directors resolve.

(b) Subject to any agreement between the Company and the Chief Executive Officer, the Directors may remove or dismiss the Chief Executive Officer at any time, with or without cause.

(c) The Directors may delegate any of their powers (including the power to delegate) to the Chief Executive Officer.

(d) The Directors may revoke or vary:

- (i) the appointment of the Chief Executive Officer; or
- (ii) any power delegated to the Chief Executive Officer.

(e) The Chief Executive Officer must exercise the powers delegated to him or her in accordance with any directions of the Directors.

(f) The exercise of a delegated power by the Chief Executive Officer is as effective as if the Directors exercised the power.

### *6.2 Secretary*

(a) The Directors may appoint a person as the Secretary, for any period and on any terms (including as to remuneration) as the Directors resolve.

(b) Subject to any agreement between the Company and the Secretary, the Directors may remove or dismiss the Secretary at any time, with or without cause.

(c) The Directors may revoke or vary the appointment of the Secretary.

### *6.3 Validity of acts*

An act done by a person acting as the Chief Executive Officer or the Secretary is not invalidated merely because of:

(a) a defect in the person's appointment as Chief Executive Officer or Secretary; or

(b) the person being disqualified to be the Chief Executive Office or Secretary, if that circumstance was not known by the person when the act was done.

### *6.4 Indemnity and insurance*

(a) To the extent permitted by law, the Company must indemnify each Relevant Officer against a Liability of that person including but not limited to Legal Costs of that person.

(b) To the extent permitted by the law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.

(c) To the extent permitted by the law, the Company may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against a Liability of that person including but not limited to Legal Costs of that person.

- (d) To the extent permitted by law, the Company may enter into an agreement or deed with a Relevant Officer under which the Company must do all or any of the following:
- (i) keep books of the Company and allow that officer, and his or her advisers, access to those books on the terms agreed;
  - (ii) indemnify that officer against any Liability of that officer;
  - (iii) make a payment (whether by way of advance, loan or otherwise) to that officer in respect of Legal Costs of that officer; and
  - (iv) keep that officer insured in respect of any act or omission by that officer, while a Relevant Officer, on the terms agreed (including as to payment of all or part of the premium for a contract of insurance).
- (e) The indemnities in this clause 6.4:
- (i) are continuing obligations and are enforceable by a person to whom clause 6.4 applies even though that person has ceased to be an officer of the Company; and
  - (ii) operates only to the extent that the loss or liability is not covered by insurance.

## **7. Powers of the Company and Directors**

### *7.1 General powers*

- (a) The Company has the powers set out in the Corporations Act, but only to the extent necessary or convenient to carry out, or incidental to carrying out the Company's objects.
- (b) The business of the Company is to be managed by, or under the direction of, the Directors.
- (c) The Directors may exercise all the powers of the Company except any powers that the Corporations Act or this Constitution requires the Company to exercise in general meeting.

### *7.2 Committees and delegates*

- (a) The Directors may delegate any of their powers (including this power to delegate) to a committee of anyone or more Directors, the Chief Executive Officer, an employee of the Company or a Member.
- (b) The Directors may revoke or vary any power delegated under clause 7.2(a).
- (c) A committee or delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (d) The exercise of a delegated power by the committee or delegate is as effective as if the Directors exercised the power.

### *7.3 Attorney or agent*

- (a) The Directors may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) as the Directors resolve.
- (b) The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- (c) The Directors may revoke or vary:
  - (i) an appointment under clause 7.3(a); or
  - (ii) any power delegated to an attorney or agent.

## **8. Proceedings of Directors**

### *8.1 Written resolutions of the Directors*

- (a) The Directors may pass a resolution, without a meeting of the Directors being held, if a majority of the Directors who would have constituted a quorum at a meeting of Directors held to consider that thing or resolution and entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document referred to in clause 8.1(a) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.
- (c) A Director may signify assent to a document under this clause 8.1 by signing the document or by notifying the Company of that assent by any technology including telephone.
- (d) Where a Director signifies assent to a document under clause 8.1(c) other than by signing the document, the Director must, by way of confirmation, sign the document before, or at, the next meeting of Directors attended by that Director.
- (e) The resolution which is the subject of a document under clause 8.1(b) is not invalid if a Director does not comply with clause 8.1(d).

### *8.2 Meetings of the Directors*

- (a) The Directors may meet, adjourn and otherwise regulate their meetings as they think fit.

- (b) A meeting of Directors may be held using any technology consented to by all Directors.
- (c) The consent of the Directors under clause 8.2(b) may be for all meetings of the Directors or for anyone or more specified meetings.
- (d) A Director may withdraw his or her consent under clause 8.2(b) within a reasonable period before the meeting.
- (e) If a meeting of the Directors is held in two or more places linked together by any technology:
  - (i) a Director present at one of the places is taken to be present at the meeting unless and until that Director states to the chairperson of the meeting that he or she is discontinuing participation in the meeting; and
  - (ii) the chairperson of that meeting may determine at which place the meeting will be taken to have been held.

### *8.3 Who can call meetings of the Directors*

- (a) A Director may call a meeting of the Directors at any time.
- (b) On request of any Director, a Secretary must call a meeting of the Directors.

### *8.4 How to call meetings of the Directors*

- (a) Notice of a meeting of the Directors must be given to each Director, except a Director on leave of absence approved by the Directors.
- (b) A notice of meeting of the Directors must:
  - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
  - (ii) need not state the nature of the business of the meeting.
- (c) The Company may give notice of a meeting at any time prior to the meeting.
- (d) A Director may waive notice of a meeting of the Directors by notice in writing to the Company to that effect.
- (e) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate any thing done or resolution passed at the meeting if:
  - (i) the non-receipt or failure occurred by accident or error;
  - (ii) before or after the meeting, the Director:
    - (A) has waived or waives notice of that meeting under clause 8.4(d); or

- (B) has notified or notifies the Company of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means; or
- (iii) the Director attended the meeting.

### *8.5 Quorum*

- (a) A quorum for a meeting of the Directors is:
- (i) a majority of Directors then appointed; or
  - (ii) such greater number as the Directors have fixed.
- (b) A quorum for a meeting of the Directors must be present at all times during the business of the meeting.

### *8.6 Chairperson*

- (a) The Directors must elect two Co-Chairs from their number, one of which must be Indigenous and one of which must be non-Indigenous. The Co-Chairs will alternately act as chairperson of all meetings of Directors and Members until they cease to hold that office.
- (b) The Directors may remove either or both of the Co-Chairs at any time.
- (c) The chairperson whose turn it is to chair the meeting of Directors must if present within 15 minutes after the time appointed for the holding of the meeting and willing to act, chair the meeting of Directors.
- (d) If no chairperson is available to chair a meeting of Directors in accordance with clause 8.6(c):
- (i) the other chairperson, if present, must chair the meeting; or
  - (ii) if the other chairperson is not present, the Directors present may by majority vote elect one of their number to chair the meeting.

### *8.7 Resolutions of the Directors*

- (a) A resolution of the Directors is passed if more votes are cast in favour of the resolution than against it.
- (b) Subject to the Corporations Act and this clause 8.7, each Director has one vote on a matter arising at a meeting of the Directors.
- (c) Subject to the Corporations Act, in case of an equality of votes on a resolution at a meeting of the Directors, the chairperson of that meeting has a casting vote on that resolution both on a show of hands and on a poll, in addition to any vote the chairperson has in respect of that resolution.

### *8.8 Validity of acts*

An act done by a person acting as a Director, at a meeting of Directors, or at a committee of Directors, attended by a person acting as a Director, is not invalidated merely because of (as relevant):

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or
- (c) the person not being entitled to vote;

if that circumstance was not known by the person, the Directors or the committee (as applicable) when the act was done.

## **9. Notices**

### *9.1 Notice to Members*

The Company may give notice to a Member:

- (a) by hand delivery;
- (b) by sending it by prepaid post to the address of the Member in the Register or the alternative address (if any) nominated by that Member; or
- (c) by sending it to the fax number or electronic address (if any) nominated by that Member.

### *9.2 Notice to Directors*

The Company may give notice to a Director:

- (a) by hand delivery;
- (b) by sending it by prepaid post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) by sending it to the fax number or electronic address (if any) nominated by that person; or
- (d) by any other means agreed between the Company and that person.

### *9.3 Notice to the Company*

A person may give notice to the Company:

- (a) by leaving it at the registered office of the Company;
- (b) by sending it by prepaid post to the registered office of the Company;
- (c) by sending it to the fax number at the registered office of the Company;
- (d) by sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) by any other means permitted by the Corporations Act.

### *9.4 Time of service*

- (a) A notice sent by prepaid post to an address within Australia is taken to be given:
  - (i) in the case of a notice of meeting, one Business Day after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by prepaid post to an address outside Australia is taken to be given:
  - (i) in the case of a notice of meeting, three Business Days after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by fax or electronic means is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number or electronic address.
- (d) The giving of a notice by prepaid post is sufficiently proved by evidence that the postage was paid and the notice:
  - (i) was addressed to the correct address of the recipient; and
  - (ii) was placed in the post.

### *9.5 Signatures*

The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.

## **10. Winding up**

### *10.1 Transfer of surplus property*

If, on the winding up of the Company, any property remains after the satisfaction of all its debts and liabilities, the Members must by ordinary resolution determine one or more authorities, funds or institutions:

- (a) whose constitution or rules require them to pursue only objects similar to those in clause 1.2 and to apply their income in promoting those objects;
- (b) whose constitution prohibits them from making distributions to their members to at least the same extent as in clause 1.3, and
- (c) who are charitable at law and gifts to which are deductible under Division 30 of the ITAA 97,

and the Company must give and transfer the remaining property to one or more such authorities, funds or institutions.

### *10.2 Application to Supreme Court*

If the Members fail to make a determination under clause 10.1 within 20 Business Days of the winding up of the Company, the liquidator must make an application to the Supreme Court of the Australian Capital Territory to make that determination.

### *10.3 Transfer Process*

Where gifts to an authority, fund or institution are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30-B are satisfied, the gift and transfer must be made in accordance with those conditions.

## **11. Definitions and Interpretation**

### *11.1 Definitions*

In this Constitution:

**AGM** means the Annual General Meeting of Members.

**ASIC Register** has the same meaning as the term "register" has under the Corporations Act.

**Business Day** means a day except a Saturday, Sunday or public holiday in the Australian Capital Territory.

**Cessation Event** means, in respect of a Member:

- (a) the death or bankruptcy of that Member; or
- (b) that Member becoming of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health; or
- (c) where the Member is also a Director of the Company, upon the Member ceasing to be a Director (unless the Board of Directors otherwise approves the Member continuing as a Member after ceasing to be a Director); or
- (d) where a Member no longer resides at their last address advised to the Company and the Company is unable to reasonably locate the Member.

**Chief Executive Officer** means the person appointed for the time being under clause 6.1, being an employee (whether full-time or part-time) of the Company.

**Company** means the Indigenous Community Volunteers Limited.

**Constitution** means the Constitution of the Company for the time being in force and a reference to a particular clause is a reference to a particular clause in this Constitution.

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

**Director** means a director of the Company.

**ITAA 97** means the Income Tax Assessment Act 1997 (Cth).

**Legal Costs**, of a person, means legal costs incurred by that person in defending an action for a Liability of that person.

**Liability** of a person, means a liability incurred by that person as an officer of the Company.

**Member** means a member of the Company.

**Office** means the registered office of the Company.

**Prescribed Period** means 21 days.

**Register** means the register of Members kept in accordance with the Corporations Act.

**Relevant Officer** means a person who is, or has been, a Secretary or a Director.

**Secretary** means the company secretary of the Company.

**Tax Law** means ITAA 97 and the Income Tax Assessment Act 1936 (Cth).

### *11.2 Interpretation*

(a) In this Constitution:

- (i) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy, attorney or by representative; and
- (ii) a reference to a notice or document in writing includes a notice or document given by fax or another form of written communication.

(b) In this Constitution, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:

- (i) words importing the singular include the plural (and vice versa);
- (ii) words indicating a gender include every other gender;
- (iii) the word "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
- (v) the word "includes" in any form is not a word of limitation.

(c) A reference to this Constitution, is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.

(d) Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, bylaws, regulations, rules and statutory instruments (however described) issued under it.

(e) Unless the context indicates a contrary intention, in this Constitution:

- (i) an expression that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision; and
- (ii) an expression that is defined in section 9 of the Corporations Act has the same meaning as in that section.

## **12. Replaceable rules displaced**

(a) The provisions of this Constitution displace each provision of a section or subsection of the Corporations Act that applies (or would apply but for this clause) to the Company.

(b) The replaceable rules do not apply to the Company except those which operate as mandatory rules for public companies under the Corporations Act.