

**CONSTITUTION
OF
WORLD INDIGENOUS TOURISM
ALLIANCE LTD**

Australian Company Number (ACN) [insert ACN]
Australian Business Number (ABN) [insert ABN]

A company limited by guarantee

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Preliminary

1. Name of the company

The name of the **company** is
World Indigenous Tourism Alliance Ltd (the **company**).

2. Type of company

The **company** is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

3. Limited liability of full corporate members

The liability of **full corporate members** is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each **full corporate member** must contribute an amount not more than \$10 (the guarantee) to the property of the **company** if the **company** is wound up while the **full corporate member** is a **full corporate member**, or within 12 months after they stop being a **full corporate member**, and this contribution is required to pay for the:

- (a) debts and liabilities of the **company** incurred before the **full corporate member** stopped being a **full corporate member**, or
- (b) costs of winding up.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 78 and 80.

Charitable purposes and powers

6. Object

The **company's** object is to pursue the following charitable purposes:

- (a) promoting reconciliation, mutual respect and tolerance between groups of Indigenous peoples both within Australia and internationally and other peoples by:
 - i. promoting and applying universal Indigenous values and culture which foster community benefits through the sustainable stewardship of culture and environment and which engender mutual respect and beneficial partnerships between different peoples in the tourism sector;
 - ii. advancing education and understanding in the application of universal Indigenous values and culture into tourism decision-making and ensuring learning is passed onto others through:
 - A. facilitating presentations at conferences, seminars and workshops;
 - B. facilitating networking between Indigenous peoples, the tourism industry, government agencies and non-government organisations; and
 - C. providing tourism policy and planning advice from an Indigenous perspective;

- (b) celebrating the culture of Indigenous peoples as an integral part of tourism by ensuring that areas of importance to Indigenous peoples are respected and that the history of those areas are preserved and promoted for future generations through tourism; and
 - (c) promoting the recognition and development of the rights of Indigenous people with respect to their land and culture;
- in each case, for the purposes of using the promotion of Indigenous culture to foster the economic development of disadvantaged Indigenous communities and peoples.

7. Powers

Subject to clause 8, the **company** has the following powers, which may only be used to carry out its purposes set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a **company** limited by guarantee under the **Corporations Act**.

8. Not-for-profit

- 8.1 The **company** must not distribute any income or assets directly or indirectly to its **members**, except as provided in clauses 8.2 and 76.
- 8.2 Clause 8.1 does not stop the **company** from doing the following things, provided they are done in good faith:
- (a) paying a **member** for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**, or
 - (b) making a payment to a **member** in carrying out the **company's** charitable purpose(s).

9. Amending the constitution

- 9.1 Subject to clause 9.2, the **full corporate members** may amend this constitution by passing a **special resolution**.
- 9.2 The **full corporate members** must not pass a **special resolution** that amends this constitution if passing it causes the **company** to no longer be a charity.

All members

10. Who can be a member

- 10.1 A person who supports the purposes of the **company** is eligible to apply to be a **member** of the **company**.
- 10.2 In this clause, 'person' means an individual or incorporated body.

11. Rights of members

- 11.1 **Members** have the following rights:
- (a) may receive notices from the **company**;
 - (b) subject to the directors' discretion, may be appointed to any committee, working party or similar representative body of the **company**;
 - (c) may benefit from lobbying support by the **company** on issues faced by it or the Indigenous tourism industry as a whole;
 - (d) may receive invitations to attend any functions, seminars or other events held by the **company**;

- (e) are entitled to discounts to be determined by the directors from time to time to the cost of attendance at all functions, seminars and other events held by the **company**;
- (f) may be promoted by the **company** at international trade shows that the **company** attends;
- (g) may receive regular newsletters in relation to Indigenous tourism events and issues;
- (h) subject to the director's discretion, may represent the **company** on industry committees and advisory groups;
- (i) will receive a membership certificate;
- (j) subject to the director's discretion, may use the **company's** logo in the conduct of its business activities; and
- (k) will have any other rights and benefits as may be determined by the directors from time to time.

12. Membership fees

- 12.1 All **members** must pay an entrance fee upon first becoming a **member** and an annual fee each year they remain a **member** of the **company**.
- 12.2 The entrance fee for membership and the **annual fee** payable will be determined by the directors from time to time.
- 12.3 Except for the first **annual fee** payable by a new **member** in accordance with clause 12.4, all **annual fees** are due and payable in advance on 1 July each year or as otherwise determined by the directors from time to time.
- 12.4 The amount of annual fee payable by a **member** in their first year of membership will be determined by the directors.
- 12.5 The guarantee payable by **full corporate members** in accordance with clause 4 is distinct from any entrance or **annual fees** payable.

13. Failure to pay membership fees

- 13.1 If any amount owing under clause 12 remains unpaid for a period of 90 days after it falls due, the directors will send a notice to the **member** requiring payment of the outstanding amount within 14 days of the date of the notice.
- 13.2 If the amount is not paid within this 14 day period then:
 - (a) if the member is an **associate member**, at the end of the 14 day period, automatically and without further notice cease to be an **associate member**; or
 - (b) if the member is a **full corporate member**, they will be dealt with in accordance with clause 25.
- 13.3 The directors may, at their absolute discretion, reinstate an **associate member** on payment of all amounts owing in arrears under clause 12.

Associate members

14. Associate membership of the company

- 14.1 The **company** may carry on its charitable purpose with the assistance of **associate members**.
- 14.2 The number of **associate members** of the **company** is unlimited.
- 14.3 The directors may establish different classes of **associate members** of the **company** from time to time.

15. Associate membership requirements and undertaking

- 15.1 Every **associate member** must:
- (a) be approved for membership in accordance with clause 16; and
 - (b) pay their membership fee in accordance with clause 12.
- 15.2 Every **associate member** undertakes to the best of their ability to:
- (a) comply with this constitution and any regulations, policies or standards of the **company** in force from time to time; and
 - (b) promote the **object**, interests and standing of the **company**.
- 15.3 An **associate member**:
- (a) does not have the right to request the convening of, or to vote at, any general meetings of the **full corporate members** or directors meetings; and
 - (b) does not have rights to be elected to or hold the office of director.

16. Application for associate membership

- 16.1 Every application for associate membership of the **company** must:
- (a) be on a written form approved by the directors for that purpose and signed by the applicant;
 - (b) include the applicant's name, address and occupation (if applicable); and
 - (c) be submitted to the directors in any way approved by the directors from time to time.
- 16.2 Within a reasonable period of receipt of an associate membership application, the directors will consider the application and:
- (a) may request an applicant supply any additional information that the directors consider reasonably necessary; and
 - (b) approve or reject the applicant.
- 16.3 If the directors reject an associate membership application, they must, as soon as practicable, notify the applicant in writing that the application has been rejected. The directors are not required to give any reasons as to why an associate membership application has been rejected.
- 16.4 If the directors approve an associate membership application, the directors must, as soon as practicable:
- (a) notify the applicant in writing of the approval for associate membership; and
 - (b) request payment of the applicant's entrance fee, all or part of the **annual fee** (as determined by the directors) within 14 days after the date the applicant is notified of acceptance.

17. No transfer of associate membership

- 17.1 A right, privilege or obligation of a person by reason of associate membership:
- (a) is not capable of being transferred or transmitted to another person; and
 - (b) terminates upon the cessation of associate membership.

18. Cessation of associate membership

- 18.1 An **associate member** will cease to be an **associate member**:
- (a) if the **associate member** resigns by notice in writing to the directors, on the date that the notice is received by the directors;
 - (b) if their associate membership is cancelled in accordance with clause 13.2;
 - (c) if in the directors' opinion the **associate member's** status or conduct renders it undesirable that the **associate member** continue as an **associate member**, including if the **associate member** brings, or could reasonably bring, the

reputation of the **company** into disrepute; and both of the following requirements are met:

- i. a majority of the directors entitled to vote at a directors meeting, vote in favour of terminating the membership of the **associate member**; and
 - ii. the **associate member** has been given at least 21 days notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed;
- (d) where the **associate member** is an individual, the **associate member**:
- i. dies; or
 - ii. becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law regarding to mental health;
- (e) where the **associate member** is an organisation, if it is deregistered or otherwise ceases to be an organisation; or
- (f) if the **associate member** is the subject of an **insolvency event**.
- 18.2 Any **associate member** ceasing to be an **associate member**:
- (a) is not entitled to any refund (or part refund) of any annual fee or other fee already paid; and
 - (b) will remain liable for and must pay the **company** all fees and other amounts which were due to the **company** at the date of ceasing to be an **associate member**.

Full corporate members

19. Becoming a full corporate member and register of full corporate members

- 19.1 The **full corporate members** of the **company** are:
- (a) **initial full corporate members**, and
 - (b) any other person that the directors allow to be a **full corporate member**, in accordance with this constitution.
- 19.2 The **company** must establish and maintain a register of **full corporate members**. The register of **full corporate members** must be kept by the secretary and must contain:
- (a) for each current **full corporate member**:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the **full corporate member** for the service of notices, and
 - iv. date the **full corporate member** was entered on to the register.
 - (b) for each person who stopped being a **full corporate member** in the last 7 years:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the **full corporate member** for the service of notices, and
 - iv. dates their role as a **full corporate member** started and ended.
- 19.3 The **company** must give current **full corporate members** access to the register of **full corporate members**.
- 19.4 Information that is accessed from the register of **full corporate members** must only be used in a manner relevant to the interests or rights of **full corporate members**.

20. How to apply to become a full corporate member

A person (as defined in clause 10.2) may apply to become a **full corporate member** of the **company** by writing to the secretary stating that they:

- (a) want to become a **full corporate member**
- (b) support the purposes of the **company**, and
- (c) agree to comply with the **company's** constitution, including by paying the guarantee under clause 4 if required and any annual membership fee payable to the **company** in accordance with this constitution.

21. Directors decide whether to approve new full corporate members

- 21.1 The directors must consider an application for new **full corporate members** within a reasonable time after the secretary receives the application.
- 21.2 If the directors approve an application, the secretary must as soon as possible:
 - (a) enter the new **full corporate members** on the register of **full corporate members**, and
 - (b) write to the applicant to tell them that their application was approved, and the date that their role as a **full corporate member** started (see clause 22).
- 21.3 If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 21.4 For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 20(a), 20(b) or 20(c). In that case, by applying to be a **full corporate member**, the applicant agrees to those three matters.

22. When a person becomes a full corporate member

Other than the **initial full corporate members**, an applicant will become a **full corporate member** when they are entered on the register of **full corporate members**.

23. When a person stops being a full corporate member

A person immediately stops being a **full corporate member** if they:

- (a) die
- (b) are wound up or otherwise dissolved or deregistered (for an incorporated **full corporate member**)
- (c) resign, by writing to the secretary
- (d) are expelled under clause 25, or
- (e) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a **full corporate member**.

Dispute resolution and disciplinary procedures

24. Dispute resolution

- 24.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a **member** or director and:
 - (a) one or more **members**;
 - (b) one or more directors; or
 - (c) the **company**.

- 24.2 A **member** must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 25 until the disciplinary procedure is completed.
- 24.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 24.4 If those involved in the dispute do not resolve it under clause 24.3, they must within 10 days:
- (a) tell the directors about the dispute in writing
 - (b) agree or request that a mediator be appointed, and
 - (c) attempt in good faith to settle the dispute by mediation.
- 24.5 The mediator must:
- (a) be chosen by agreement of those involved, or
 - (b) where those involved do not agree:
 - i. for disputes between **members**, a person chosen by the directors, or
 - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the **company** has its registered office.
- 24.6 A mediator chosen by the directors under clause 24.5(b)(i):
- (a) may be a **member** or former **member** of the **company**
 - (b) must not have a personal interest in the dispute, and
 - (c) must not be biased towards or against anyone involved in the dispute.
- 24.7 When conducting the mediation, the mediator must:
- (a) allow those involved a reasonable chance to be heard
 - (b) allow those involved a reasonable chance to review any written statements
 - (c) ensure that those involved are given natural justice, and
 - (d) not make a decision on the dispute.

25. Disciplining members

- 25.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a **member** from the **company** if the directors consider that:
- (a) the **member** has breached this constitution, or
 - (b) the **member's** behaviour is causing, has caused, or is likely to cause harm to the **company**.
- 25.2 At least 14 days before the directors' meeting at which a resolution under clause 25.1 will be considered, the secretary must notify the **member** in writing:
- (a) that the directors are considering a resolution to warn, suspend or expel the **member**;
 - (b) that this resolution will be considered at a directors' meeting and the date of that meeting;
 - (c) what the **member** is said to have done or not done;
 - (d) the nature of the resolution that has been proposed; and
 - (e) that the **member** may provide an explanation to the directors, and details of how to do so.
- 25.3 Before the directors pass any resolution under clause 25.1, the **member** must be given a chance to explain or defend themselves by:
- (a) sending the directors a written explanation before that directors' meeting, and/or
 - (b) speaking at the meeting.

- 25.4 After considering any explanation under clause 25.3, the directors may:
- (a) take no further action
 - (b) warn the **members**
 - (c) suspend the **member's** rights as a **member** for a period of no more than 12 months
 - (d) expel the **member**
 - (e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause), or
 - (f) require the matter to be determined at a **general meeting**.
- 25.5 The directors cannot fine a **member**.
- 25.6 The secretary must give written notice to the **full corporate member** of the decision under clause 25.4 as soon as possible.
- 25.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 25.8 There will be no liability for any loss or injury suffered by the **member** as a result of any decision made in good faith under this clause.

General meetings of full corporate members

26. General meetings called by directors

- 26.1 The directors may call a **general meeting**.
- 26.2 If **full corporate members** with at least 5% of the votes that may be cast at a **general meeting** make a written request to the **company** for a **general meeting** to be held, the directors must:
- (a) within 21 days of the **full corporate members'** request, give all **full corporate members** notice of a **general meeting**, and
 - (b) hold the **general meeting** within 2 months of the **full corporate members'** request.
- 26.3 The percentage of votes that **full corporate members** have (in clause 26.2) is to be worked out as at midnight before the **full corporate members** request the meeting.
- 26.4 The **full corporate members** who make the request for a **general meeting** must:
- (a) state in the request any resolution to be proposed at the meeting
 - (b) sign the request, and
 - (c) give the request to the **company**.
- 26.5 Separate copies of a document setting out the request may be signed by **full corporate members** if the wording of the request is the same in each copy.

27. General meetings called by full corporate members

- 27.1 If the directors do not call the meeting within 21 days of being requested under clause 26.2, 50% or more of the **full corporate members** who made the request may call and arrange to hold a **general meeting**.
- 27.2 To call and hold a meeting under clause 27.1 the **full corporate members** must:
- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution
 - (b) call the meeting using the list of **full corporate members** on the **company's full corporate member** register, which the **company** must provide to the **full corporate members** making the request at no cost, and

- (c) hold the **general meeting** within three months after the request was given to the **company**.
- 27.3 The **company** must pay the **full corporate members** who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

28. Annual general meeting

- 28.1 A **general meeting**, called the annual **general meeting**, must be held:
 - (a) within 18 months after registration of the **company**, and
 - (b) after the first annual **general meeting**, at least once in every calendar year.
- 28.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
 - (a) a review of the **company's** activities
 - (b) a review of the **company's** finances
 - (c) any auditor's report
 - (d) the election of directors, and
 - (e) the appointment and payment of auditors, if any.
- 28.3 Before or at the annual **general meeting**, the directors must give information to the **full corporate members** on the **company's** activities and finances during the period since the last annual **general meeting**.
- 28.4 The chairperson of the annual **general meeting** must give **full corporate members** as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

29. Notice of general meetings

- 29.1 Notice of a **general meeting** must be given to:
 - (a) each **full corporate member** entitled to vote at the meeting
 - (b) each director, and
 - (c) the auditor (if any).
- 29.2 Subject to clause 29.3, notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- 29.3 Subject to clause 29.4, notice of a meeting may be provided less than 21 days before the meeting if:
 - (a) for an annual **general meeting**, all the **full corporate members** entitled to attend and vote at the annual **general meeting** agree beforehand, or
 - (b) for any other **general meeting**, **full corporate members** with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 29.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
 - (a) remove a director
 - (b) appoint a director in order to replace a director who was removed, or
 - (c) remove an auditor.
- 29.5 Notice of a **general meeting** must include:
 - (a) 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)
 - (b) the general nature of the meeting's business
 - (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution

- (d) a statement that **full corporate members** have the right to appoint proxies and that, if a **full corporate member** appoints a proxy:
 - i. the proxy does not need to be a **full corporate member** of the **company**
 - ii. the proxy form must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
 - iii. the proxy form must be delivered to the **company** at least 48 hours before the meeting.
- 29.6 If a **general meeting** is adjourned (put off) for one month or more, the **full corporate members** must be given new notice of the resumed meeting.

30. Quorum at general meetings

- 30.1 For a **general meeting** to be held, a majority (more than 50%) of **full corporate members** (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one **full corporate member**).
- 30.2 No business may be conducted at a **general meeting** if a quorum is not present.
- 30.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 30.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

31. Auditor's right to attend meetings

- 31.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the **full corporate members** on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 31.2 The **company** must give the auditor (if any) any communications relating to the **general meeting** that a **full corporate member** of the **company** is entitled to receive.

32. Representatives of full corporate members

- 32.1 An incorporated **full corporate members** may appoint as a representative:
- (a) one individual to represent the **full corporate member** at meetings and to sign circular resolutions under clause 39, and
 - (b) the same individual or another individual for the purpose of being appointed or elected as a director.
- 32.2 The appointment of a representative by a **full corporate member** must:
- (a) be in writing
 - (b) include the name of the representative
 - (c) be signed on behalf of the **full corporate member**, and
 - (d) be given to the **company** or, for representation at a meeting, be given to the chairperson before the meeting starts.

32.3 A representative has all the rights of a **full corporate member** relevant to the purposes of the appointment as a representative.

32.4 The appointment may be standing (ongoing).

33. Using technology to hold meetings

33.1 The **company** may hold a **general meeting** at two or more venues using any technology that gives the **full corporate members** as a whole a reasonable opportunity to participate, including to hear and be heard.

33.2 Anyone using this technology is taken to be present in person at the meeting.

34. Chairperson for general meetings

34.1 The **elected chairperson** is entitled to chair **general meetings**.

34.2 The **full corporate members** present and entitled to vote at a **general meeting** may choose a director or **full corporate member** to be the chairperson for that meeting if:

- (a) there is no **elected chairperson**, or
- (b) the **elected chairperson** is not present within 30 minutes after the starting time set for the meeting, or
- (c) the **elected chairperson** is present but says they do not wish to act as chairperson of the meeting.

35. Role of the chairperson

35.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give **full corporate members** a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).

35.2 The chairperson does not have a casting vote.

36. Adjournment of meetings

36.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **full corporate members** present direct the chairperson to adjourn it.

36.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Full corporate members' resolutions and statements

37. Full corporate members' resolutions and statements

37.1 **Full corporate members** with at least 5% of the votes that may be cast on a resolution may give:

- (a) written notice to the **company** of a resolution they propose to move at a **general meeting** (members' resolution), and/or
- (b) a written request to the **company** that the **company** give all of its **full corporate members** a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).

37.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the **full corporate members** proposing the resolution.

37.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the **full corporate members** making the request.

- 37.4 Separate copies of a document setting out the notice or request may be signed by **full corporate members** if the wording is the same in each copy.
- 37.5 The percentage of votes that **full corporate members** have (as described in clause 37.1) is to be worked out as at midnight before the request or notice is given to the **company**.
- 37.6 If the **company** has been given notice of a members' resolution under clause 37.1(a), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.
- 37.7 This clause does not limit any other right that a **full corporate members** has to propose a resolution at a **general meeting**.

38. Company must give notice of proposed resolution or distribute statement

- 38.1 If the **company** has been given a notice or request under clause 37:
- (a) in time to send the notice of members' resolution or a copy of the members' statement to **full corporate members** with a notice of meeting, it must do so at the **company's** cost, or
 - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to **full corporate members** with a notice of meeting, then the **full corporate members** who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving **full corporate members** notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the **full corporate members** may pass a resolution that the **company** will pay these expenses.
- 38.2 The **company** does not need to send the notice of proposed members' resolution or a copy of the members' statement to **full corporate members** if:
- (a) it is more than 1 000 words long
 - (b) the directors consider it may be defamatory
 - (c) clause 38.1(b) applies, and the **full corporate members** who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to **full corporate members**, or
 - (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the **full corporate members**.

39. Circular resolutions of full corporate members

- 39.1 Subject to clause 39.3, the directors may put a resolution to the **full corporate members** to pass a resolution without a **general meeting** being held (a circular resolution).
- 39.2 The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to **full corporate members**, and set out the wording of the resolution.
- 39.3 Circular resolutions cannot be used:
- (a) for a resolution to remove an auditor, appoint a director or remove a director
 - (b) for passing a **special resolution**, or
 - (c) where the **Corporations Act** or this constitution requires a meeting to be held.

- 39.4 A circular resolution is passed if all the **full corporate members** entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 39.5 or clause 39.6.
- 39.5 **Full corporate members** may sign:
- (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 39.6 The **company** may send a circular resolution by email to **full corporate members** and **full corporate members** may agree by sending a reply email to that effect, including the text of the resolution in their reply.

Voting at general meetings

40. How many votes a full corporate member has

Each **full corporate member** has one vote.

41. Challenge to full corporate member's right to vote

- 41.1 A **full corporate member** or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.
- 41.2 If a challenge is made under clause 41.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

42. How voting is carried out

- 42.1 Voting must be conducted and decided by:
- (a) a show of hands
 - (b) a vote in writing, or
 - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 42.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 42.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 42.4 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

43. When and how a vote in writing must be held

- 43.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
- (a) at least five **full corporate members present**
 - (b) **full corporate members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
 - (c) the chairperson.
- 43.2 A vote in writing must be taken when and how the chairperson directs, unless clause 43.3 applies.
- 43.3 A vote in writing must be held immediately if it is demanded under clause 43.1:
- (a) for the election of a chairperson under clause 34.2, or

(b) to decide whether to adjourn the meeting.

43.4 A demand for a vote in writing may be withdrawn.

44. Appointment of proxy

- 44.1 A **full corporate member** may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- 44.2 A proxy does not need to be a **full corporate member**.
- 44.3 A proxy appointed to attend and vote for a **full corporate member** has the same rights as the **full corporate member** to:
- (a) speak at the meeting
 - (b) vote in a vote in writing (but only to the extent allowed by the appointment), and
 - (c) join in to demand a vote in writing under clause 43.1.
- 44.4 An appointment of proxy (proxy form) must be signed by the **full corporate member** appointing the proxy and must contain:
- (a) the **full corporate member's** name and address
 - (b) the **company's** name
 - (c) the proxy's name or the name of the office held by the proxy, and
 - (d) the meeting(s) at which the appointment may be used.
- 44.5 A proxy appointment may be standing (ongoing).
- 44.6 Proxy forms must be received by the **company** at the address stated in the notice under clause 29.5(d) or at the **company's** registered address at least 48 hours before a meeting.
- 44.7 A proxy does not have the authority to speak and vote for a **full corporate member** at a meeting while the **full corporate member** is at the meeting.
- 44.8 Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing **full corporate member**:
- (a) dies
 - (b) is mentally incapacitated
 - (c) revokes the proxy's appointment, or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- 44.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.

45. Voting by proxy

- 45.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a **full corporate member** appointed as a proxy from voting as a **full corporate member** on a show of hands).
- 45.2 When a vote in writing is held, a proxy:
- (a) does not need to vote, unless the proxy appointment specifies the way they must vote
 - (b) if the way they must vote is specified on the proxy form, must vote that way, and
 - (c) if the proxy is also a **full corporate member** or holds more than one proxy, may cast the votes held in different ways.

Directors

46. Number of directors

The **company** must have at least three directors.

47. Election and appointment of directors

- 47.1 The initial directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the **company**.
- 47.2 Apart from the initial directors and directors appointed under clause 47.5, the **full corporate members** may elect a director by a resolution passed in a **general meeting**.
- 47.3 Each of the directors must be appointed by a separate resolution, unless:
- (a) the **full corporate members present** have first passed a resolution that the appointments may be voted on together, and
 - (b) no votes were cast against that resolution.
- 47.4 A person is eligible for election as a director of the **company** if they:
- (a) are a **full corporate member** of the **company**, or a representative of a **full corporate member** of the **company** (appointed under clause 32)
 - (b) are nominated by two **full corporate members** or representatives of **full corporate members** entitled to vote (unless the person was previously elected as a director at a **general meeting** and has been a director since that meeting),
 - (c) give the **company** their signed consent to act as a director of the **company**, and
 - (d) are not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- 47.5 The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
- (a) is a **full corporate member** of the **company**, or a representative of a **full corporate member** of the **company** (appointed under clause 32)
 - (b) gives the **company** their signed consent to act as a director of the **company**, and
 - (c) is not ineligible to be a director under the **Corporations Act** or the **ACNC Act**.
- 47.6 If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to three (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

48. Election of chairperson

The directors must elect a director as the **company's elected chairperson**.

49. Term of office

- 49.1 At each annual **general meeting**:
- (a) any director appointed by the directors to fill a casual vacancy or as an additional director must retire, and
 - (b) at least one-third of the remaining directors must retire.
- 49.2 The directors who must retire at each annual **general meeting** under clause 49.1(b) will be the directors who have been longest in office since last being elected. Where directors were elected on the same day, the director(s) to retire will be decided by lot unless they agree otherwise.

- 49.3 Other than a director appointed under clause 47.5, a director's term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.
- 49.4 Each director must retire at least once every three years.
- 49.5 A director who retires under clauses 49.1 or 49.4 may nominate for election or re-election, subject to clause 49.6.
- 49.6 A director who has held office for a continuous period of nine years or more may only be re-appointed or re-elected by a **special resolution**.

50. When a director stops being a director

A director stops being a director if they:

- (a) give written notice of resignation as a director to the **company**
- (b) die
- (c) are removed as a director by a resolution of the **full corporate members**
- (d) are a representative of a **full corporate member**, and that **full corporate member** stops being a **full corporate member**
- (e) are a representative of a **full corporate member**, and the **full corporate member** notifies the **company** that the representative is no longer a representative, or
- (f) become ineligible to be a director of the **company** under the **Corporations Act** or the **ACNC Act**.

Powers of directors

51. Powers of directors

- 51.1 The directors are responsible for managing and directing the activities of the **company** to achieve the purposes set out in clause 6.
- 51.2 The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by **full corporate members**.
- 51.3 The directors must decide on the responsible financial management of the **company** including:
- (a) any suitable written delegations of power under clause 52, and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 51.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a **full corporate members'** resolution at a **general meeting**.

52. Delegation of directors' powers

- 52.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.
- 52.2 The delegation must be recorded in the **company's** minute book.

53. Payments to directors

- 53.1 The **company** must not pay fees to a director for acting as a director.
- 53.2 The **company** may:
- (a) pay a director for work they do for the **company**, other than as a director, if the amount is no more than a reasonable fee for the work done, or
 - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.
- 53.3 Any payment made under clause 53.2 must be approved by the directors.
- 53.4 The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

54. Execution of documents

The **company** may execute a document without using a common seal if the document is signed by:

- (a) two directors of the **company**, or
- (b) a director and the secretary.

Duties of directors

55. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the **ACNC Act** which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **company**
- (b) to act in good faith in the best interests of the **company** and to further the charitable purpose(s) of the **company** set out in clause 6
- (c) not to misuse their position as a director
- (d) not to misuse information they gain in their role as a director
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 56
- (f) to ensure that the financial affairs of the **company** are managed responsibly, and
- (g) not to allow the **company** to operate while it is insolvent.

56. Conflicts of interest

- 56.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
- (a) to the other directors, or
 - (b) if all of the directors have the same conflict of interest, to the **full corporate members** at the next **general meeting**, or at an earlier time if reasonable to do so.
- 56.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.

- 56.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clauses 56.4:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- 56.4 A director may still be present and vote if:
- (a) their interest arises because they are a **full corporate member** of the **company**, and the other **full corporate members** have the same interest
 - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company** (see clause 74)
 - (c) their interest relates to a payment by the **company** under clause 73 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**
 - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
 - (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**, and
 - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

57. When the directors meet

The directors may decide how often, where and when they meet.

58. Calling directors' meetings

- 58.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- 58.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

59. Chairperson for directors' meetings

- 59.1 The **elected chairperson** is entitled to chair directors' meetings.
- 59.2 The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the **elected chairperson** is:
- (a) not present within 30 minutes after the starting time set for the meeting, or
 - (b) present but does not want to act as chairperson of the meeting.

60. Quorum at directors' meetings

- 60.1 Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- 60.2 A quorum must be present for the whole directors' meeting.

61. Using technology to hold directors' meetings

- 61.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- 61.2 The directors' agreement may be a standing (ongoing) one.
- 61.3 A director may only withdraw their consent within a reasonable period before the meeting.

62. Passing directors' resolutions

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

63. Circular resolutions of directors

- 63.1 The directors may pass a circular resolution without a directors' meeting being held.
- 63.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 63.3 or clause 63.4.
- 63.3 Each director may sign:
 - (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 63.4 The **company** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 63.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 63.3 or clause 63.4.

Secretary

64. Appointment and role of secretary

- 64.1 The **company** must have at least one secretary, who may also be a director.
- 64.2 A secretary must be appointed by the directors (after giving the **company** their signed consent to act as secretary of the **company**) and may be removed by the directors.
- 64.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 64.4 The role of the secretary includes:
 - (a) maintaining a register of the **company's full corporate members**, and
 - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.

Minutes and records

65. Minutes and records

- 65.1 The **company** must, within one month, make and keep the following records:
 - (a) minutes of proceedings and resolutions of **general meetings**
 - (b) minutes of circular resolutions of **full corporate members**

- (c) a copy of a notice of each **general meeting**, and
 - (d) a copy of a **full corporate members'** statement distributed to **full corporate members** under clause 38.
- 65.2 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
 - (b) minutes of circular resolutions of directors.
- 65.3 To allow **full corporate members** to inspect the **company's** records:
- (a) the **company** must give a **full corporate member** access to the records set out in clause 65.1, and
 - (b) the directors may authorise a **full corporate member** to inspect other records of the **company**, including records referred to in clause 65.2 and clause 66.1.
- 65.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 65.5 The directors must ensure that minutes of the passing of a circular resolution (of **full corporate members** or directors) are signed by a director within a reasonable time after the resolution is passed.

66. Financial and related records

- 66.1 The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 66.2 The **company** must also keep written records that correctly record its operations.
- 66.3 The **company** must retain its records for at least 7 years.
- 66.4 The directors must take reasonable steps to ensure that the **company's** records are kept safe.

By-laws

67. By-laws

- 67.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 67.2 **Members** and directors must comply with by-laws as if they were part of this constitution.

Notice

68. What is notice

- 68.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 69 to 71, unless specified otherwise.
- 68.2 Clauses 69 to 71 do not apply to a notice of proxy under clause 44.6.

69. Notice to the company

Written notice or any communication under this constitution may be given to the **company**, the directors or the secretary by:

- (a) delivering it to the **company's** registered office
- (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided
- (c) sending it to an email address or other electronic address notified by the **company** to the **members** as the **company's** email address or other electronic address, or
- (d) sending it to the fax number notified by the **company** to the **members** as the **company's** fax number.

70. Notice to members

70.1 Written notice or any communication under this constitution may be given to a **member**:

- (a) in person
- (b) by posting it to, or leaving it at the address of the **member** in the register of **members** or an alternative address (if any) nominated by the **member** for service of notices
- (c) sending it to the email or other electronic address nominated by the **member** as an alternative address for service of notices (if any)
- (d) sending it to the fax number nominated by the **member** as an alternative address for service of notices (if any), or
- (e) if agreed to by the **member**, by notifying the **member** at an email or other electronic address nominated by the **member**, that the notice is available at a specified place or address (including an electronic address).

70.2 If the **company** does not have an address for the **member**, the **company** is not required to give notice in person.

71. When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 70.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

72. Company's financial year

The **company's** financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

73. Indemnity

- 73.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.
- 73.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- 73.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so, and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 73.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

74. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

75. Directors' access to documents

- 75.1 A director has a right of access to the financial records of the **company** at all reasonable times.
- 75.2 If the directors agree, the **company** must give a director or former director access to:
- (a) certain documents, including documents provided for or available to the directors, and
 - (b) any other documents referred to in those documents.

Winding up

76. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a **member** or a former **member** of the **company**, unless that **member** or former **member** is a charity described in clause 77.

77. Winding up or revocation of endorsement

On the earlier of:

- (a) the winding up or dissolution of the **company**; and
- (b) if the **company** is endorsed as a **deductible gift recipient**, the revocation of that endorsement,

any property whatsoever (including any gifts of money or property for the objects of the **company**, any **deductible contributions** and any money received by the organisation because of such gifts and contributions), that remains, after satisfaction of all debts and liabilities, must not be paid to or distributed among the **members** but must be given or

transferred to one or more charitable organisations selected by the **full corporate members** at or before the time of dissolution or revocation of endorsement having objects similar to the objects of the **company** set out in clause 6 and that is a **deductible gift recipient**.

Definitions and interpretation

78. Definitions

In this constitution:

annual fee means the annual fee determined under clause 12

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth)

associate member means those members who are admitted as members of the company in accordance with clause 16

company means the **company** referred to in clause 1

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

deductible contributions means donations of an amount which the donor can deduct from their taxable income when they lodge their tax return

deductible gift recipient has the same meaning as set out in Division 30 of the *Income Tax Assessment Act 1997* (Cth)

elected chairperson means a person elected by the directors to be the **company's** chairperson under clause 48

full corporate member means those members who are admitted as members in accordance with clause 21

full corporate member present means, in connection with a **general meeting**, a **full corporate member present** in person, by representative or by proxy at the venue or venues for the meeting

general meeting means a meeting of **full corporate members** and includes the annual **general meeting**, under clause 28.1

members means all **associate members**, **full corporate members** and **initial full corporate members**

initial full corporate member means those full corporate members named in Schedule 1

insolvency event means, in relation to a person, any one or more of the following events or circumstances:

- i. a winding up, dissolution, liquidation, provisional liquidation, administration or bankruptcy;
- ii. having a controller (as defined in the Corporations Act), receiver, receiver and manager, administrator, liquidator (whether provisional or otherwise) or analogous person appointed to it or any of its property;
- iii. being unable to pay any of its debts as and when due and payable or being deemed to be insolvent under any provision of the Corporations Act or any other law;
- iv. seeking protection from its creditors under any law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors; or
- v. any analogous event or circumstance to those described in paragraphs i to iv under any law

registered charity means a charity that is registered under the **ACNC Act**

special resolution means a resolution:

- vi. of which notice has been given under clause 29.5(c), and
- vii. that has been passed by at least 75% of the votes cast by **full corporate members present** and entitled to vote on the resolution, and

surplus assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up

79. Reading this constitution with the Corporations Act

- 79.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.
- 79.2 While the **company** is a **registered charity**, the **ACNC Act** and the **Corporations Act** override any clauses in this constitution which are inconsistent with those Acts.
- 79.3 If the **company** is not a **registered charity** (even if it remains a charity), the **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- 79.4 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

80. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

Schedule

Consent to terms of this constitution

Initial full corporate members

Each of the people named below as a **full corporate members** consents to becoming an **initial full corporate member** and agrees to the terms of this constitution.

Name	Address	Signature
Native Tourism Alliance	PO Box 788 Louisville Colorado 80027 United States of America	
New Zealand Maori Tourism Society	Wellington Central Wellington 6011, New Zealand	
WAITOC Association Incorporated	1060 Hay Street West Perth Western Australia 6005, Australia	
Trans Himalayan Environment Livelihood Program	Kathmandu	
Sampi Nature AB	Fjällnäsgränd 15c, S-98239 Gällivare, Sweden	
Indigenous Tourism Association British Columbia	West Vancouver British Columbia V7T1A2, Canada	

Version November 26, 2020