

Victorian Indigenous Nurseries Co-operative Limited

RULES

VICTORIA
CO-OPERATIVES ACT 1996

Contents

Para	Page
1. Definitions	4
2. Name	4
3. Aim and Objectives	4
4. Members to abide by co-operative principles	5
5. Alteration of the rules	6
6. Qualifications and shareholding required for membership	6
7. Membership and shares	6
8. Active membership	7
9. Ceasing membership	8
10. Suspension of members	9
11. Expulsion of members	9
12. Disputes	10
13. Fines	11
14. Liability of members	11
15. Capital and shares	11
16. Calls on shares	11
17. Forfeiture of shares	12
18. Share certificates	12
19. Sale of members'	12
20. Transfer and transmission of shares	13
21. Forfeitures and cancellations – Inactive members	13
22. Forfeited shares	14
23. Death of a member	14
24. Registration as trustee, executor or administrator	14
25. Entitlements and liabilities of person registered as trustee, administrator etc	15
26. Transfer and transmission of debentures	15
27. Annual general meetings	15
28. Special general meetings	16
29. Notice of general meetings	16
30. Business at general meetings	16
31. Quorum at general meetings	17
32. Presiding at general meetings	17
33. Adjournment of meetings	17
34. Standing orders at meetings	18
35. Attendance and voting at general meetings	18
36. Electronic meetings	19
37. Postal ballot	19
38. Poll at general meetings	19
39. Special and ordinary resolutions	19
40. Board of directors	20
41. Qualification of directors	20
42. Retirement of directors	20
43. Election of directors	20
44. Manner of election	21
45. Casual vacancy	21
46. Removal from the office of director	22
47. Remuneration	22
48. Deputy directors	22
49. Proceedings of the board	22

50. Quorum for board meetings	23
51. Chairperson of the board	23
52. Financial year	23
53. Seal	23
54. Custody and inspection of records	24
55. Banking	24
56. Safekeeping of securities	24
57. Audit	24
58. Co-operative funds	24
59. Provision for loss	25
60. Winding up	25
61. Public fund	25
CERTIFICATION	
Appendix 1 – Schedule of charges	27
Appendix 2 – Co-operative name, primary activity and active membership	28
Appendix 3 – Fines, share value and membership subscriptions	29
Appendix 4 – Form of transfer of shares or debentures	30
Appendix 5 – Qualifications of an independent director	31

1. Definitions

In these rules -

“Act” means the **Co-operatives Act 1996**;

“Appendix” means Appendix to these rules;

“board” means the board of the co-operative;

“general meeting” means any annual or special general meeting;

“member” means a member of the co-operative

“month “ means calendar month;

“Registrar” means the person for the time being holding the office of Registrar of Co-operatives under the Act;

“regulations” means the Co-operatives Regulations 1997;

“shareholder” means a member who has purchased one or more shares in the co-operative;

“subscriber” means a member who has paid an annula subscription fee for membership in the co-operative;

“the co-operative” means Victorian Indigenous Nurseries C-operative Limited.

2. Name

- 1) The name of the co-operative is Victorian Indigenous Nurseries Co-operative Limited.
- 2) The co-operative may change its name in accordance with section 255 of the Act
- 3) The co-operative may abbreviate its name in accordance with section 253 of the Act

3. Aim & Objectives

- 1) Aim

The principal aim of the Co-operative is the protection and enhancement of the local natural environment through the cultivation and distribution of indigenous plants of appropriate provenance and through engagement with the community in educational and practical activities.

- 2) Objectives

- (a) To produce and make available local indigenous plants
- (b) To preserve, encourage and enhance local genetic diversity among indigenous plants
- (c) To promote the significance and use of local indigenous flora

- (d) To act as a resource and support for community activities that protect and enhance the natural environment
- (e) To promote ecologically sustainable practices within the community
- (f) To implement ecologically sustainable workplace practices
- (g) To provide a safe, supportive and caring workplace
- (h) To establish and maintain a public fund called the VINC Environment Fund for the specific purposes of supporting the environmental aims and objectives, including the principal purpose of the co-operative
- (i) The Fund is established to receive all gifts of money or property from the public for the purpose described in Rule 2 (h), and any money received because of such gifts must be credited to its bank account
- (j) The Fund must not receive any other money or property into its account and it must comply with subdivision 3.0-E of the Income Tax assessment Act 1997.

4. Members to abide by co-operative principles

Section 6 of the Act details general co-operative principles, which are based on International Principles of Co-operation. The Co-operative and its members must comply with co-operative principles to the extent that they apply.

- 1) Voluntary and open membership

Co-operatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

- 2) Democratic member control

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary co-operatives members have equal voting rights (one member, one vote) and co-operatives at other levels are organised in a democratic manner.

- 3) Member economic participation

Members contribute equally to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. They usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing the co-operative, possibly by setting up reserves, part of which at least would be indivisible, benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership.

4) Autonomy and independence

Co-operatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

5) Education, training and information

Co-operatives provide education and training for their members, elected representatives, managers and employees so they can contribute effectively to the development of their co-operative. They inform the general public, young people and opinion leaders, about the nature and benefits of the co-operation.

6) Co-operation among co-operatives

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through local, national, regional and international structures.

7) Concern for the community

While focussing on member needs, co-operatives work for sustainable development of their communities through policies accepted by their members

5. ***Alteration of the rules***

- 1) These rules may be altered by a special resolution in accordance with section 113 of the Act or by a resolution of the board in accordance with section 114 of the Act.
- 2) A proposed alteration of these rules must be approved by the Registrar under section 112 of the Act before the resolution altering the rules is passed.
- 3) An alteration of these rules does not take effect unless and until it is registered by the Registrar under section 115 of the Act.
- 4) Any member is entitled to obtain from the co-operative a copy of these rules on payment of the amount set out in Appendix 1.

6. ***Qualifications and shareholding required for membership***

- 1) A person is not qualified to be admitted to membership unless there are reasonable grounds for believing that the person will be an active member of the co-operative.
- 2) Every member must hold at least one share or pay the required annual subscription amount.

7. ***Membership and shares***

- 1) An application for membership or shares in the co-operative must -
 - (a) be in a form approved by the board; and
 - (b) be lodged at the registered office of the co-operative; and

- (c) be accompanied by the annual membership subscription or value of shares to be purchased as set out in Part 1 Appendix 3.

- 2) An application for membership must include either –
 - (a) an application for a share in the co-operative, or
 - (b) an application to be a subscriber in the co-operative.
- 3) The board must consider each application.
- 4) The board at its sole discretion may accept or reject an application for membership or shares and need not give any reason for its decision.
- 5) If the board approves an application for membership or shares –
 - (a) For a shareholder -
 - (i) the relevant shares must be allotted to the applicant; and the board must ensure that the name of the person and the number of shares allotted is entered in the register of members, directors and shares in accordance with sections 75 and 244 of the Act; and
 - (ii) the board must notify the applicant in writing of allotment of the shares and of the entry in the register; and
 - (iii) the applicant for membership becomes entitled to exercise the rights of membership when -
 - (i) *the member's name appears in the register of members; and*
 - (ii) *the member has paid to the co-operative the relevant fees and amounts set out in Part 2 of Appendix 3.*
 - (b) For a subscriber –
 - (i) the board must ensure that the name of the person and the subscription amount is entered in the register of members, directors and shares in accordance with sections 75 and 244 of the Act; and
 - (ii) the board must notify the applicant in writing of the entry in the register; and
 - (iii) the applicant for membership becomes entitled to exercise the rights of membership when -
 - (iii) *the member's name appears in the register of members; and*
 - (iv) *the member has paid to the co-operative the relevant fees and amounts set out in Part 3 of Appendix 3.*

- 6) If the board rejects an application, the whole of the money lodged in respect of the application must be refunded to the applicant without interest.
- 7) Shareholding and subscribing members have the same rights and obligations in relation to the operation of the co-operative.

8. ***Active membership***

- 1) All members must be active members of the co-operative.

- 2) In order to establish active membership of the co-operative
 - (a) Subscriber members must pay the amount set from time to time as the annual membership subscription fee; and
 - (b) Shareholder members in the co-operative must -
 - (i) *participate in at least one activity each financial year such as a meeting, or contribute to the operation of the co-operative, or*
 - (ii) *make a donation to further the activities of the co-operative.*
- 3) The board of directors will review each member's compliance with the provisions of active membership prior to each Annual General Meeting.
- 4) If a member fails or ceases to be an active member, the board must in accordance with Division 4 of Part 6 of the Act -
 - (a) declare the membership of the member cancelled; and
 - (b) declare the shares of the member forfeit, if applicable.

9. Ceasing membership

A person ceases to be a member in each of the following circumstances –

- 1) if the member's membership is cancelled under Part 6 of the Act;
- 2) if the member is expelled in accordance with these rules;
- 3) if the member becomes bankrupt and –
 - (a) the trustee of the member's estate disclaims any debt, contract, duty or liability of the member with the co-operative, or
 - (b) the bankrupt member or trustee is unable to pay monies due to the co-operative by the member or the trustee in his/her capacity as trustee;
- 4) on the death of the member;
- 5) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- 6) if the member's share is transferred to another person and the transferee is registered as the holder of the share;
- 7) if the member's share is forfeited in accordance with the provisions of the Act or the provisions of these rules;
- 8) if the member's share is purchased by the co-operative in accordance with the provisions of these rules;
- 9) if a member's share is sold by the co-operative pursuant to any power in these rules and the purchaser is registered as holder in the member's place;

- 10) if the amount paid up on the member's share is repaid to the member in accordance with the provisions of these rules;
- 11) on notice in writing given by the Secretary, of the member's resignation from membership; or
- 12) in the case of a member that is a body corporate, if the body is dissolved.

10. Suspension of members

- 1) A member may be suspended from membership of the co-operative for a period not exceeding one year if the co-operative by special resolution determines that the member should be so suspended on the grounds that -
 - (a) the member has contravened these rules; or
 - (b) the member has failed to discharge the member's obligations to the co-operative under these rules; or
 - (c) the member has acted in a manner detrimental to the co-operative.
- 2) The member must be given at least 28 days written notice of the proposed resolution and of the date, time and place of the meeting at which the resolution will be moved.
- 3) The procedure at the general meeting to consider the proposed resolution is as follows -
 - (a) the member must be given a reasonable opportunity to be heard at the meeting;
 - (b) the member is entitled to call witnesses and to cross examine witnesses called against the member;
 - (c) if the member fails, without reasonable cause, to attend at the time and place of which notice has been given, the co-operative may consider the matter in the absence of the member;
 - (d) after considering the matter, the co-operative may by special resolution determine to suspend the member.
- 4) A member who is suspended ceases during the suspension to have rights of a member except as otherwise provided in the Act or these rules.

11. Expulsion of members

- 1) A member may be expelled from the co-operative if the co-operative by special resolution determines that the member should be expelled on the grounds that -
 - (a) the member has failed to discharge the member's obligations to the co-operative under the Act or these rules;
 - (b) the member has acted in a manner that has -
 - (i) prevented or hindered the co-operative in carrying out any of its primary activities; or
 - (ii) brought the co-operative into disrepute; or
 - (iii) the member has acted in a manner contrary to any of the co-operative principles and in so acting caused the co-operative harm.

- 2) The member must be given at least 28 days written notice of the proposed resolution and of the date, time and place of the meeting at which the resolution will be moved.
- 3) The procedure at the general meeting to consider the proposed resolution is as follows -
 - (e) the member must be given a reasonable opportunity to be heard at the meeting;
 - (f) the member is entitled to call witnesses and to cross examine witnesses called against the member;
 - (g) if the member fails, without reasonable cause, to attend at the time and place of which notice has been given, the co-operative may consider the matter in the absence of the member;
 - (h) after considering the matter, the co-operative may by special resolution determine to expel the member.
- 4) The expulsion of the member does not take effect until the special resolution is registered with the Registrar.
- 5) When a member is expelled, the co-operative must, in accordance with Section 82 of the Act, repay to the member an amount determined in accordance with that section in respect of any shares the member may hold, or any amount owing to that member, less any amount owing by the member to the co-operative, and cancel the member's shares or membership.

12. Disputes

- 1) The grievance procedure set out in this rule applies to disputes under these rules between -
 - (a) a member and another member; or
 - (b) a member and to co-operative.
- 2) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all the parties.
- 3) If the parties are unable to resolve the dispute at the meeting under sub-rule (2) or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- 4) The mediator must be –
 - (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement -
 - (i). in the case of a dispute between a member and another member, by the board of the co-operative; or
 - (ii). in the case of a dispute between a member and the co-operative, a person who is a member of the Dispute Settlement Centre of Victoria (Department of Justice).
- 5) A member of the co-operative can be a mediator.
- 6) The mediator cannot be a member who is party to the dispute.

Rule 12 provides for the mediation of a dispute. Note that section 89 of the Act provides another procedure whereby application may be made to the Supreme Court for an order declaring and enforcing rights or obligations of members between themselves, or of the co-operative and a member between themselves. The Court may refuse to make an order, or may make an order for costs, if the Court is of the opinion that the application is unreasonable or the issue trivial.

13. Fines

- 1) The co-operative may impose a fine on a member for any infringement of these rules.
- 2) The board of directors will determine the amount of fines from time to time. (The fine will not exceed the amount set out in Part 1 of Appendix 3.)

14. Liability of members

- 1) A member is not, as a member, under any personal liability to the co-operative except for the amount, if any, unpaid on the shares held by the member, or unpaid on subscriptions due from the member, together with any charges payable by the member to the co-operative as required by these rules.
- 2) On the death of a member, the member's estate remains liable as the member until the member's personal representative or some other person is registered in the member's place.

15. Capital and shares

The capital of the co-operative may be raised by the issue of shares which are to have a nominal value of \$100.00.

16. Calls on shares

- 1) The board may make calls on the members in respect of any money unpaid on their shares.
- 2) Sub-rule (1) does not apply if the terms of issue of the shares provide for the money unpaid on the shares to be paid at fixed times.
- 3) A call must not –
 - (a) exceed one quarter of the sum of the nominal value of the shares; or
 - (b) be payable earlier than one month after the day fixed for the payment of the last preceding call.
- 4) A member must be given at least 14 days notice specifying the time or times and place of payment of the call.
- 5) A member who receives notice of a call must pay the amount of the call on the member's shares to the co-operative at the time or times and at the place specified in the notice.
- 6) The board may revoke or postpone a call.

- 7) A sum that becomes payable on a share under the terms of issue of the share is deemed for the purposes of these rules to be an amount payable on a call notified under this rule as if the time and place for payment specified in the terms of issue were the time and place for payment of the call.
- 8) The board may accept from a member the whole or a part of the amount unpaid on a share although no part of that amount has been called up.

17. Forfeiture of shares

- 1) If a member fails to pay a call on any day appointed for the payment of the call, the board may serve notice on the member requiring payment of so much of the call as is unpaid.
- 2) The notice must -
 - (a) specify a day (being not less than 28 days after the date of service of the notice) on or before which the payment required by the notice is to be paid; and
 - (b) state that if the payment is not so paid, the shares in respect of which the call was made are liable to be forfeited.
- 3) If the payment is not made in accordance with the notice, the board may, by resolution, declare that the shares are forfeited.
- 4) The board's declaration has the effect of forfeiting the shares concerned.

18. Share certificates

- 1) The board, on the application of a person holding shares in the co-operative, must issue to that person, without payment, a certificate under the seal of the co-operative specifying the shares held by that person and the amount paid up on those shares.
- 2) However, if shares are held jointly -
 - (a) the board is not required to issue more than one share certificate in respect of those shares and
 - (b) the delivery of the share certificate to one joint shareholder is sufficient delivery to all.
- 3) If the board is satisfied that a share certificate issued by the co-operative is defaced, lost or destroyed, the board may issue a duplicate certificate on payment of a fee (not exceeding \$10) determined by the board.

19. Sale of members' shares

Subject to section 172 of the Act, the co-operative may sell a member's shares at the request of the member.

20. Transfer and transmission of shares

- 1) The instrument of transfer of any share shall be executed by or on behalf of the transferor (the giver) and the transferee (the receiver of the share).
- 2) The transferor remains the holder of the share until the name of the transferee is entered in the register of members in respect of the share.
- 3) A transfer of shares is to be in the form of Appendix 4 or in a form approved by the board.
- 4) A share cannot be sold or transferred except -
 - (a) with the consent of the board, to any person who is qualified to be admitted to membership of the co-operative under rules 6 and 7; or
 - (b) as otherwise provided by the Act or these rules.
- 5) The board may refuse to register a transfer of shares -
 - (a) to a person who is not eligible to be a member; or
 - (b) to a person whom the board does not approve; or
 - (c) if the co-operative has a lien or charge over the shares.
- 6) If the board refuses to register a transfer of shares, it must send written notice of its decision to the proposed transferee within 14 days after making that decision.
- 7) The board may decline to recognise any instrument of transfer unless -
 - (a) a fee in accordance with Appendix 1 is paid by the member to the co-operative for the transfer; and
 - (b) the instrument of transfer is accompanied by the certificate (if any) of the shares to which it relates, and such other evidence as the board may reasonably require to show the right of the transferor to make the transfer.
- 8) The board may suspend the registration of transfers during the 14 days immediately preceding the annual general meeting in each year.

21. Forfeitures and cancellations – Inactive members

- 1) In accordance with section 131 of the Act, the board, after giving any notice required under section 136 of the Act, must declare the membership of a member cancelled if -
 - (a) the whereabouts of the member, if a shareholder, are not presently known to the co-operative and have not been known to the co-operative for a period of at least 3 years before that time; or
 - (b) the member is not presently an active member of the co-operative and, if a shareholder, has not been an active member of the co-operative at any time during the period of 3 years immediately before that time; or
 - (c) the member, if a subscriber, has not paid the required annual membership subscription by the time of the Annual General Meeting.
- 2) Sub-rule (1) applies to a member only if he or she was a member of the co-operative throughout the period referred to in paragraph (a) or (b) or (c), as the case requires.

- 3) In accordance with section 132 of the Act, the board must declare the shares of a member to be forfeited at the same time as the member's membership is cancelled under section 131 of the Act.
- 4) The board's declaration has the effect of forfeiting the shares concerned.
- 5) If the membership of a member is cancelled any amount due to the member in respect of the cancellation must be dealt with in accordance with section 138 of the Act.

22. Forfeited shares

A person whose shares have been forfeited under the Act or these rules remains liable to the co-operative for any amount still unpaid at the date of forfeiture in respect of those shares.

23. Death of a member

- 1) Subject to sections 84, 173 and 174 of the Act, on the death of the member, the board must transfer the deceased member's share or interest in the co-operative to -
 - (a) the executor or administrator of the deceased member; or
 - (b) with the consent of the board, to a person -
 - (i) who is specified by the personal representative of the deceased member in an application under section 84 of the Act, and
 - (ii) who is qualified to be a member in accordance with the Act and these rules.
- 2) The board may transfer the shares or interest of a deceased member to a person entitled in accordance with section 85 of the Act if -
 - (a) the total value of the shares or interest is less than \$10,000 (or such other amount as may be prescribed by the regulations); and
 - (b) there has not been a grant of administration of the estate, or probate of the will of the deceased member.

24. Registration as trustee, executor or administrator

- 1) In accordance with sections 166 to 168 of the Act, the following persons may be registered as the holder of a share of the co-operative -
 - (a) the trustee, executor or administrator of the estate of a dead person, if the dead person was the holder of that share or was entitled in equity to that share;
 - (b) the administrator of the estate of an incapable person, if that incapable person was the holder of that share or was entitled in equity to that share;
 - (c) the Official Trustee in Bankruptcy, if a bankrupt was the holder of that share or was entitled in equity to that share.
- 2) If a person is entitled in equity to a share in the co-operative, the consent of the co-operative and the holder of the share must be obtained before a person can be registered in respect of that share pursuant to sub-rule (1).

25. Entitlements and liabilities of person registered as trustee, administrator etc.

Subject to the Act, a person registered pursuant to section 166, 167 or 168 of the Act and rule 23 is, while so registered -

- 1) entitled to the same dividends and other benefits; and
- 2) in accordance with section 169 of the Act, subject to the same liabilities and only those liabilities -

in respect of the share as those to which the person would have been subject if the share had remained, or had been registered in the name of the dead person, the incapable person or the bankrupt.

26. Transfer and transmission of debentures

- 1) The instrument of transfer of a debenture must be executed by the transferor (the giver) and the transferee (the receiver).
- 2) The transferor remains the holder of the debenture until the board consents to the transfer and the name of the transferee is entered in the register of debentures in respect of the debenture.
- 3) A transfer of debentures must be in the form of Appendix 4 or in a form approved by the board.
- 4) The board may decline to recognise any instrument of transfer of a debenture and may decline to register the transfer unless -
 - (a) a fee in accordance with Appendix 1 is paid to the co-operative for the transfer; and
 - (b) the instrument of transfer is accompanied by the debenture and other such evidence as the board may reasonably require to show the right of the transferor to make the transfer; and
 - (c) any stamp duty payable in respect of the instrument of transfer has been paid.
- 5) If the board refuses to register a transfer of debenture, it must send written notice of its decision to the proposed transferee within 28 days after making that decision.

27. Annual general meetings

- 1) In accordance with section 204 of the Act, the first annual general meeting of the co-operative must be held at any time within 19 months of the incorporation of the co-operative.
- 2) The second or any subsequent annual general meeting of the co-operative must be held within -
 - (a) 5 months after the close of the financial year of the co-operative; or
 - (b) any further time that may be allowed by the Registrar or is prescribed.
- 3) The board may determine the date, time and place of the annual general meeting.

- 4) All general meetings of the co-operative other than the annual general meeting shall be special general meetings.
- 5) If the board does not hold an annual general meeting within the required time, the members may requisition the meeting in accordance with section 209 of the Act.

28. Special general meetings

- 1) A special general meeting of the co-operative may be convened at any time by the board of directors.
- 2) In accordance with section 209 of the Act, the board must convene a general meeting of the co-operative on the written requisition of the number of active members of the co-operative who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of the co-operative.

29. Notice of general meetings

- 1) The board must give each member at least 14 days notice of each general meeting.
- 2) The notice may be given in accordance with section 460 of the Act.
- 3) The notice must specify the place, the day and the time of the meeting and if special business is to be transacted, set out generally the nature of the special business.
- 4) If a special resolution is to be proposed at the meeting at least 21 days notice of that special resolution must be given to members of the co-operative in accordance with section 192 of the Act.
- 5) A member of the co-operative who wishes to propose a resolution at a general meeting must give the co-operative written notice of the resolution.
- 6) If notice of an ordinary resolution is given under sub-rule (5) at least 14 days before the board gives notice of the meeting, the board must include details of that resolution in the notice of the meeting.

30. Business at general meetings

- 1) The ordinary business of the annual general meeting shall be –
 - (a) to confirm minutes of the last preceding general meeting (whether annual or special);
 - (b) to receive from the board, auditors, or any officers of the co-operative reports upon the transactions of the co-operative during the financial year, including balance sheet, trading account, profit and loss account, statement of cash flows, and the state of affairs at the end of that year;
 - (c) to elect and determine the remuneration (if any) of directors.
- 2) The annual general meeting may also transact special business of which notice has been given to members in accordance with these rules.

- 3) All business of a general meeting, other than ordinary business, is special business.

31. Quorum at general meetings

- 1) An item of business must not be transacted at a meeting of a co-operative unless a quorum of members entitled to vote is present during the transaction of that item.
- 2) Subject to rule (3) the quorum of the co-operative is 10 members entitled to vote at a meeting of the co-operative.
- 3) If within half an hour after the appointed time for the meeting a quorum is not present, the meeting –
 - (a) if convened upon the requisition of members, is abandoned; and
 - (b) in any other case is to be adjourned to the same day and time in the next week at the same place.
- 4) If not an adjourned meeting, under sub-rule (3)(b), a quorum is not present within half an hour after the time appointed for the meeting the meeting must be abandoned.

32. Presiding at general meetings

- 1) Subject to this rule, the chairperson of the board presides at every general meeting of the co-operative.
- 2) If the chairperson of the board is unable or unwilling to preside or is not present within 15 minutes after the time appointed for the meeting, the members present must select one of their number to preside.
- 3) The person selected under sub-rule (2) presides at that meeting until the time that the chairperson attends and is willing to act.

33. Adjournment of meetings

- 1) The person presiding may, with the consent of a majority of members present at the meeting, adjourn the meeting from time to time and from place to place.
- 2) The person presiding must, if directed by a majority of members present at the meeting, adjourn the meeting to a date and time agreed.
- 3) No business may be transacted at an adjourned meeting other than business unfinished at the meeting which was adjourned.
- 4) This rule only applies if there is a quorum at the meeting to be adjourned.

34. Standing orders at meetings

- 1) Subject to sub-rule (3), the following standing orders must be observed at general meetings of the co-operative -
 - (a) The mover of a proposition must not speak for more than 10 minutes. Subsequent speakers are allowed 5 minutes, and the mover of the proposition 5 minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this rule.
 - (b) If an amendment to an original proposition is proposed, no second amendment may be considered until the first amendment is disposed of.
 - (c) If an amendment is carried, the proposition as so amended displaces the original proposition and may itself be amended.
 - (d) If an amendment is defeated, then a further amendment may be moved to the original proposition. However, only one amendment may be submitted to the meeting for discussion at one time.
 - (e) The mover of every original proposition, but not of an amendment, has the right to reply. Immediately after this the question must be put from the chair. No other member may speak more than once on the same question, unless permission is given for an explanation, or the attention of the chairperson is called to a point of order.
 - (f) Propositions and amendments must be submitted in writing, if requested by the chairperson.
 - (g) Any discussion may be closed by a resolution “that the question be now put” being moved, seconded and carried. That the resolution must be put to the meeting without debate.
- 2) Any member or visitor invited to attend the meeting by the board, may speak on any issue at a meeting with the permission of the chairperson subject to any conditions imposed by the chairperson.
- 3) The standing orders may be suspended for any period by ordinary resolution.

35. Attendance and voting at general meetings

- 1) The right to vote attaches to membership and not shareholding.
- 2) A member of the co-operative is not entitled to vote at a meeting of the co-operative unless that person is an active member of the co-operative.
- 3) Subject to the Act and this rule, every member of the co-operative has only one vote at a meeting of the co-operative.
- 4) A member of the co-operative who is under 18 years of age is not entitled to vote.
- 5) In the case of joint membership –
 - (a) the joint members have only one vote between them; and
 - (b) that vote may be exercised by the member whose name appears first in the register of members unless the other joint members otherwise direct.

- 6) Subject to the Act and these rules, a question for a decision at a general meeting, other than a special resolution, must be determined by a majority of members present at the meeting and voting.
- 7) In accordance with section 208(2) of the Act, unless a poll is demanded by at least 5 members, a question for a decision at a general meeting must be determined by a show of hands.
- 8) In the case of an equality of votes at a meeting of the co-operative, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded may exercise a second or casting vote.

36. Electronic meetings

All meetings required by these rules may be conducted by electronic means. Notices of all meetings shall include the medium the meeting shall use, time, date, how to access the electronic medium and how voting shall be conducted, if applicable.

37. Postal ballot

- 1) The manner of voting shall be in accordance with the regulations.
- 2) A special postal ballot or a postal ballot must be held -
 - (a) when required by the Act; or
 - (b) in accordance with section 202 of the Act, on the written requisition of the number of active members of the co-operative who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of the co-operative; or
 - (c) if approved by the members by ordinary resolution.

38. Poll at general meetings

- 1) If a poll (or ballot) is demanded by at least 5 members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- 2) A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

39. Special and ordinary resolutions

- 1) A special resolution is a resolution which is passed in accordance with sections 192 and 193 of the Act –
 - (a) by a two-thirds majority at a general meeting of members; or
 - (b) by a two-thirds majority in a postal ballot (other than a special postal ballot) of members; or

- (c) by a three-quarters majority in a special postal ballot of members.
- 2) An ordinary resolution is a resolution passed by a simple majority at a general meeting or in a postal ballot by members.
- 3) A special resolution has effect from the date that it is passed unless it is required to be registered under section 196(2) of the Act.

40. Board of directors

- 1) There shall be a board of at least four and up to six directors, consisting of up to five member directors and an independent director if appointed. An independent director may be nominated by the staff: –
 - (a) at an annual general meeting, in which case their appointment takes effect at that time; or
 - (b) at any other time, in which case the Board must make the appointment under rule 45.

41. Qualifications of directors

- 1) A person is not qualified to be a director unless he or she is -
 - (a) a member of the Co-operative or a representative of a body corporate which is a member of the Co-operative (“member director”); or
 - (b) an employee of the Co-operative or a person qualified with skills required by the Co-operative as set out in Appendix 5 (“independent director”).
- 2) In accordance with section 213 of the Act, a person may only be elected or appointed as an independent director if there are at least 3 member directors appointed for each independent director.
- 3) A person must not act as a director if the person is disqualified under section 214 of the Act.
- 4) The first directors shall be elected at the meeting for the formation of the Co-operative.

42. Retirement of directors

- 1) All directors shall retire at each annual general meeting.
- 2) Retiring director retains office until the close of the meeting at which his or her successor is elected.
- 3) A retiring director is eligible for re-election.

43. Election of directors

- 1) At least 6 weeks before an annual general meeting, the board must -
 - (a) advise members of -

- (i) their eligibility to nominate as a director; and
- (ii) the duties and responsibilities of a director; and
- (iii) the anticipated remuneration (if any); and
- (iv) the nomination and election procedures

- 2) Not less than 6 weeks before the annual general meeting, a notice must be displayed at the registered office of the co-operative inviting nominations of candidates for election as directors.
- 3) A nomination must -
 - (a) be signed by 2 or more members; and
 - (b) provide details of the qualifications and experience of the person nominated; and
 - (c) be accompanied by a notice in writing signed by the candidate agreeing to his or her nomination.
- 4) The nomination and the notice referred to in sub-rule (3) must be lodged at the registered office of the co-operative at least 21 days before the annual general meeting.
- 5) Details of each person who has been nominated must be given to members with the notice of the annual general meeting by the secretary or an officer nominated by the board.
- 6) Details to be provided to members must include the candidate’s –
 - (a) name; and
 - (b) age; and
 - (c) qualifications and experience; and
 - (d) length of any previous service as a director of the co-operative or with any other co-operative.

44. Manner of election

- 1) The ballot for the election of directors must be conducted at the annual general meeting in the manner that the board directs.
- 2) If, at the annual general meeting at which an election of directors ought to take place, the place of any retiring director is not filled, the meeting stands adjourned until the same day and time in the next week and at the same place unless another place is specified by a director or officer of the co-operative -
 - (a) at the time of the adjournment; or
 - (b) by written notice to members given before the day to which the meeting is adjourned.
- 3) At the resumption of the adjourned meeting nominations for any unfilled positions of director may be received and an election may be held.

45. Casual vacancy

If there is a casual vacancy in the office of director under section 219 of the Act, the board may appoint a person to fill that vacancy, but the person appointed must retire at the next annual general meeting.

46. Removal from the office of director

The co-operative may by special resolution remove any director from office before the end of the director's period of office.

47. Remuneration

In accordance with section 229 of the Act a director of the co-operative must not be paid any remuneration for services as a director other than fees, concessions and other benefits that are approved at a general meeting of the co-operative.

48. Deputy directors

- 1) In the absence of a director from a meeting of the board, the board may appoint a person to act as a deputy for that director.
- 2) A person appointed under sub-rule (1) must -
 - (a) be a member, if the absent director is a member;
 - (b) be a representative of a body corporate, if the absent director is a representative of that body corporate;
 - (c) be an employee or a person qualified as set out in Appendix 5, if the absent director is an employee or a person qualified as set out in Appendix 5.
- 3) A person appointed as a deputy director may act in the place of the director for whom he or she is deputy.
- 4) The other members of the board may by a majority vote to remove a deputy director from office.
- 5) A deputy director vacates office –
 - (a) if the deputy director is removed from office under this rule; or
 - (b) if the director for whom he or she is deputy ceases to hold office; or
 - (c) if the deputy director dies; or
 - (d) if the deputy director resigns.
- 6) A deputy director, while acting as a director, is entitled to the same remuneration as that to which the director for whom he or she is deputy would have been entitled.

49. Proceedings of the board

- 1) Meetings of the board are to be held as often as may be necessary for properly conducting the business of the co-operative and must in any case be held at least every three months.
- 2) Questions arising at any meeting shall be decided by a majority of votes.

- 3) In the case of an equality of votes, the chairperson has a second or casting vote.
- 4) A director may call a meeting of the board of directors by giving notice individually to every other director.
- 5) Except in special circumstances determined by the chairperson, at least 48 hours notice shall be given to the directors of all meetings of the board.

50. Quorum for board meetings

The quorum for a meeting of the board shall be no less than half the number of current board members.

51. Chairperson of board

- 1) The chairperson of the board shall be elected by the board.
- 2) If the chairperson of the board is unable or unwilling to preside or is not present within 15 minutes after the appointed time for meetings of the board, the members present must select one of their number to preside.
- 3) The person selected under sub-rule (2) presides at the board meeting until the time that the chairperson attends and is willing to act.
- 4) The board may by ordinary resolution remove the chairperson from office.
- 5) A chairperson shall be elected in the first meeting following the annual general meeting each year.

52. Financial year

The financial year of the co-operative ends on 31st December

53. Seal

- 1) In accordance with section 254 of the Act, the co-operative must ensure that the name of the co-operative appears in legible characters on its common seal and official seals.
- 2) The common seal must be kept at the registered office of the co-operative in such custody as the board directs.
- 3) The co-operative must have, for use in place of its common seal outside the State where its common seal is kept, one or more official seals, each of which must be a facsimile of the common seal of the co-operative with the addition on its face of the name of every place where it is to be used.
- 4) The seal of the co-operative must not be affixed to any instrument except in accordance with a resolution of the board.

- 5) Two directors must be present when the common or official seal is affixed to an instrument by another person and must sign the instrument so sealed.
- 6) In accordance with section 49 (2) of the Act, the persons affixing the official seal must certify in writing on the instrument to which it is affixed, the date and place at which it is affixed.

54. *Custody and inspection of records*

A person is entitled to make a copy of entries in a register specified in section 246 (1) of the Act –

- 1) if the copy is a photocopy or electronic copy, on payment of a fee of \$1 per page to a maximum of \$20; and
- 2) in any other case, free of charge.

55. *Banking*

- 1) The board must ensure that -
 - (a) a banking account or accounts are kept in the name of the co-operative; and
 - (b) all money received by the co-operative is paid into that account or those accounts as soon as possible after it is received.
- 2) All cheques drawn on such accounts and all drafts, bills of exchange, promissory notes and other negotiable instruments for and on behalf of the co-operative, must be signed by the manager and another staff member or officer..

56. *Safekeeping of securities*

The co-operative must keep the securities of the co-operative safely in the manner and with the provision for their safety that the board directs.

57. *Audit*

- 1) The accounts of the co-operative must be audited in accordance with section 238 of the Act and the regulations under that section.
- 2) Auditors must be appointed in accordance with the regulations under section 238 of the Act to audit the accounts of the co-operative.
- 3) Audits must be carried out annually.

58. *Co-operative funds*

- 1) The funds and property of the co-operative shall be applied solely towards the carrying out and promotion of its objects and no part shall be transferred directly or indirectly by way of discount, rebate or otherwise by way of profit to members of the co-operative.

- 2) There must be no return or distribution on surplus or share capital to members other than any entitlement they have to the nominal value of shares at winding up.

59. *Provision for loss*

Subject to section 271 of the Act, the board may resolve to retain part of the surplus arising from the business of the co-operative in any year to be applied to meet any loss on the transactions of the co-operative.

60. *Winding up*

- 1) The winding up of the co-operative shall be in accordance with Part 12 of the Act.
- 2) If, on the winding up or dissolution of the co-operative, any property remains after the satisfaction of all its debts and liabilities and the costs, expenses and charges of the winding up, that property -
 - (a) must not be paid to or distributed among the members; and
 - (b) must be given or transferred to an institution -
 - (i) which has objects similar to those of the co-operative; and
 - (ii) whose constitution prohibits the distribution of property among its members; and
 - (iii) which has been chosen by the members of the co-operative at or before the time of the dissolution.

61. *Public Fund*

- 1) The objective of the Fund is to support the co-operative's environmental aims and objectives.
- 2) Members of the public are to be invited to make gifts of money or property to the Fund for the environmental purposes of the co-operative.
- 3) Money from interest on donations, income derived from property and money from the realisation of such property is to be deposited into the fund.
- 4) A separate bank account is to be opened to deposit money donated to the Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the co-operative.
- 5) Receipts are to be issued in the name of the Fund, and proper accounting records and procedures are to be kept and used for the fund.
- 6) The Fund will be operated on a not-for-profit basis.
- 7) A committee of management of no fewer than three persons will administer the Fund. Committee members will be appointed and, if necessary, removed by the board of directors. A majority of the members of the committee must be "responsible persons" as defined by the Guidelines to the Register of Environmental Organisations.

- 8) The co-operative must inform the Department responsible for the environment as soon as possible if;
 - (a) it changes its name or the name of the Public Fund
 - (b) there is any change to the membership of the management committee of the Public Fund
 - (c) there has been any departure from the model rules for public funds located in the Guidelines of the Register of Environmental Organisations.
- 9) The co-operative agrees to comply with any rules that the Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the Fund are only used for its principal purposes.
- 10) Any allocation of funds or property to other persons or organisations will be made in accordance with the aims and objectives of the co-operative and not be influenced by the preference of the donor.
- 11) Statistical information requested by the Department on donations to the Public Fund will be provided within 4 months of the end of the financial year. An audited financial statement for the co-operative and its Public Fund will be supplied with h annual statistical return. The statement will provide information on the expenditure of the Public Fund monies and the management of the Public Fund assets.
- 12) In case of winding up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.

CERTIFICATION

We the undersigned, certify that this is a copy of the rules which was presented to the special general meeting on.....(date)

at.....(location)

for the purpose of updating the Rules of the co-operative known as Victorian Indigenous Nurseries Co-operative Limited in accordance with the requirements of the Victoria Co-operatives Act 1996.

..... Chairperson
Signature

..... Secretary
Signature

Appendix 1 – Schedule of Charges

Copies of entry in register	<i>refer to rule 54</i>
Duplicate share certificate	\$10 (maximum)
Transfer of share	\$10
Transfer of charge (inclusive of transfer of debenture)	\$10
Copy of rules	\$5 plus \$1 for each page after the first page to a maximum of \$10

Appendix 2 – Co-operative Name, Primary Activity and Active Membership

Part 1 – Name of co-operative –

Victorian Indigenous Nurseries Co-operative Limited

Part 2 – Primary Activity

The primary activity of the Co-operative is to promote and support conservation and ecology in Melbourne's north-western region through the provision of information to members and the public and through the operation of an indigenous plant nursery.

Part 3 – Active membership requirements

In order to establish active membership of the co-operative -

- 1) Subscriber members in the co-operative must pay the amount set from time to time as the annual membership subscription fee; and
- 2) Shareholder members in the co-operative must -
 - (a) participate in at least one activity each financial year such as a meeting, or contribute to the operation of the co-operative, or
 - (b) make a donation to further activities of the co-operative.

All members must be active members of the co-operative.

The board of directors will review each member's compliance with the provisions of active membership prior to each Annual General Meeting.

If a member fails or ceases to be an active member, the board must in accordance with Division 4 of Part 6 of the Act –

- 1) declare the membership of the member cancelled; and
- 2) declare the shares of the member forfeit if applicable.

Appendix 3 – Fines, Share Value and Membership Subscriptions

Part 1 - Fines

The maximum fine applicable to the co-operative is \$100.00.

Part 2 – Share Value

The nominal value of a share purchased up to and including 30 June 1999 and the amount payable per share is \$1.00.

The nominal value of a share purchased after 30 June 1999 and the amount payable per share is \$100.00.

Part 3 – Membership Subscriptions

The membership subscription shall be set from time to time at the Annual General Meeting.

Appendix 4 – Form of Transfer of Shares or Debentures

I,.....("the transferor")
ofin the State of.....
in consideration of the sum of \$.....
paid by.....("the transferee")
ofin the State of.....
transfer to the transferee the share (or shares) / debenture (or debentures)
numbered.....
in Victorian Indigenous Nurseries Co-operative Limited
to be held by the transferee, the transferee's executors, administrators and assigns, subject to the several
conditions on which I hold the same at the time of the execution,
and I, the transferee, agree to take the share (or shares) / debenture (or debentures) subject to the conditions
previously referred to in this document.

Dated thisday of20.....

Signed by
.....transferor

In the presence of.....witness
.....witness address

Signed by
.....transferee

In the presence of.....witness
.....witness address

Appendix 5 – Qualifications of an independent director

An independent director is required to:

- 1) have an interest and expertise in at least one of the areas of activity undertaken by the co-operative, and,
- 2) have expertise in an area not already held by directors of the board.

