



CONSTITUTION OF Greenpeace Australia Pacific Limited

As resolved by Members at the Annual General Meeting held on the 25th May 2019

Australian Company Number (ACN) 002 643 852
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A company limited by guarantee

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GENERAL

1. Definitions

1.1 In this Constitution, words and phrases have the following meanings:

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

Annual General Meeting means an annual general meeting of the Company held in accordance with article 26.1.

Conciliation Committee means the committee tasked with assisting in the resolution of disputes between Members in accordance with the General Assembly Code of Conduct.

Board means the board of Directors of the Company.

Chair or **Chairperson** means any individual appointed for the time being as, or to perform the functions of, chairperson of the Company, elected in accordance with article 55.

Committee Chair has the meaning given in article 59.3

Company means the not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity called Greenpeace Australia Pacific Limited.

Company Secretary means any person appointed to perform the duties of a secretary of the Company.

Constitution means the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying or replacing this document.

Corporations Law means the *Corporations Act 2001* (Cth), the *Corporations Regulations 2001* (Cth) and/or any amending or superseding legislation.

Director means a person appointed or elected to the office of Director of the Company in accordance with this Constitution.

General Assembly means the Members of the Company from time to time.

General Assembly Code of Conduct means the code of conduct provided during the General Assembly induction and any amended versions as distributed from the Company to the Members from time to time.

Greenpeace Trust has the meaning given in article 9.1.

Guarantee has the meaning given in article 12.1.

Honorary Member means an individual who satisfies the criteria for honorary membership set out in article 20.2 and is appointed in accordance with article 20.1.

Member means a successful applicant to the General Assembly who has been entered onto the Register of Members (after having undertaken to comply with the matters set out in article 16.1, including the promotion of the Company's purpose, accepting the powers and obligations set out in this Constitution, abiding by the General Assembly Code of Conduct, paying the Membership Fee (unless this is waived by the Board), actively participating in decision making and providing oversight of the Company through general meetings, ballots, direct voting and committees.

Member Present means, in connection with a meeting, a Member present in person, via technology or by proxy at the venue or venues for the meeting.

Members' Resolution has the meaning given in article 35.1(a).

Members' Statement has the meaning given in article 35.1(b).

Membership Fee means the fee payable by Members of the General Assembly in accordance with article 21.

officer has the meaning given in article 73 in this Constitution.

Register of Members means the register of Members established and maintained in accordance with article 15 and the Corporations Law.

Registered Charity means a charity that is registered under the ACNC Act.

Special Resolution means a resolution of the General Assembly that must be passed by seventy-five (75) per cent of votes cast by Members Present and entitled to vote on the resolution.

Surplus Asset means any asset of the Company that remains after paying all debts and other liabilities of the Company, including the costs of winding up.

2. Interpretation

2.1 Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise:

- (a) A gender includes all genders.
- (b) The singular includes the plural and conversely.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a paragraph or sub-paragraph is to a paragraph or sub-paragraph, as the case may be, of the article or paragraph, respectively, in which the reference appears.
- (e) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

3. Replaceable rules

- 3.1** The replaceable rules contained in the Corporations Law do not apply to the Company.
- 3.2** While the Company is a Registered Charity, the ACNC Act and the Corporations Law override any articles in this Constitution which are inconsistent with that legislation.
- 3.3** If the Company is not a Registered Charity (even if it remains a charity), the Corporations Law overrides any article in this Constitution which is inconsistent with that legislation.

4. Previous Constitution superseded

- 4.1** This amended Constitution supersedes the Constitution in force immediately before the adoption of this Constitution.

5. Transitional

- 5.1** Everything done under any previous constitution of the Company continues to have the same operation and effect after the adoption of this Constitution as if properly done under this Constitution. In particular every Director, Member and Company Secretary in office or admitted immediately before adoption of this Constitution is taken to have been appointed or admitted and will continue in office under this Constitution.

6. Objects

- 6.1** The objects for which the Company is established are:
 - (a) to protect, preserve and enhance the natural environment; and
 - (b) to promote nuclear disarmament and peace.

INCOME AND PROPERTY

7. Powers

- 7.1** Subject to article 8, the Company has the following powers, which may only be used to carry out its purpose(s) set out in article 6.1:
 - (a) the powers of an individual; and
 - (b) all the powers of a company limited by guarantee under the Corporations Law.

8. Application of income and property

- 8.1** The Company must not distribute any income or assets directly or indirectly to its Members, except as provided in articles 8.2, 49 and 72.
- 8.2** Article 8.1 does not stop the Company from doing the following things, provided they are done in good faith and in accordance with Company policies and relevant approvals:
- (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) including the payment of out-of-pocket expenses.

9. The Greenpeace Trust

- 9.1** The Company will establish and maintain a public fund to be called the Greenpeace Trust for the specific purpose of supporting the environmental objects of the Company (Greenpeace Trust).
- 9.2** The Greenpeace Trust will receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account unless the law requires the funds be placed in a different account.
- 9.3** The fund must not receive any other money or property into its account, and it must comply with sub-division 30-E of the *Income Tax Assessment Act 1997 (Cth)*, as amended (ITAA).
- 9.4** The Company must inform the federal department responsible for the environment as soon as possible if:
- (a) it changes its name or the name of the Greenpeace Trust;
 - (b) there is any change to the membership of the Board, which, in accordance with article 10.7, is responsible for administering the Greenpeace Trust; or
 - (c) there has been any departure from the rules of the Greenpeace Trust set out in article 10.
- 9.5** The Company agrees to comply with any rules that the Treasurer of the Commonwealth of Australia and the federal minister with responsibility for the environment may make to ensure that gifts made to the fund are only used for its objects.
- 9.6** Any allocation of funds or property to other persons or organisations will be made in accordance with the established objects of the organisation and not be influenced by the preference of the donor.

- 9.7** In case of the winding up of the Greenpeace Trust, any Surplus Assets are to be transferred to another fund with similar objects that is on the Register of Environmental Organisations established in accordance with sub-division 30-E of the ITAA (Register of Environmental Organisations), which will be selected by the General Assembly, or if the General Assembly does not make a selection, by the Board.
- 9.8** Statistical information requested by the federal department responsible for the environment on donations to the Greenpeace Trust will be provided within four (4) months of the end of the financial year.
- 9.9** An audited financial statement for the Company and the Greenpeace Trust will be supplied with the annual statistical return. The statement will provide information on the expenditure of trust monies and the management of trust assets.

10. Rules of the Greenpeace Trust

- 10.1** The objective of the Greenpeace Trust is to support the Company's environmental purposes.
- 10.2** Members of the public are invited to make gifts of money or property to the Greenpeace Trust for the environmental purposes of the Company.
- 10.3** Money from the provision of goods or services, donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Greenpeace Trust unless the law requires the funds be placed in a different account.
- 10.4** A separate bank account is to be opened to deposit money donated to the Greenpeace Trust, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the organisation.
- 10.5** Receipts are to be issued in the name of the Greenpeace Trust and proper accounting records and procedures are to be kept and used for the Greenpeace Trust.
- 10.6** The Greenpeace Trust will be operated on a non-profit basis.
- 10.7** The Board will administer the Greenpeace Trust. The majority of the Board members are required to be "responsible persons" as defined by the Guidelines to the Register of Environmental Organisations (in force at the relevant time).

LIABILITY

11. Limited liability

- 11.1** The liability of Members is limited to the amount of the Guarantee in article 12.

12. Extent of liability

- 12.1** Each Member must contribute an amount not more than five (5) dollars (the Guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within twelve (12) months after they stop being a Member, and this contribution is required to pay for the:
- (a) debts and liabilities of the Company incurred before the Member stopped being a Member; or
 - (b) costs of winding up.

AMENDMENT OF CONSTITUTION

13. Amendment of Constitution

- 13.1** Subject to article 13.2, the Members may amend this Constitution by passing a Special Resolution.
- 13.2** The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a charity or causes it to lose entitlement to an authority under the *Charitable Fundraising Act 1991* (NSW) or similar legislation.
- 13.3** No addition, alteration or amendment to this Constitution will be effective unless such addition, alteration or amendment has, if required, been approved by the relevant authority.

MEMBERSHIP

14. Members

- 14.1** The Members of the Company are any persons that the Directors allow to be a Member, in accordance with this Constitution.
- 14.2** Subject to article 22, in order for an individual to become a Member:
- (a) the individual must submit an application for membership of the General Assembly in accordance with article 16 (including agreeing, in that application, to the matters outlined in 16.1(a) to 16.1(f));
 - (b) the Board must review the application for membership in accordance with article 16.4 and not make a decision (which it may do in its absolute discretion) to reject the application;

- (c) the General Assembly must elect the individual as a Member of the Company in accordance with article 18; and
- (d) the details of the individual must be entered into the Register of Members in accordance with article 15.1.

- 14.3** An applicant will become a Member on the date that they are entered on the Register of Members.
- 14.4** The Board may seek to engage with the General Assembly on specific issues from time to time.
- 14.5** The number of Members of the General Assembly of the Company will be determined by the Board, but it is intended that the number of Members will not be less than fifty (50).
- 14.6** A Member must resign as a Member before taking up any position as an employee of the Company.
- 14.7** An employee of the Company or its related entities is not eligible to be elected to membership of the General Assembly until twelve (12) months after the cessation of their employment with the Company. For the avoidance of doubt, volunteers, unpaid interns and independent contractors are not, for the purpose of this article, employees of the Company.

15. Register of Members

15.1 The Company must establish and maintain a Register of Members. The Register of Members must be kept by the Company Secretary and must contain:

- (a) for each current Member:
 - (i) name;
 - (ii) address;
 - (iii) any alternative address nominated by the Member for the service of notices; and
 - (iv) the date the Member was entered on to the register.
- (b) for each person who stopped being a Member in the last seven (7) years:
 - (i) name;
 - (ii) address;
 - (iii) any alternative address nominated by the Member for the service of notices; and
 - (iv) dates the membership started and ended.

15.2 The Company must give current Members access to the Register of Members at no charge.

15.3 Information that is accessed from the Register of Members must only be used in accordance with the Corporations Law. A person who accesses the Register of Members must not:

- (a) use information about a person obtained from the Register of Members to contact or send material to the person; or
- (b) disclose information of that kind knowing that the information is likely to be used to contact or send material to the person,

unless the use or disclosure of the information is:

- (i) relevant to the rights or interests of Members or the exercise of any rights granted to Members under this Constitution; or
- (ii) approved by the Company.

16. Application for membership

16.1 An applicant may apply to become a Member of the General Assembly by writing to the Company Secretary stating that they want to become a Member and agreeing that they will:

- (a) promote the purpose of the Company as outlined in article 6;
- (b) accept the powers and obligations set out in this Constitution, including paying the Guarantee in article 12.1 if required;
- (c) abide by the General Assembly Code of Conduct;
- (d) pay the Membership Fee (unless it is waived by the Board);
- (e) actively participate in decision making through general meetings and ballots; and
- (f) provide oversight of the Company through general meetings, ballots, direct voting and committees.

16.2 An application for membership of the General Assembly will be in writing, signed by the applicant and in the form prescribed by the Board. Where an application is submitted electronically, the requirement for signing by the applicant can be met by a typewritten depiction by that person of their name.

16.3 An applicant for membership of the General Assembly must, at the time of their application, provide to the Company Secretary:

- (a) a document in support of their application;
- (b) an outline of any office, property or circumstance the applicant holds which may reasonably conflict or inhibit the applicant's ability to fulfil the duties expected of a Member;
- (c) details regarding any previous positions held with the Company or its related entities; and

(d) any other information as prescribed by the Board.

16.4 All applications for membership of the General Assembly will be reviewed by the Board and the Board may, in its absolute discretion, reject any application for membership.

16.5 A person is not eligible for election or re-election as a Member of the General Assembly at a general meeting unless the Company Secretary receives their application for membership at least twenty-one (21) calendar days before and no more than four (4) months before the Annual General Meeting.

17. Duration of membership and retirement

17.1 A person who is admitted as a Member of the General Assembly will remain a Member of the General Assembly until the earlier of:

(a) four (4) years (at which point the Member's term will expire in accordance with article 17.2); or

(b) they cease to be a Member in accordance with this Constitution.

17.2 A Member's term will expire at the conclusion of the fourth Annual General Meeting after the Member was elected.

17.3 A Member may reapply for membership at the expiration of their term. If they desire Membership in the year following the expiration of their term, they must apply for membership in accordance with article 16 prior to the fourth Annual General Meeting after they were elected.

18. Election of Members

18.1 Election of Members of the General Assembly will be by ballot, conducted by a returning officer appointed at the Annual General Meeting. Each returning Member may participate in the ballot. Applicants for membership who are not members at the commencement of the Annual General Meeting are not entitled to vote in the ballot.

18.2 The ballot will take place at the Annual General Meeting, by means of an accessible ballot showing the names of all candidates for the available positions, with space beside each name for voters to enter 'yes' or 'no'.

18.3 Voters may mark beside each candidate's name yes or no, with no requirement to mark any particular number of yes votes.

18.4 Any ballot without every name marked yes or no will be invalid.

18.5 Subject to article 18.6, at counting, candidates who have a majority of affirmative votes available from voters exercising their right to vote will be elected.

18.6 In the event that there are more applications for membership than there are memberships available to be filled, those candidates who receive the most affirmative votes will be elected, up to the total number of memberships that are available to be filled.

18.7 In the event of a tie the names of the applicants who tied will be included in a re-ballot which will be conducted during the Annual General Meeting in the manner determined by the Chair. In order for a Member to have their vote counted in the re-ballot:

- (a) the Member must be present in person at the general meeting, or
- (b) the Member must appoint an undirected proxy prior to the meeting in accordance with article 39; or
- (c) the Member must have access to technology that has previously been approved by the Board which allows them to engage in the re-ballot.

If the re-ballot results in a tie, the Chair will determine a process for randomly allocating the remaining positions to the Members who tied. For example, by drawing the number of available General Assembly positions from a hat containing the names of the Members who tied.

18.8 The returning officer will declare the results of the ballot immediately after counting.

18.9 The Board may prescribe rules to govern the participation in the election of Members by ballot by Members participating in the Annual General Meeting by means of technology or direct voting including rules specifying the form, method and timing of giving the vote in order for the vote to be valid.

19. Admission to membership

19.1 When an applicant has been elected to membership of the General Assembly, the Company Secretary will

- (a) notify the applicant in writing;
- (b) request payment of any Membership Fees as determined by the General Assembly from time to time; and
- (c) add the applicant to the Register of Members.

19.2 The Company Secretary will notify the applicant referred to in article 19.1 in the manner set out in article 70 as if this notification were a notice to a Member.

20. Honorary membership

- 20.1** The General Assembly may, by majority vote, appoint Honorary Members of the General Assembly.
- 20.2** An Honorary Member will be a person who has made a significant contribution to the ideals, policies or work of the Company or who has demonstrated a commitment to the principles of the global Greenpeace network and who possess special skills or attributes which would significantly advance the interests of the Company.
- 20.3** Any Honorary Member will be entitled to attend meetings and engage in discussions of Members of the Company (and must be given the same notice of such meetings as Members) but will not be entitled to vote at any meeting of the Members of the Company, nor will they be liable for payment of any membership fees or for payment of any amount upon the winding up of the Company.
- 20.4** An Honorary Member will cease to be a Member in accordance with article 23.1(a), 23.1(b), 23.1(d), 23.1(e), 23.1(f), 23.1(g) or 23.1(i).

21. Membership Fees

- 21.1** The Membership Fee payable by Members of the General Assembly is the amount prescribed by the General Assembly in a general meeting from time to time.
- 21.2** Membership Fees will be due and payable at such dates and such intervals as prescribed by the General Assembly in general meeting.
- 21.3** The Board may grant to any Member a full or partial exemption from payment of Membership Fees.

22. Appointment of Members to fill casual vacancies

- 22.1** If the number of Members of the General Assembly falls below fifty (50) at any time of the year the vacancy may be filled by appointment by the Board. Any Member so appointed will hold membership only until the conclusion of the next Annual General Meeting and is eligible for election at that Annual General Meeting.
- 22.2** A person appointed to fill a casual vacancy may not be an employee of the Company or its related entities or must not have

been employed by the Company or its related entities within the twelve (12) months preceding the proposed appointment.

22.3 Articles 16.5, 17 and 18 do not apply to the appointment of a Member by the Board in accordance with this article.

22.4 Article 16.1 to 16.4, 19 and 21.3 do apply to the appointment of a Member by the Board in accordance with this article.

CESSATION OF MEMBERSHIP

23. Circumstances in which a Member will cease to be a Member

23.1 A Member will cease to be a Member if they:

- (a) die;
- (b) resign, by giving notice in writing to the Company Secretary;
- (c) do not pay any Membership Fees in full within 60 calendar days after the date on which they are notified that the fees are payable and have not been granted a full or partial exemption from payment by the Board;
- (d) are found by the Board to be in breach of a provision of this Constitution and the Board resolves to expel the Member in accordance with article 24.1;
- (e) are guilty of any act or omission which, in the opinion of the Board is causing, has caused, or is likely to cause harm to the Company, or is prejudicial to the interest of the Company and the Board resolves to expel the Member in accordance with article 24.1;
- (f) take up a position as an employee of the Company or its related entities;
- (g) are excluded by Special Resolution of the General Assembly;
- (h) fail to attend, or appoint a proxy to, or have an apology accepted by, two (2) consecutive Annual General Meetings of the General Assembly; or
- (i) have not responded within three (3) months to a written request from the Company Secretary that they confirm in writing that they want to remain a Member.

23.2 If a Board reasonably believes that a Member may have engaged in the conduct described in article 23.1(d), 23.1(e) or 24.2, the Board may also, in its discretion, resolve to suspend the Member for a period of up to three (3) months.

23.3 If a Member is suspended by the Board, then, for the duration of the period of the suspension:

- (a) the Member will not be entitled to exercise, or have the benefit of, any rights granted to it under this Constitution, including the right to attend and vote at general meetings of Members; and
- (b) any attempt by the Member to exercise any rights it has under this Constitution will be disregarded.

24. Notice of proposed exclusion

- 24.1** The Board may make a resolution to expel a Member in accordance with article 23.1(d), 23.1(e), 24.2 or 42.2.
- 24.2** Where the Board considers that the Member's ongoing membership may result in significant detriment to the Company, the board may make a resolution in writing to expel the Member without first giving the Member notice of the proposed exclusion or an opportunity to provide an explanation.
- 24.3** Subject to 24.2, if a resolution is proposed to expel a Member from membership,
- (a) the Member will be given at least fourteen (14) days' notice stating the date, time and place at which the question of exclusion of that Member is to be considered, and a statement outlining the reasons for proposing their exclusion; and
 - (b) the Member will be given the opportunity of giving an explanation to the General Assembly or the Board, orally or in writing.
- 24.4** If the Board resolves to expel a Member, the member then has the right exercisable by notifying the Company Secretary within 7 days after receipt of notice (the Expulsion Notice Period) to have the issue dealt with by the General Assembly in general meeting. In that event, a general meeting of the Company must be called for that purpose. If a special resolution to expel the member is passed at the meeting, the member ceases to be a member on the making of the resolution.
- 24.5** If the member does not notify the Company Secretary on or before the expiration of the Expulsion Notice Period that the member wishes to have the issue dealt with by the General Assembly in general meeting, the member ceases to be a member on the expiration of the Expulsion Notice Period
- 24.6** If the Member chooses to provide an explanation under article 24.3(b) then the board or General Assembly must consider that explanation when determining whether to expel the member.
- 24.7** The Directors cannot fine a Member.
- 24.8** The Company must give written notice to the Member of the decision made under article 24.1 as soon as reasonably practical.
- 24.9** Disciplinary procedures must be completed as soon as reasonably practical.
- 24.10** There will be no liability on the part of the Company or any Director for any loss or injury suffered by the Member as a result of any decision made in good faith under article 24.

25. Removal from Register of Members

- 25.1** The name of any Member who ceases to be a Member of the General Assembly will be removed from the Register of Members. For the avoidance of doubt, if the Company Secretary reasonably believes a Member meets the disqualification criteria in 23.1(a), 23.1(b), 23.1(c), 23.1(f), 23.1(g), 23.1(h) or 23.1(i) they may remove the Member from the Register of Members without consulting with the Board.

GENERAL MEETINGS OF THE GENERAL ASSEMBLY

26. Annual General Meeting

- 26.1** Subject to the Corporations Law, Annual General Meetings of the General Assembly will be held in each year at such time and place or by such other lawful means or combination of means of communication as the Board may determine. For the avoidance of doubt, meetings of the General Assembly may be held at two (2) or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

27. Business of Annual General Meeting

- 27.1** The business of any Annual General Meeting will be:

- (a) to confirm the minutes of the previous Annual General Meeting and of any extraordinary general meeting held during the preceding year;
- (b) to receive the annual financial report including the Directors' report;
- (c) to receive the auditor's reports;
- (d) to appoint an auditor (if an auditor is required), except in the case of a continuing auditor and to fix the remuneration of the auditor;
- (e) to determine any Membership Fee;
- (f) to elect the Members of the General Assembly in place of those retiring in accordance with the Constitution;
- (g) to elect the Directors in the place of those retiring in accordance with the Constitution;
- (h) to determine issues of, including the amount of, remuneration of the Board; and
- (i) to consider any other business the general nature of which will have been specified in the notice convening the meeting or which the Chair of the meeting permits to be brought before the meeting, including declaring the results of any ballot.

- 27.2** Before or at the Annual General Meeting, the Board must give information to the Members on the Company's activities and finances during the period since the last Annual General Meeting.

28. Extraordinary general meetings of the General Assembly

- 28.1** All general meetings, other than the Annual General Meeting, will

be called extraordinary general meetings.

28.2 The Board must call an extraordinary general meeting:

- (a) at such time as it deems fit; or
- (b) upon receipt of a written request by more than thirty (30) per cent of Members.

28.3 The meeting must be called within twenty-one (21) calendar days of receiving the requisition and must be held no later than two (2) months after the requisition.

28.4 The percentage of votes that Members have is to be calculated based on the number of Members on the Register of Members at midnight on the day before the Members request the meeting.

28.5 For the avoidance of doubt, extraordinary general meetings of the General Assembly may be held at two (2) or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

28.6 Members who make a request for a general meeting must:

- (a) state in the request any resolution to be proposed at the meeting. The resolution must be about a topic that falls within the ambit of the General Assembly;
- (b) sign the request; and
- (c) give the request to the Company Secretary.

28.7 Where the Members submit the request electronically, the requirement for a Member to sign can be met by a typewritten depiction by that person of their name.

28.8 Separate copies of a document setting out a request may be signed by Members if the wording of the request is the same in each copy.

29. Business of extraordinary general meetings of Members

29.1 The business of an extraordinary general meeting will be to consider the business in respect of which the general nature has been specified in the notice convening the meeting.

30. Notice of general meetings

30.1 Notice of a general meeting must be given to:

- (a) each Member entitled to vote at the meeting;
- (b) Honorary Members;
- (c) each Director; and
- (d) the auditor (if any).

30.2 Notice of a general meeting must be provided in writing at least twenty-one (21) calendar days before the meeting.

30.3 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 resolution is proposed prior to the Notice period together with the words of the proposed resolution; and
- (d) a statement that Members have the right to appoint proxies and that, if a Member appoints a proxy:
 - (i) the proxy must be a current Member of the General Assembly;
 - (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 forty-eight (48) hours before the meeting.

30.4 If a general meeting is adjourned (put off) for thirty (30) calendar days or more, the Members must be given new notice of the resumed meeting.

30.5 The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings at, or any resolution passed at, the meeting.

30.6 The auditor (if any) is entitled to attend any general meeting and to be heard by the Members on any part of the business of the meeting that concerns the auditor in their capacity as auditor.

30.7 The Company must give the auditor (if any) any communications relating to the general meeting that a Member of the Company is entitled to receive.

31. Quorum

31.1 For a general meeting to be held, at least twenty (20) Members (a quorum) must be present (in person or by proxy) at the start of the meeting (not including any Honorary Members). When determining whether a quorum is present, each person who appears in person (including through the use of technology) or by proxy will be counted separately.

31.2 No resolutions may be conducted at a general meeting if a quorum is not present.

32. If lack of quorum

32.1 If there is no quorum present within thirty (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.

32.2 If no quorum is present at the resumed meeting within thirty (30) minutes after the starting time set for that meeting, the meeting is cancelled.

33. Chair of meetings

33.1 The Chairperson is responsible for the conduct of the general meeting, and for this purpose must give Members as a whole a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).

33.2 For the avoidance of doubt, the Chairperson does not have a casting vote.

33.3 Subject to article 33.4 the Chair of the Board or, in the Chair's absence, a deputy chair appointed by the Chair will preside as chair at every general meeting.

33.4 Where a general meeting is held and:

- (a) there is no Chair or deputy chair; or
- (b) the Chair or deputy chair is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting,

the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members Present may elect one of their number to be chair of the meeting.

34. Adjournments

34.1 If a quorum is present, a general meeting must be adjourned if a majority of Members Present request that the Chairperson adjourn it.

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

35. Members' Resolutions and Members' Statements

35.1 Two Members entitled to cast votes at a general meeting of Members may give:

- (a) written notice to the Company Secretary of a resolution they propose to move at a general meeting (Members' Resolution), and/or
- (b) a written request to the Company Secretary that the Company give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a general meeting (Members' Statement).

35.2 A notice of a Members' Resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.

35.3 A notice of a Members' Resolution or Members' Statement must be about a topic that falls within the ambit of the General Assembly pursuant to article 27.1.

35.4 A request to distribute a Members' Statement must set out the statement to be distributed and be signed by the Members making the request.

35.5 Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.

35.6 This article does not limit any other right that a Member has to propose an ordinary resolution at a general meeting. For the avoidance of doubt, two Members entitled to cast votes at a general meeting of Members can propose resolutions at a general meeting ('from the floor') provided the resolution relates to a topic in 27.1.

36. Notice of proposed resolution or statement

36.1 If the Company Secretary has been given a notice or request under article 35:

- (a) in time to send the notice of proposed Members' Resolution or a copy of the Members' Statement to Members with the notice of meeting for the next general meeting of Members to be held following receipt by the Company of the proposed Members' Resolution or a copy of the Members' Statement (Next General 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 Members with the notice of meeting for the Next General Meeting, then,
 - (i) provided that, after being notified that they will be required to pay the amounts specified in article 36.1(b)(ii) below if the proposed Members' Resolution or a copy of the Members' Statement are sent to Members, the Members who proposed the resolution or made the request consent to the relevant documents being sent to Members;
 - (ii) the Company must send the relevant documents to Members and the Members who proposed the resolution or made the request must pay the

expenses reasonably incurred by the Company in giving Members notice of the proposed Members' Resolution or a copy of the Members' Statement. However, at a general meeting, the Members may pass a resolution that the Company will pay these expenses.

36.2 The Company does not need to send the notice of proposed Members' Resolution or a copy of the Members' Statement to Members if:

- (a) it is more than 1000 words long;
- (b) the Company Secretary considers it may be defamatory;
- (c) article 36.1(b) applies, and the 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 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 Members.

37. Voting and representation at general meetings

37.1 Each Member has one vote.

37.2 Except where a matter requires a Special Resolution, questions arising at a meeting of the General Assembly must be decided by a majority of votes cast by Members entitled to attend and vote.

37.3 Except where the Board has approved another form or method of voting:

- (a) Any resolution to be considered at a meeting must be decided on a show of hands unless a vote in writing is requested in accordance with article 38.1 or the Chairperson chooses another method that is fair and reasonable in the circumstances.
- (b) Before a vote is taken, the Members acting as proxies must inform the Chairperson that they have a proxy vote so that the Chairperson can account for the proxy votes when determining whether the vote is successful.
- (c) On a show of hands or audio confirmation from people appearing via technology, the Chairperson will decide the result of the vote. If a Member disagrees with the Chairperson's decision regarding whether sufficient Members voted for, or against a resolution to achieve the result the Chairperson decided, a Member can request a count. If requested, the Chairperson will count the votes for and against the resolution and announce them to the attendees. The Chairperson's decision is conclusive evidence of the result of the vote.

37.4 A Member is not entitled to vote at a general meeting unless all fees presently payable by the Member in respect of membership in the General Assembly have been paid.

37.5 Subject to 37.6, the Chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour, against or abstaining from a show of hands.

- 37.6** If a Member abstains from a vote due to a material personal interest this should be recorded in the minutes.
- 37.7** A Company Secretary who is not a Member of the General Assembly is entitled to be present and, at the request of the Chair, to speak at any general meeting.
- 37.8** Any other person (whether a Member or not) requested by the Board or the Company Secretary to attend any general meeting is entitled to be present and, at the request of the Chair, to speak at the general meeting.

38. Voting in writing

- 38.1** A vote in writing may be demanded on any resolution. A vote in writing may be requested by a show of hands. The vote in writing is required if it is requested by:
- (a) at least five (5) per cent of Members entitled to attend and vote, or
 - (b) the Chairperson.
- 38.2** A vote in writing must be taken when and how the Chairperson directs.
- 38.3** A vote in writing cannot be requested on the election of a Chair or on a resolution for adjournment.

39. Proxies

- 39.1** A Member may appoint one proxy to attend and vote at a general meeting on their behalf.
- 39.2** A proxy must be a Member.
- 39.3** No Member may hold more than one proxy per meeting.
- 39.4** A proxy appointed to attend and vote for a Member has the same rights as the 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) vote to request a vote in writing.
- 39.5** An appointment of proxy (proxy form) must either be:
- (a) signed by the Member appointing the proxy,
 - (b) sent electronically from the email address that the Member appointing the proxy provided to the Company Secretary during the application for membership. The Member can change the email address they nominated by contacting the Company Secretary in person or by emailing the Company Secretary from the email address which is currently on file with the Company Secretary and requesting the change, or

- (c) in a form or method facilitated by technology that has been approved by the Board

39.6 An appointment of proxy must contain:

- (a) the Member's name;
- (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.

39.7 A proxy appointment may be standing (ongoing).

39.8 At least 48 hours before the scheduled commencement of the meeting proxy forms must be:

- (a) received by the Company at the address stated in the notice under article 30 or at the Company's registered address, or
- (b) received by the Company in a form or method approved by the Board.

39.9 A proxy does not have the authority to speak and vote for a Member at a meeting while the Member is at the meeting.

39.10 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 Member:

- (a) dies;
- (b) is mentally incapacitated; or
- (c) revokes the proxy's appointment.

39.11 A proxy appointment may specify the way the proxy must vote on a particular resolution.

39.12 A proxy may vote as the proxy thinks fit on any resolution in respect of which no manner of voting is indicated.

40. Direct Voting

40.1 The Board may determine that, at any meeting of the General Assembly, each Member who is entitled to attend and vote at that meeting is entitled to a direct vote by giving a valid notice of the Member's intention to vote;

40.2 A direct vote includes a vote delivered to the Company Secretary by post, facsimile transmission or other electronic or technological means approved by the Board;

40.3 The Board may prescribe rules to govern direct voting including rules specifying the form, method and timing of giving the direct vote in order for the vote to be valid;

- 40.4** The Chair's decision as to whether a direct vote is valid in accordance with this Constitution and any rules made by the Board is conclusive;
- 40.5** A person who has cast a direct vote is entitled to attend the meeting however the Member must inform the Chair whether they maintain their direct vote or alternatively whether they will vote in person or by proxy.
- 40.6** If a vote is taken on a resolution on which a direct vote was cast by a Member the vote of each Member who submitted a direct vote must be counted in accordance with their direct vote.

41. Ballot by postal or electronic or other technological means

- 41.1** A resolution of the Members decided by ballot by postal or electronic or other technological means will be valid and effective as if it had been passed at a meeting of the General Assembly duly called and constituted.
- 41.2** Any ballot by postal or electronic or other technological means will be conducted in the manner prescribed by the Board from time to time that promotes accessibility.

42. Material personal interest of Members

- 42.1** At the commencement of a general meeting, Members must provide an outline to the other Members Present of any office, property or circumstance the Member holds which may reasonably conflict or inhibit the applicant's ability to fulfil the duties expected of a Member. The Member does not need to make this disclosure if the disclosure has been made in their application for membership or in a previous general meeting.
- 42.2** If a Member discloses that they hold an office, property or circumstance which may reasonably conflict or inhibit the applicant's ability to fulfil the duties expected of a Member on an ongoing basis, the Board may pass a resolution to expel the member in accordance with article 24.
- 42.3** Prior to discussing or voting on a resolution, a Member must disclose to the other Members the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Members.
- 42.4** Each Member who has a material personal interest in a matter that is being considered at a meeting of Members must not, except as provided under article 42.5:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.

42.5 A Member may still be present and vote if the Members who do not have a material personal interest in the matter pass a resolution that:

- (a) identifies the Member, the nature and extent of the Member's interest in the matter and how it relates to the affairs of the Company, and
- (b) says that those Members are satisfied that the interest should not stop the Member from voting or being present.

43. Challenge to Member's right to vote

43.1 A Member or the Chairperson may only challenge a person's right to vote at a general meeting at that meeting.

43.2 If a challenge is made under article 43.1, the Chairperson must decide whether or not the person may vote. The Chairperson's decision is final.

43.3 A vote allowed after objection is valid for all purposes.

DIRECTORS

44. Number of Directors

44.1 The number of Directors on the Board will be determined by the General Assembly in general meeting, but will be no fewer than six (6) and no more than twelve (12).

45. Appointment

45.1 Subject to 45.2 and 45.12 all Directors must be Members of the General Assembly, and will be elected by the General Assembly at the Annual General Meeting by ballot conducted by a returning officer appointed by the Annual General Meeting.

45.2 For the avoidance of doubt, persons can apply for both application to the General Assembly and application to the Board at the same Annual General Meeting.

45.3 Each applicant for membership of the Board must be nominated by one Member of the General Assembly and seconded by another Member of the General Assembly.

45.4 Each applicant for membership of the Board must provide to the Company Secretary, their application at least twenty one (21) calendar days before the general meeting at which the election will be held. The application must be in a manner prescribed by the board and must include:

- (a) a document in support of their application;
- (b) signed consent to act as a Director of the Company; and

- (c) a confirmation that they are not ineligible to be a director under the Corporations Law or the ACNC Act.

45.5 A person is not eligible for election or re-election as a Director at a general meeting unless the person, or a Member of the General Assembly who intends to propose the person, has given written notice of the Director's application or reapplication, signed by the candidate and the proposer, at least twenty-one (21) calendar days before the meeting.

45.6 The ballot will take place at the Annual General Meeting in the following manner:

- (a) By means of an accessible ballot paper showing the names of all candidates for the available positions, with space beside each name for voters to enter 'yes' or 'no'.
- (b) Voters may mark beside each candidate's name yes or no, with no requirement to mark any particular number of yes votes.
- (c) Any ballot paper without every name marked yes or no will be invalid.
- (d) Subject to article 45.6(e), at counting, candidates who have a majority of affirmative votes available from voters exercising their right to vote will be elected.
- (e) In the event that there are more applications for positions on the Board than there are positions available to be filled, those candidates who receive the most affirmative votes will be elected, up to the total number of positions that are available to be filled. In the event of a tie the names of the applicants who tied will be included in a re-ballot which will be conducted during the Annual General Meeting in the manner determined by the Chair. In order for a Member to have their vote counted in the re-ballot:
 - (i) the Member must be present in person at the general meeting,
 - (ii) the Member must appoint an undirected proxy prior to the meeting in accordance with Article 39; or
 - (iii) the Member must have access to technology that has previously been approved by the Board which allows them to engage in the re-ballot.

If the re-ballot results in a tie, the Chair will determine a process for randomly allocating the remaining Director positions to the Members who tied. For example, by drawing the number of available Director positions from a hat containing the names of the Members who tied.

- (f) The returning officer will declare the results of the ballot immediately after counting.

45.7 The Board may prescribe rules to govern the election of Directors by ballot by Members who are participating in the Annual General Meeting (including by means of technology or direct voting) including rules specifying the form, method and timing of giving the vote in order for the vote to be valid.

45.8 In case there will not be a sufficient number of applications the General Assembly membership may fill any remaining vacancy or

vacancies from Members Present at the general meeting at which the election is held.

45.9 Any casual vacancy may be filled by appointment of a Member by the Board. Any Director so appointed will hold office only until the next Annual General Meeting and is eligible for re-election.

45.10 In the event that the number of Directors is reduced to less than six (6) then the continuing Directors may only act for the purpose of filling the vacancies until there are at least six (6) Members of the Board. Any Director so appointed will hold office only until the next Annual General Meeting and is eligible for re-election.

45.11 Co-opting of Directors:

- (a) Under extraordinary circumstances (for example, lack of institutional knowledge amongst Board members or the need for particular expertise), the Board may co-opt Directors, subject to the provisions of article 44.
- (b) This will require a Special Resolution to be passed by the Board members present and eligible to vote.
- (c) Co-opted Directors will stand down at the first AGM after their co-option, and are eligible for election, unless barred by other articles in this Constitution.

45.12 A person can be co-opted as a Director if they are not a Member. The co-opted Director will be appointed as a Member at the time the Special Resolution is passed to appoint the Director and, as soon as reasonably practicable after the Special Resolution is passed, will be entered into the Register of Members. The co-opted Member must give signed consent to act as a Director of the Company prior to the Special Resolution.

46. Removal

46.1 The General Assembly may by Special Resolution passed in general meeting remove any Director from office.

46.2 Members of the General Assembly who propose a resolution to remove a Director must give the Company at least two (2) months' notice before the meeting of their intention to move a resolution for the removal of a Director. The Director must:

- (a) be given notice of the resolution as soon as practicable;
- (b) be given the opportunity to address the resolution at the meeting; and
- (c) be given the opportunity to issue a statement before the meeting to be circulated to the members.

47. Retirement of Directors

47.1 A Director must retire from office at the conclusion of the third Annual General Meeting after the Director was appointed or last elected.

- 47.2** If a Director was co-opted to the Board, the term of that Director's tenure as a co-opted Director will not be included when calculating the Director's term in article 47.1.
- 47.3** When a Director retires at an Annual General Meeting, the General Assembly may by ordinary resolution elect a person to fill the vacated office.
- 47.4** Subject to article 47.5, a Director may hold office for a maximum of two (2) terms of three (3) years each.
- 47.5** If a Director is elected Chair, they may hold office for a maximum of three (3) terms, including terms both as Director and as Chair, so that the maximum number of consecutive years on the Board for any individual is nine (9).
- 47.6** If the vacated office is not filled and the retiring Director has offered himself or herself for re-election, the retiring Director is deemed to have been re-elected unless, at the meeting at which they retire:
- (a) it is resolved not to fill the vacated office, or
 - (b) the resolution for the re-election of the Director is put and lost.
- 47.7** Following retirement, a former Director will only be re-eligible for election to the Board after the expiration of four (4) years from their retirement.

48. Vacation of office

- 48.1** A Director stops being a Director if they:
- (a) die;
 - (b) give written notice of resignation as a Director to the Company;
 - (c) are removed as a Director by a resolution of the Members;
 - (d) stop being a Member of the Company;
 - (e) are absent for three (3) consecutive Board meetings without approval from the Board; or
 - (f) become ineligible to be a director of the Company under the Corporations Law or the ACNC Act.

49. Remuneration

- 49.1** Subject to article 49.2, the Directors may be paid for their services as Directors. Such fees will be determined by the Board, but must not exceed, in aggregate, a maximum sum that is from time to time approved by resolution of the General Assembly. Any notice convening a general meeting at which it is proposed to seek approval to increase that maximum aggregate sum must specify

the proposed new maximum aggregate sum and the amount of the proposed increase.

49.2 The fees fixed under article 49.1:

- (a) must be divided among the Directors in the proportions as they may agree or, if they cannot agree, equally among them; and
- (b) are exclusive of any benefits that the Company provides to Directors in satisfaction of legislative schemes (including benefits provided under Superannuation Guarantee or similar schemes or any other benefit permitted by the Corporations Law or this Constitution).

49.3 Subject to article 8, if any Director, with the approval of the Board, performs extra services or makes any special exertions in the carrying out of their directors' duties and functions for the benefit of the Company, the Board may approve the payment to that Director of special and additional remuneration as the Board think fit having regard to the value to the Company of the extra services or special exertions. Any special or additional remuneration must not include a commission on or percentage of profits or operating revenue or turnover. The General Assembly must subsequently ratify any special or additional remuneration.

49.4 The Directors are entitled to be paid or reimbursed for all travelling and other expenses incurred by them in accordance with Company policies and approvals, as a result of attending and returning from any meeting of the Directors, committee of the Directors, general meeting of the Company or otherwise in connection with the business or affairs of the Company.

POWERS AND DUTIES OF THE BOARD

50. Powers and duties of the Board

50.1 Subject to the Corporations Law and this Constitution, the business of the Company is managed by the Board, who may exercise all powers of the Company which are not, by the Corporations Law or this Constitution, required to be exercised by the General Assembly in general meetings.

50.2 Without limiting the generality of article 50.1, the Board may exercise all the powers of the Company:

- (a) to borrow money, to charge any property or business of the Company or any of its uncalled capital, and
- (b) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

50.3 The Board must decide on the responsible financial management of the Company including:

- (a) any suitable written delegations of power, and

- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

50.4 The Board will ensure that the Company complies with the terms of any Licence Agreement with Stichting Greenpeace Council in force from time to time.

50.5 The Board cannot remove a Director or auditor. Directors and auditors may only be removed by a resolution passed at a general meeting of Members.

51. Delegation of Directors' powers

51.1 The Board 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.

51.2 The delegation must be recorded in the Company's minutes.

PROCEEDINGS OF THE BOARD

52. Proceedings

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

52.2 A Director may at any time request a meeting of the Board, and on the request of a Director a Company Secretary must convene a meeting of the Board.

52.3 The Company Secretary may give notice of a meeting of the Board in writing or by any other means of communication that has previously been agreed to by all of the Directors.

53. Meetings by technology

53.1 The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.

- (a) The Directors' agreement may be a standing (ongoing) one.

- (b) A Director may only withdraw their consent within a reasonable period before the meeting.

53.2 A Director participating at a meeting using technology agreed to by all of the Directors is treated as being present in person at the meeting.

53.3 A meeting using technology agreed to by all of the Directors is taken to be held at the place determined by the Chair of the meeting.

- 53.4** A Director is presumed conclusively to have been present and to have formed part of a quorum at all times during a meeting using technology agreed to by all of the Directors, unless the Chair consents to that Director leaving in which case that Director will be treated as having been present until that Director leaves.

54. Quorum at meetings

- 54.1** Unless the Board determines otherwise, the quorum for a Board meeting is fifty (50) percent or more of the Directors. When determining whether a quorum is present, each person who appears in person (including through the use of technology) will be counted separately.
- 54.2** If a quorum is not present at a board meeting the Directors in attendance cannot make decisions, vote on resolutions or give advice.

55. Chair of Directors

- 55.1** In the years in which a Chair is due to be elected, the Board will meet immediately following the Annual General Meeting and elect one of their number as the Chair.
- 55.2** The Chair must retire from office at the end of the meeting of the Board that follows the third Annual General Meeting after the Chair was elected but may be eligible for election, subject to the provisions of articles 47.4, 47.5 and 55.3.
- 55.3** A Chair may hold office as Chair for a maximum of two (2) terms, subject to the provisions of articles 47.4 and 47.5
- 55.4** The Board may, by Special Resolution passed by at least seventy-five (75) per cent of Board members present and eligible to vote, remove the Chair from office before the completion of the term for which the Chair was elected. For the avoidance of doubt, this vote does not affect the outgoing Chair's position as a Director.
- 55.5** In the event that the Board removes the Chair from office in accordance with article 55.4, the Board will elect one of their number as their chair and the Chair so elected must retire from office at the end of the meeting of the Board that follows the next Annual General Meeting after the Chair was elected.
- 55.6** Where a meeting of the Board is held and:
- (a) a Chair has not been elected as provided by article 55.1, or
 - (b) the Chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,

the Directors present may elect one of their number to be a chair of the meeting.

56. Passing Directors' resolutions

56.1 A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution or by a circular resolution pursuant to clause 60.

57. Duties of Directors

57.1 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;
- (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 article 58;
- (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.

58. Material personal interests

58.1 Unless express consent has been given by the International Executive Director of Greenpeace and the Board Chair of the Company, the following persons are disqualified from being a Director:

- (a) an employee of any Greenpeace organisation and any member of the immediate family of an employee of any Greenpeace organisation;
- (b) any person accepting any remuneration under contract to perform any services to any Greenpeace organisation and any person employed by, or a director of, or owner of, any company that provides services to any Greenpeace organisation. For the avoidance of doubt, this does not apply to a payment made pursuant to article 49.

58.2 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

- (a) to the other Directors, or

- (b) if all of the Directors have the same conflict of interest, to the Members at the next general meeting, or at an earlier time if reasonable to do so.

58.3 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

58.4 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors must not, except as provided under articles 58.5:

- (a) be present at the meeting while the matter is being discussed, or
- (b) vote on the matter.

58.5 A Director may still be present and vote if:

- (a) their interest arises because they are a Member of the Company, and the other 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;
- (c) their interest relates to a payment by the Company under article 73, or any contract relating to an indemnity that is allowed under the Corporations Law;
- (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.

59. Committees

59.1 The Board may delegate its powers to a committee or committees consisting of such number of them and/or other persons, as they think fit. A committee may consist of one or more persons appointed by the Board.

59.2 A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board. A power so exercised is taken to be exercised by the Board.

59.3 The individual selected to perform the functions of Chairperson of the Committee (Committee Chair) must provide reasonable notice to every committee Member of the place, date and time of every meeting of the committee.

59.4 The number of Members whose presence at a meeting of the committee is necessary to constitute a quorum is the number

determined by the Board and, if not so determined and the committee consists of more than one person, is two (2). Unless the Board determines otherwise, the quorum need only be present at the time when the meeting proceeds to business.

- 59.5** Questions arising at a meeting of the committee are decided by a majority of votes of committee Members present and voting and for all purposes any such decision is taken to be a decision of the committee.
- 59.6** The minutes of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Corporations Law to be made, entered and signed.

60. Circular resolutions

- 60.1** The Board may pass a written resolution (circular resolution) without a Board meeting being held.
- 60.2** A circular resolution is passed if, and when, the majority of Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in article 60.3 or 60.4.
- 60.3** 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.
- 60.4** 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.
- 60.5** The Board must record and sign a minute setting out the words of the resolution and that it was passed by circular resolution.

61. Defects in appointments

- 61.1** All acts done by any meeting of the Board, committee of the Board, or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a Member of the committee.
- 61.2** Article 61.1 applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a Member of a committee or to act as a Director or that a person so appointed was disqualified.

CHIEF EXECUTIVE OFFICER

62. Power to appoint Chief Executive Officer and delegate power

- 62.1** The Board may appoint a person to the office of Chief Executive Officer for the period and on the terms, as they think fit, and may delegate any of their powers and functions to that Chief Executive Officer in accordance with article 51. Subject to the terms of any agreement entered into in a particular case, the Board may at any time revoke any appointment. The Board may at any time withdraw or vary any of the powers conferred on a Chief Executive Officer.

SECRETARIES AND OTHER OFFICERS

63. Secretaries

- 63.1** The Company must have at least one Company Secretary, who may be a Director.
- 63.2** A Company Secretary must be appointed by the Board (after giving the Company their signed consent to act as secretary of the Company) and may be removed by the Board.
- 63.3** A Company Secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the Board decides.
- 63.4** Where the Company Secretary is an employee of the Company the terms and conditions of the appointment will not be less than those specified by any applicable enterprise agreement in force from time to time.
- 63.5** Subject to any applicable enterprise agreements, the Board may at any time terminate the appointment of a Company Secretary.

64. Other officers

- 64.1** The Board may from time to time:
- (a) create any other position or positions in the Company with the powers and responsibilities as the Board may from time to time confer, and
 - (b) appoint any person whether or not a Director, to any position or positions created under paragraph (a).
- 64.2** Subject to any applicable enterprise agreements, the Board at any time may terminate the appointment of a person holding a position created under article 71.1 and may abolish the position.

EXECUTING DOCUMENTS

65. Execution of documents

65.1 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 Company Secretary.

RECORD KEEPING AND INSPECTION

66. Record keeping

66.1 The Company must make and keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance;
- (b) enable true and fair financial statements to be prepared and to be audited; and
- (c) correctly record its operations.

66.2 The Company must, within one month, make and keep the following records:

- (a) minutes of proceedings and resolutions of general meetings;
- (b) a copy of a notice of each general meeting;
- (c) a copy of a Members' Statement distributed to Members;
- (d) minutes of circular resolutions of Directors; and
- (e) minutes of proceedings and resolutions of Directors' meetings (including meetings of any committees).

66.3 The Company must retain these records for seven (7) years.

66.4 The Board must take reasonable steps to ensure that the Company's records are kept safe.

66.5 The Board must ensure that minutes of a general meeting or a Board meeting are approved within a reasonable time after the meeting by:

- (a) the Chairperson of the meeting, or
- (b) the Chairperson of the next meeting.

67. Inspection of records

67.1 The Board may, in its absolute discretion, authorise a Member to inspect the records of the Company to the extent, at the time and places and under the conditions, the Board considers appropriate.

67.2 A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by Corporations Law or as authorised by the Board.

67.3 A Director has a right of access to the financial records of the Company at all reasonable times.

67.4 If the Board agrees, the Company must give a Director or former Director access to:

- (a) documents, including documents provided for or available to the Directors, and
- (b) any other documents referred to in those documents.

NOTICES GENERALLY

68. What is notice

68.1 Anything written to or from the Company under any article in this Constitution is written notice and is subject to articles 69 to 71, unless specified otherwise.

69. Notice to the Company

69.1 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 In addition to any other way allowed by the Corporations Act, 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); or
- (d) 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 Any Member who has not provided the Company Secretary with an email address or an Australian postal address is not entitled to receive notice.

71. When notice is taken to be given

71.1 A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
- (b) sent by post to an Australian address, is taken to be given on the third day after it is posted with the correct payment of postage costs;
- (c) sent by post to an address outside Australia, is taken to be given on the tenth day after it is posted with the correct payment of postage costs;
- (d) sent by email or by another electronic method, when the information system from which the notice was sent produces a confirmation of delivery report which indicates that the notice has entered the information system of the recipient, unless the sender receives a delivery failure notification indicating that the notice has not been delivered to the information system of the recipient;
- (e) sent by fax, is taken to be given when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report; and
- (f) given under article 70.1(d) is taken to be given on the business day after the notification that the notice is available is sent.

71.2 If a notice is given:

- (a) after 5.00pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00am on the next day which is not a Saturday, Sunday or public holiday in that place.

WINDING UP

72. Winding up

72.1 If, on the winding up or dissolution of the Company by any means and for any reason, there remains any property, after the satisfaction of all the Company's debts and liabilities, the property must not be paid to or distributed among the Members of the Company, but must be given or transferred to:

- (a) one or more institutions selected by the Members of the General Assembly by Special Resolution at or before the dissolution of the Company:
 - (i) having objects similar to the objects of the Company, and
 - (ii) whose constitution prohibits the distribution of its income and property to an extent at least as great as that imposed on the Company under article 8; or
- (b) if there are no institutions meeting the requirements of paragraph (a), to one or more other institutions, associations or bodies selected by the Members of the General Assembly at or before the dissolution of the Company, the objects of which are the promotion of charity and gifts which are allowable deductions under the *Income Tax Assessment Act 1997* (Cth); or
- (c) if the Members do not make a selection pursuant to paragraphs (a) or (b) for any reason, to one or more institutions, associations or bodies meeting the requirements of either paragraphs (a) or (b) selected by the Board.

INDEMNITY

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 article, 'officer' means a Director or Company Secretary and includes a Director or Company Secretary after they have ceased to hold that office.
- 73.3** In this article, 'to the relevant extent' means:
- (a) to the extent that the Company is not precluded by law 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

- 74.1** To the extent permitted by law and if the Board considers 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.

MISCELLANEOUS

75. Financial year

75.1 The financial year of the Company will end on 31 December in each year.

76. Internal disputes

76.1 The dispute resolution procedure in this article 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.

76.2 A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under article 23.1(d) or 23.1(e) until the disciplinary procedure is completed.

76.3 If appropriate, those involved in the dispute must try to resolve it between themselves within fourteen (14) calendar days of knowing about it.

76.4 If those involved in the dispute do not resolve it under article 76.3, they must within ten (10) calendar days inform the Conciliation Committee in writing. The Conciliation Committee will attempt to resolve the dispute in accordance with the GA Code of Conduct.

76.5 If a mediator is appointed by the Conciliation Committee or the Board, 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 Board, 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.

76.6 A mediator chosen under article 76.5(a):

- (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.

76.7 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.

77. Complaints

- 77.1** The Board will ensure that the Chief Executive Officer establishes a mechanism that will properly and effectively deal with complaints made by members of the public and grievances by employees of the Company.