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**CONSTITUTION OF WILDLIFE ASIA LIMITED**

**COMPANY LIMITED BY GUARANTEE**

Version No: 1

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**Table of Contents**

1. [DEFINITIONS AND INTERPRETATION 1](#_bookmark0)
2. [PRELIMINARY 2](#_bookmark1)
3. [CHARITABLE PURPOSES AND POWERS 3](#_bookmark3)
4. [MEMBERS 4](#_bookmark6)
5. [GENERAL MEETINGS OF MEMBERS 6](#_bookmark9)
6. [MEMBERS’ RESOLUTIONS AND STATEMENTS 10](#_bookmark18)
7. [VOTING AT GENERAL MEETINGS 12](#_bookmark27)
8. [DIRECTORS 15](#_bookmark32)
9. [DIRECTORS MEETINGS 19](#_bookmark39)
10. [SECRETARY 21](#_bookmark43)
11. [MINUTES AND RECORDS 21](#_bookmark44)
12. [BY-LAWS 22](#_bookmark48)
13. [DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES 22](#_bookmark49)
14. [INDEMNITY, INSURANCE AND ACCESS 25](#_bookmark56)
15. [WINDING UP 26](#_bookmark57)
16. [GENERAL PROVISIOS 27](#_bookmark60)

# DEFINITIONS AND INTERPRETATION

* 1. **Definitions**

Unless the contrary intention appears:

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

**Company** means Wildlife Asia Limited

ABN: 32143935769

**Constitution** means this Constitution as amended from time to time, and a reference to a particular rule has a corresponding meaning;

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

**Director** means a director for the time being of the Company;

**Elected Chairperson** means a person elected by the directors to be the Company’s chairperson under clause [8.3](#_bookmark33);

**General Meeting** means any meeting of members and includes the annual general meeting, under clause [5](#_bookmark9);

**Initial Director** means a person who is named in the application for registration of the Company, with their consent, as a proposed director of the Company;

**Initial Member** means a person who is named in the application for registration of the Company, with their consent, as a proposed member of the Company;

**Member Present** means, in connection with a General Meeting, a member present in person, by representative or by proxy at the venue or venues for the General Meeting;

**Members Resolution** means either a Special Resolution or an Ordinary Resolution of the members made at a General Meeting;

**Members Statement** means a statement from the Directors relating to a proposed Ordinary Resolution or Special Resolution requested by members pursuant to clause [6.1(a)(ii)](#_bookmark21);

**Ordinary Resolution** means a resolution passed by a simple majority of Members Present at a General Meeting and entitled to vote on the resolution;

**Person** means an individual or incorporated body;

**Quorum** means the minimum number of Members Present required to conduct a General Meeting as referred to in clause [5.5](#_bookmark15) and the minimum number of Directors required to conduct a Directors meeting as referred to in clause [9.3(c)](#_bookmark40);

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

**Secretary** means the person from time to time holding the office of secretary under the Corporations Act as referred to in clause [10](#_bookmark43);

**Special Resolution** means a resolution:

* + 1. of which notice has been given under clause [5.1(e)(iii)](#_bookmark11), and
    2. that has been passed by at least 75% of the votes cast by Members Present and entitled to vote on the resolution, and

**Surplus Assets** means any assets of the Company that remain after paying all debts and other liabilities of the Company, including the costs of winding up or where clause [15.2(c)](#_bookmark59) applies then the surplus assets referred to in that clause [15.2(c)](#_bookmark59).

* 1. **Interpretation**
     1. the singular includes the plural and vice versa;
     2. headings and sub-headings are inserted for convenience and do not affect the interpretation of this Constitution;
     3. the words ‘including’, ‘for example’, or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
     4. reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).
  2. **Corporations Act**
     1. The replaceable rules referred to in the Corporations Act are hereby excluded and do not apply to the Company.
     2. While the Company is a Registered Charity, the ACNC Act and the Corporations Act will override any clauses in this Constitution that are inconsistent with those Acts.
     3. If the Company is not a Registered Charity (even if it remains a charity) the Corporations Act overrides any clause in this Constitution to the extent to which it is inconsistent with the Corporations Act.
     4. Unless the contrary intention appears in this Constitution, any clause of this Constitution that deals with a matter which is dealt with by a particular section of the ACNC Act or Corporations Act, shall have the same meaning as in that section of the ACNC Act or Corporations Act.

# PRELIMINARY

* 1. **Type of Company**

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

* 1. **Replaceable Rules**

The replaceable rules set out in the Corporations Act do not apply to the Company

* 1. **Financial year**

The Company’s financial year is from 1 July to 30 June in the following year, unless the Directors pass a resolution to vary this and adopt a different financial year.

* 1. **Limited liability of members**

The liability of members is limited to the amount of the guarantee in clause [2.5](#_bookmark2).

* 1. **The guarantee**

Each member must contribute an amount not more than $50.00 (the guarantee) to the property of the Company if the Company is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

* + 1. debts and liabilities of the Company incurred before the member stopped being a member, or
    2. costs of winding up the Company.

# CHARITABLE PURPOSES AND POWERS

* 1. **Objects & Aims**

The objects of the Company are to pursue the following charitable purposes:

* + 1. raise funds and provide other non-financial support to assist *in situ*

wildlife projects in their conservation and welfare work; and

* + 1. raise public awareness of the need to preserve wildlife populations in their natural habitat and the intrinsic value of individual animals;

The aims of the Company are to ensure the survival of wildlife species in their natural habitat and promote the welfare of wildlife.

* 1. **Powers**

Subject to clause [3.3](#_bookmark5), the Company has the following powers, which may only be used to carry out its purposes set out in clause [3.1](#_bookmark4):

* + 1. the powers of an individual, and
    2. all the powers of a Company limited by guarantee under the Corporations Act.
  1. **Not-for-profit**

The Company must not distribute any income or assets directly or indirectly to its members, except as provided in this clause. Provided they are done in good faith; the Company is not prohibited from:

* + 1. paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favorable to the Company, or
    2. making a payment to a member in carrying out the Company’s charitable objects and aims provided that such payment is arm’s length or more favorable to the Company.
  1. **Conduit Policy**
     1. The company must not be directed by a donor to act as a conduit by passing a donation of money or property to other organizations, bodies or persons.
     2. The company must not act as a collection agency for tax-deductible donations intended by a donor to be passed on to another organization or person.
     3. The clauses 3.4(a) and (b) do not apply to the company where, within its principal objective to conserve the natural environment, decides to pass funds to another entity to do environmental projects or other nature conservation work.

# MEMBERS

* 1. **Membership and register of members**
     1. The members of the Company are:
        1. Initial Members, and
        2. any other Person that the Directors allow to be a member, in accordance with this Constitution.
     2. The Company must establish and maintain a register of members. The register of members must be kept by the Secretary and must contain:
        1. for each current member:
           1. name;
           2. address;
           3. any alternative address nominated by the member for the service of notices, and
           4. date the member was entered on to the register.
        2. for each person who stopped being a member in the last 7 years:
           1. name;
           2. address;
           3. any alternative address nominated by the member for the service of notices, and
           4. dates the membership started and ended.
     3. The Company must on receipt of reasonable notice give current members access to the register of members.
     4. Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.
  2. **Who can be a member**

A Person who supports the purposes of the Company is eligible to apply to be a member of the Company under clause [4.3](#_bookmark7).

* 1. **How to apply to become a member**

A Person may apply to become a member of the Company by writing to the Secretary by post or through an online application form stating that they:

* + 1. want to become a member;
    2. support the objects and aims of the Company, and
    3. agree to comply with the Company’s constitution, including paying the guarantee under clause [2.5](#_bookmark2) if required.
  1. **Directors decide whether to approve membership**
     1. The Directors must consider an application for membership within a reasonable time after the Secretary receives the application.
     2. If the Directors approve an application, the Secretary must as soon as possible:
        1. enter the new member on the register of members, and
        2. write to the applicant to tell them that their application was approved, and the date that their membership started.
     3. If the Directors reject an application, the Secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
     4. For the avoidance of doubt, the Directors may approve an application even if the application does not state all of the matters listed in clause [4.3](#_bookmark7). In that case, by applying to be a member, the applicant is deemed to agree to those three matters.
  2. **When a person becomes a member**

Other than Initial Members, an applicant will become a member when they are entered on the register of members and notice of the same is provided to them in accordance with clause [4.4(b)(ii)](#_bookmark8).

* 1. **When a person stops being a member**

A Person immediately stops being a member if they:

* + 1. die;
    2. are wound up or otherwise dissolved or deregistered (for an incorporated member);
    3. resign, by writing to the Secretary;
    4. are expelled under clause [13.2](#_bookmark52), or
    5. have not responded within three months to a written request from the Secretary that they confirm in writing that they want to remain a member.

# GENERAL MEETINGS OF MEMBERS

* 1. **Notice of General Meetings**
     1. Notice of a General Meeting must be given to:
        1. each member entitled to vote at the meeting
        2. each Director, and
        3. the auditor (if any).
     2. Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
     3. Subject to clause 5.1[(d)](#_bookmark10), notice of a meeting may be provided less than 21 days before the meeting if:
        1. for an Annual General Meeting, all the members entitled to attend and vote at the Annual General Meeting agree beforehand in writing, or
        2. for any other General Meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand in writing.
     4. Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
        1. remove a Director;
        2. appoint a Director in order to replace a Director who was removed, or
        3. remove an auditor.
     5. Notice of a General Meeting must include:
        1. 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);
        2. the general nature of the meeting’s business;
        3. if applicable, that a Special Resolution is to be proposed and the words of the proposed Special Resolution;
        4. a statement that members have the right to appoint proxies and that, if a member appoints a proxy:
           1. the proxy does need to be a member of the Company;
           2. 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
           3. the proxy form must be delivered to the Company at least 48 hours before the meeting.

If a General Meeting is adjourned for one month or more, the members must be given new notice of the resumed meeting.

* 1. **General meetings called by directors**
     1. The Directors may call a General Meeting at any time.
     2. If members with at least 5% of the votes that may be cast at a General Meeting make a written request to the Company for a General Meeting to be held, the Directors must:
        1. within 21 days of the members’ request, give all members notice of a General Meeting, and
        2. hold the General Meeting within 2 months of the members’ request.
     3. The percentage of votes that members have in clause [5.2(b)](#_bookmark13) is to be worked out as at midnight before the members request the meeting.
     4. The members who make the request for a General Meeting must:
        1. state in the request any resolution to be proposed at the meeting
        2. sign the request, and
        3. give the request to the Company.
     5. Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.
  2. **General meetings called by members**
     1. If the Directors do not call the meeting within 21 days of being requested under clause [5.2(b)](#_bookmark13), 50% or more of the members who made the request may call and arrange to hold a General Meeting.
     2. To call and hold a meeting under clause [5.3(a)](#_bookmark14) the members must:
        1. as far as possible, follow the procedures for General Meeting set out in this constitution;
        2. call the meeting using the list of members on the Company’s member register, which the Company must

provide to the members making the request at no cost, and

* + - 1. hold the General Meeting within three months after the request was given to the Company.
    1. The Company must pay the members who request the General Meeting any reasonable expenses they incur because the Directors did not call and hold the meeting.
  1. **Annual general meeting**
     1. A General Meeting, called the Annual General Meeting, must be held:
        1. within 18 months after registration of the Company, and
        2. after the first annual General Meeting, at least once in every calendar year.
     2. Even if these items are not set out in the notice of meeting, the business of an Annual General Meeting may include:
        1. a review of the Company’s activities;
        2. a review of the Company’s finances;
        3. any auditor’s report;
        4. the election of Directors, and
        5. the appointment and payment of auditors, if any.
     3. Before or at the Annual General Meeting, the Directors must give information to the members on the Company’s activities and finances during the period since the last Annual General Meeting.
     4. The chairperson of the Annual General Meeting must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.
     5. A special resolution is required at the Annual General Meeting to remove or replace directors.
  2. **Quorum at general meetings**
     1. For a General Meeting to be held, at least 50% of the current members, being the Quorum, must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative or proxy of more than one member).
     2. No business may be conducted at a General Meeting if a quorum is not present.
     3. If there is no quorum present within 30 minutes after the starting time stated in the notice of General Meeting, the General Meeting is adjourned to the date, time and place that the chairperson

specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:

* + - 1. if the date is not specified – the same day in the next week
      2. if the time is not specified – the same time, and
      3. if the place is not specified – the same place.
    1. If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.
  1. **Auditor's right to attend meetings**
     1. 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 the capacity of auditor.
     2. 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.
  2. **Representatives of members**
     1. An incorporated member may appoint as a representative:
        1. one individual to represent the member at meetings and to sign circular resolutions under clause [6.3](#_bookmark24), and
        2. the same individual or another individual for the purpose of being appointed or elected as a Director.
     2. The appointment of a representative by a member must:
        1. be in writing;
        2. include the name of the representative;
        3. be signed on behalf of the member, and
        4. be given to the Company or, for representation at a meeting, be given to the chairperson before the meeting starts.
     3. A representative has all the rights of a member relevant to the purposes of the appointment as a representative.
     4. The appointment may be standing (ongoing).
  3. **Using technology to hold meetings**
     1. The Company may hold a General Meeting at multiple venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
     2. Anyone using this technology is taken to be a Member Present in relation to the meeting.
  4. **Chairperson for general meetings**
     1. The Elected Chairperson is entitled to chair General Meetings.
     2. The members present and entitled to vote at a General Meeting may choose a director or member to be the chairperson for that meeting if:
        1. there is no Elected Chairperson, or
        2. the Elected Chairperson is not present within 30 minutes after the starting time set for the meeting, or
        3. the Elected Chairperson is present but says they do not wish to act as chairperson of the meeting.
  5. **Role of the chairperson**
     1. The chairperson is responsible for the conduct of the General Meeting, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
     2. The chairperson does not have a casting vote.
  6. **Adjournment of meetings**
     1. If a Quorum is present, a general meeting must be adjourned if a majority of Members Present direct the chairperson to adjourn it.
     2. Only unfinished business may be dealt with at a meeting resumed after an adjournment.

# MEMBERS’ RESOLUTIONS AND STATEMENTS

* 1. **Members' resolutions and statements**
     1. Members with at least 5% of the votes that may be cast on a resolution may give:
        1. written notice to the Company of a resolution they propose to move at a General Meeting (members’ resolution), and/or
        2. a written request to the Company 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).
     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.
     3. A request to distribute a members’ statement must set out the statement to be distributed and be signed by the members making the request.
     4. 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.
     5. The percentage of votes that members have (as described in clause [6.1(a)](#_bookmark19)) is to be worked out as at midnight before the request or notice is given to the Company.
     6. If the Company has been given notice of a members' resolution under clause 6.1[(a)(i)](#_bookmark20), the resolution must be considered at the next general meeting held more than two months after the notice is given.
     7. This clause does not limit any other right that a member has to propose a resolution at a general meeting.
  2. **Company must give notice of proposed resolution or distribute statement**
     1. If the Company has been given a notice or request under clause 6.1:
        1. in time to send the notice of proposed members’ resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the Company’s cost, or
        2. too late to send the notice of proposed members’ resolution or a copy of the members' statement to members with a notice of meeting, then 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.
     2. The Company does not need to send the notice of proposed members’ resolution or a copy of the members' statement to members if:
        1. it is more than 1,000 words long;
        2. the directors consider it may be defamatory;
        3. clause [6.2(a)(ii)](#_bookmark23) 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
        4. 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.

* 1. **Circular resolutions of members**
     1. Subject to clause 6.3[(c)](#_bookmark25), the directors may put a resolution to the members to pass a resolution without a general meeting being held (a circular resolution).
     2. The directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to members, and set out the wording of the resolution.
     3. Circular resolutions cannot be used:
        1. for a resolution to remove an auditor, appoint a director or remove a director
        2. for passing a Special Resolution, or
        3. where the Corporations Act or this constitution requires a meeting to be held.
     4. A circular resolution is passed if all the members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 6.3[(e)](#_bookmark26) or clause 6.3(f).
     5. Members may sign:
        1. a single document setting out the circular resolution and containing a statement that they agree to the resolution, or
        2. separate copies of that document, as long as the wording is the same in each copy.
     6. The Company may send a circular resolution by email to members and members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

# VOTING AT GENERAL MEETINGS

* 1. **How many votes a member has**

Each member has one vote.

* 1. **Challenge to member’s right to vote**
     1. A member or the chairperson may only challenge a person’s right to vote at a General Meeting at that meeting.
     2. If a challenge is made under clause 7.2[(a)](#_bookmark28), the chairperson must decide whether or not the person may vote. The chairperson’s decision is final.
  2. **How voting is carried out**
     1. Voting must be conducted and decided by:
        1. a show of hands
        2. a vote in writing, or
        3. another method chosen by the chairperson that is fair and reasonable in the circumstances.
     2. Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
     3. On a show of hands, the chairperson’s decision is conclusive evidence of the result of the vote.
     4. The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
  3. **When and how a vote in writing must be held**
     1. A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
        1. at least five members present
        2. members present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
        3. the chairperson.
     2. A vote in writing must be taken when and how the chairperson directs, unless clause 7.4[(c)](#_bookmark30) applies.
     3. A vote in writing must be held immediately if it is demanded under clause 7.4[(a)](#_bookmark29):
        1. for the election of a chairperson under clause [5.9(b)](#_bookmark17), or
        2. to decide whether to adjourn the meeting.
     4. A demand for a vote in writing may be withdrawn.
  4. **Appointment of proxy**
     1. A member may appoint a proxy to attend and vote at a General Meeting on their behalf.
     2. A proxy must be a member.
     3. A proxy appointed to attend and vote for a member has the same rights as the member to:
        1. speak at the meeting;
        2. vote in a vote in writing (but only to the extent allowed by the appointment if such appointment specifies how the proxy is to vote), and
        3. join in to demand a vote in writing under clause [7.4(a)](#_bookmark29).
     4. An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
        1. the member’s name and address;
        2. the Company’s name;
        3. the proxy’s name or the name of the office held by the proxy, and
        4. the meeting(s) at which the appointment may be used.
     5. A proxy appointment may be standing (ongoing).
     6. Proxy forms must be received by the Company at the address stated in the notice under clause [5.1(e)(iv)](#_bookmark12) or at the Company’s registered address at least 48 hours before a meeting.
     7. A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
     8. Unless the Company receives written notice before the start or resumption of a general meeting at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
        1. dies;
        2. is mentally incapacitated;
        3. revokes the proxy’s appointment, or
        4. revokes the authority of a representative or agent who appointed the proxy.
     9. A proxy appointment may specify the way the proxy must vote on a particular resolution.
  5. **Voting by proxy**
     1. A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
     2. When a vote in writing is held, a proxy:
        1. does not need to vote, unless the proxy appointment specifies the way they must vote;
        2. if the way they must vote is specified on the proxy form, must vote that way, and
        3. if the proxy is also a member or holds more than one proxy, may cast the votes held in different ways.

# DIRECTORS

* 1. **Number of directors**

The Company must have at least three and no more than nine Directors. At least one of the Directors must ordinarily reside in Australia.

* 1. **Election and appointment of directors**
     1. The Initial Directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the Company.
     2. Apart from the Initial Directors and Directors appointed under clause 8.2(e), the members may elect a director by a resolution passed in a General Meeting.
     3. Each of the Directors must be appointed by a separate resolution, unless:
        1. the members present have first passed a resolution that the appointments may be voted on together, and
        2. no votes were cast against that resolution.
     4. A person is eligible for election as a Director of the Company if they:
        1. are a member of the Company, or a representative of a member of the Company (appointed under clause [5.7](#_bookmark16));
        2. are nominated by two members or representatives of members entitled to vote;
        3. give the Company their signed consent to act as a director of the Company; and
        4. are not ineligible to be a Director under the Corporations Act or the ACNC Act.
     5. The Directors may appoint a person as a Director to fill a casual vacancy or as an additional Director if that person:
        1. is a member of the Company, or a representative of a member of the Company (appointed under clause 5.7);
        2. gives the Company their signed consent to act as a director of the Company; and
        3. is not ineligible to be a director under the Corporations Act or the ACNC Act.
     6. If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to three (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.
  2. **Election of chairperson**

The Directors must elect a Director as the Company’s Elected Chairperson.

* 1. **Term of office**
     1. At each Annual General Meeting any Director appointed by the directors to fill a casual vacancy or as an additional director must retire.
     2. A Director’s term of office starts at the end of the Annual General Meeting at which they are elected and ends at the end of the Annual General Meeting at which they retire.
     3. A Director who retires under clause [8.4(a)](#_bookmark34) may nominate for election or re-election.
  2. **When a Director stops being a Director**

A Director stops being a Director if they:

* + 1. give written notice of resignation as a Director to the Company effective from the date of the written notice;
    2. die;
    3. are removed as a Director by a resolution of the members;
    4. stop being a member of the Company;
    5. are a representative of a member, and that member stops being a member;
    6. are a representative of a member, and the member notifies the Company that the representative is no longer a representative;
    7. are absent for two (2) consecutive directors’ meetings without approval from the Directors; or
    8. become ineligible to be a Director of the Company under the Corporations Act or the ACNC Act.
  1. **Powers of directors**
     1. The Directors are responsible for managing and directing the activities of the Company subject to clause 3.1, the Corporations Act and the ACNC Act.
     2. The Directors may use all the powers of the Company except for powers that, under the Corporations Act or this Constitution, may only be used by members.
     3. The Directors must decide on the responsible financial management of the Company including:
        1. any suitable written delegations of power under clause 8.7, and
        2. how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved and how money not immediately required to meet the Company’s aims and objects may be invested.
     4. The Directors cannot remove a Director or auditor. Directors and auditors may only be removed by a members’ resolution at a general meeting.
  2. **Delegation of directors’ powers**
     1. The Directors may delegate any of their powers and functions to a committee, sub-committee, a particular director (including the chief executive officer or managing director if that title is used), an employee of the Company or such other person as they deem appropriate provided that the Director or Directors who so delegate maintain adequate supervision so as to satisfy their duties under clause [8.10](#_bookmark36).
     2. The delegation must be recorded in the Company’s minute book.
  3. **Payments to directors**
     1. The Company must not pay fees to a Director for acting as a Director.
     2. The Company may:
        1. pay a Director for work they do for the Company, other than as a Director, if the amount is no more than a reasonable arm’s length fee for the work done, or
        2. reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company provided that evidence of the expense incurred is first provided to the Directors or a particular Director or employee who has been delegated financial management responsibilities.
     3. Any payment made under clause [8.8(b)](#_bookmark35) must be approved by the Directors.
     4. The Company may pay premiums for insurance indemnifying directors, as allowed for by law (including the Corporations Act) and this constitution.
  4. **Execution of documents**

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

* + 1. two Directors of the Company, or
    2. a Director and the Secretary.
  1. **Duties of directors**

The Directors must comply with their duties as Directors under legislation and common law, and with the duties described in Governance Standard 5 of the regulations made under the ACNC Act which are:

* + 1. 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;
    2. to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the Company set out in clause 3.1;
    3. not to misuse their position as a Director;
    4. not to misuse information they gain in their role as a Director;
    5. to disclose any perceived or actual material conflicts of interest in the manner set out in clause [8.11](#_bookmark37);
    6. to ensure that the financial affairs of the Company are managed responsibly, and
    7. not to allow the Company to operate while it is insolvent.
  1. **Conflicts of interest**
     1. A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
        1. to the other Directors, or
        2. 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.
     2. The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
     3. Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed

in a circular resolution) must not, except as provided under clauses 8.11[(d)](#_bookmark38):

* + - 1. be present at the meeting while the matter is being discussed, or
      2. vote on the matter.
    1. A Director may still be present and vote if:
       1. their interest arises because they are a member of the Company, and the other members have the same interest;
       2. their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the director incurs as a Director of the Company (see clause 14.2)
       3. their interest relates to a payment by the Company under clause 14.1, or any contract relating to an indemnity that is allowed under the Corporations Act
       4. the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter, or
       5. the Directors who do not have a material personal interest in the matter pass a resolution that:
          1. 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
          2. says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

# DIRECTORS MEETINGS

* 1. **When the directors meet**

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

* 1. **Calling directors’ meetings**
     1. A Director may call a directors’ meeting by giving reasonable notice to all of the other directors.
     2. A Director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.
  2. **Chairperson for directors’ meetings**
     1. The Elected Chairperson is entitled to chair directors’ meetings.
     2. The Directors at a directors’ meeting may choose a Director to be the chairperson for that meeting if the elected chairperson is:
        1. not present within 30 minutes after the starting time set for the meeting, or
        2. present but does not want to act as chairperson of the meeting.
     3. Unless the Directors determine otherwise, the quorum for a directors’ meeting is a majority (more than 50%) of Directors.
     4. A Quorum must be present for the whole directors’ meeting.
  3. **Using technology to hold directors’ meetings**
     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.
     2. The Directors’ agreement as to the use of any technology in substitution for in person meetings may be a standing (ongoing) one.
     3. A Director may only withdraw their consent within a reasonable period before the meeting.
  4. **Passing directors’ resolutions**

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

* 1. **Circular resolutions of directors**
     1. The Directors may pass a circular resolution without a directors’ meeting being held.
     2. A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 9.6[(c)](#_bookmark41) or clause 9.6[(d)](#_bookmark42).
     3. Each Director may sign:
        1. a single document setting out the resolution and containing a statement that they agree to the resolution, or
        2. separate copies of that document, as long as the wording of the resolution is the same in each copy.
     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.
     5. A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause [9.6(c)](#_bookmark41) or clause 9.6[(d)](#_bookmark42).

# SECRETARY

* 1. **Appointment of Secretary**

There must be at least one Secretary who must be a natural person who has attained the age of 18 years and who ordinarily resides in Australia who may be appointed by the Directors (after giving the Company their signed consent to act as secretary), for such term, at such remuneration and on such conditions as they think fit provided the remuneration does not exceed an arm’s length amount. A Secretary may also be a Director.

* 1. **Suspension and removal of Secretary**

The Directors have power to suspend or remove a Secretary.

* 1. **Powers, duties and authorities of Secretary**

The Directors may vest in a Secretary such powers, duties and authorities as they may from time to time determine and a Secretary must exercise all such powers and authorities subject at all times to the control of the Directors.

The role of the Secretary includes but is not necessarily limited to:

* + 1. maintaining a register of the Company’s members, and
    2. maintaining the minutes and other records of General Meetings including notices of meetings), Directors’ meetings and circular resolutions.
  1. **Secretary to attend meetings**

A Secretary is entitled to attend all meetings of the Directors and all General Meetings of the Company and may be heard on any matter.

# MINUTES AND RECORDS

* 1. **Minutes and records**
     1. The Company must, within one month, make and keep the following records:
        1. minutes of proceedings and resolutions of General Meetings;
        2. minutes of circular resolutions of members;
        3. a copy of a notice of each General Meeting, and
        4. a copy of a members’ statement distributed to members under clause [6.2](#_bookmark22).
     2. The Company must, within one month, make and keep the following records:
        1. minutes of proceedings and resolutions of Directors’ meetings (including meetings of any committees), and
        2. minutes of circular resolutions of Directors.
     3. To allow members to inspect the Company’s records:
        1. the Company must give a member access to the records set out in clause 11.1[(a)](#_bookmark45), and
        2. the Directors may authorise a member to inspect other records of the Company, including records referred to in clause [11.1(b)](#_bookmark46) and clause [11.2(a)](#_bookmark47).
     4. The Directors must ensure that minutes of a General Meeting or a Directors’ meeting are signed within a reasonable time after the meeting by:
        1. the chairperson of the meeting, or
        2. the chairperson of the next meeting.
     5. The Directors must ensure that minutes of the passing of a circular resolution (of members or Directors) are signed by a Director within a reasonable time after the resolution is passed.
  2. **Financial and related records**
     1. The Company must make and keep written financial records that:
        1. correctly record and explain its transactions and financial position and performance, and
        2. enable true and fair financial statements to be prepared and to be audited.
     2. The Company must also keep written records that correctly record its operations.
     3. The Company must retain its records for at least 7 years.
     4. The Directors must take reasonable steps to ensure that the Company's records are kept safe.

# BY-LAWS

* 1. **By-laws**

The Directors may pass a resolution to make by-laws to give effect to this Constitution.

Members and Directors must comply with by-laws as if they were part of this Constitution.

# DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES

* 1. **Dispute resolution**
     1. The dispute resolution procedure in this clause applies to disputes (disagreements) under this Constitution between a member or Director and:
        1. one or more members;
        2. one or more Directors, or
        3. the Company.
     2. A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause [13.2](#_bookmark52) until the disciplinary procedure is completed.
     3. Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
     4. If those involved in the dispute do not resolve it under clause 13.1 [(c)](#_bookmark50), they must within 10 days:
        1. tell the Directors about the dispute in writing;
        2. agree or request that a mediator be appointed, and
        3. attempt in good faith to settle the dispute by mediation.
     5. The mediator must:
        1. be chosen by agreement of those involved, or
        2. where those involved do not agree:
           1. for disputes between members, a person chosen by the Directors, or
           2. 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.
     6. A mediator chosen by the directors under clause 13.1[(e)(ii)(A)](#_bookmark51):
        1. may be a member or former member of the Company;
        2. must not have a personal interest in the dispute, and
        3. must not be biased towards or against anyone involved in the dispute.
     7. When conducting the mediation, the mediator must:
        1. allow those involved a reasonable chance to be heard;
        2. allow those involved a reasonable chance to review any written statements;
        3. ensure that those involved are given natural justice, and
        4. not make a decision on the dispute.
  2. **Disciplining members**
     1. In accordance with this clause, the Directors may resolve to warn, suspend or expel a member from the Company if the Directors consider that:
        1. the member has breached this constitution, or
        2. the member’s behaviour is causing, has caused, or is likely to cause reputational or financial harm to the Company.
     2. At least 14 days before the Directors’ meeting at which a resolution under clause 13.2[(a)](#_bookmark53) will be considered, the Secretary must notify the member in writing:
        1. that the Directors are considering a resolution to warn, suspend or expel the member;
        2. that this resolution will be considered at a Directors’ meeting and the date of that meeting;
        3. what the member is said to have done or not done;
        4. the nature of the resolution that has been proposed, and
        5. that the member may provide an explanation to the Directors, and details of how to do so.
     3. Before the Directors pass any resolution under clause 13.2[(a)](#_bookmark53), the member must be given a chance to explain or defend themselves by:
        1. sending the Directors a written explanation before that Directors’ meeting, and/or
        2. speaking at the meeting.
     4. After considering any explanation under clause 13.2[(c)](#_bookmark54), the directors may:
        1. take no further action;
        2. warn the member;
        3. suspend the member’s rights as a member for a period of no more than 12 months;
        4. expel the member;
        5. refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the person can only make a decision that the Directors could have made under this clause), or
        6. require the matter to be determined at a General Meeting.
     5. The Directors cannot fine a member.
     6. The Secretary must give written notice to the member of the decision under clause 13.2[(d)](#_bookmark55) as soon as possible.
     7. Disciplinary procedures must be completed as soon as reasonably practical.
     8. There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

# INDEMNITY, INSURANCE AND ACCESS

* 1. **Indemnity**
     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.
     2. In this clause, ‘officer’ means a Director or Secretary and includes a Director or Secretary after they have ceased to hold that office.
     3. In this clause, ‘to the relevant extent’ means:
        1. to the extent that the Company is not precluded by law (including the Corporations Act) from doing so, and
        2. 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).
     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.
  2. **Insurance**

The Company may, to the extent permitted by law:

* + 1. purchase or maintain insurance; or
    2. pay or agree to pay a premium for insurances,

for any person who is or has been an officer of the Company against any liability incurred by that person as an officer of the Company, including but not limited to, a liability to negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

* 1. **Access**
     1. A Director has a right of access to the financial records of the Company at all reasonable times.
     2. If the Directors agree, the Company must give a Director or former Director access to:
        1. certain documents, including documents provided for or available to the Directors, and
        2. any other documents referred to in those documents.

# WINDING UP

* 1. **Surplus assets not to be distributed to members**

If the Company is wound up, any Surplus Assets must not be distributed to a member or a former member of the Company, unless that member or former member is a charity described in clause [15.2(a)](#_bookmark58).

* 1. **Distribution of surplus assets**
     1. Subject to the Corporations Act and any other applicable Act, and any court order, any Surplus Assets that remain after the Company is wound up must be distributed to one or more charities:
        1. with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 3.1, and
        2. which also prohibit the distribution of any Surplus Assets to its members to at least the same extent as the Company.
     2. The decision as to the charity or charities to be given the Surplus Assets must be made by a Special Resolution of members at or before the time of winding up. If the members do not make this decision, the Company may apply to the Supreme Court to make this decision.
     3. If the Company has received endorsement from the Australian Taxation Office as a deductible gift recipient and that endorsement is revoked, any surplus of the following assets shall be transferred to another organisation (as decided by Special Resolution of members) with similar objects, and which is charitable at law, to which income tax deductible gifts can be made:
        1. gifts of money or property made for the principal purposes of the Company;
        2. contributions made in relation to an eligible fundraising event held for the principal purposes of the Company; and
        3. money received by the Company because of such gifts or contributions.

# GENERAL PROVISIONS

# Notices

* + 1. What is notice
       1. Anything written to or from the Company under any clause in this constitution is written notice and is subject to clauses [16.2](#_bookmark61) to [16.4](#_bookmark62), unless specified otherwise.
       2. Clauses [16.2](#_bookmark61) to [16.4](#_bookmark62) do not apply to a notice of proxy under clause [7.5(f)](#_bookmark31).
  1. **Notice to the Company**

Written notice or any communication under this constitution may be given to the **Company**, the Directors or the Secretary by:

* + 1. delivering it to the Company’s registered office;
    2. posting it to the Company’s registered office or to another address chosen by the Company for notice to be provided;
    3. 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
    4. sending it to the fax number notified by the Company to the members as the Company’s fax number.
  1. **Notice to members**
     1. Written notice or any communication under this constitution may be given to a member:
        1. in person;
        2. 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;
        3. sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any);
        4. sending it to the fax number nominated by the member as an alternative address for service of notices (if any), or
        5. 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).
     2. If the Company does not have an address for the member or the address initially provided by the member has changed and not been notified to the Company, then the Company is not required to give notice in person.
  2. **When notice is taken to be given**

A notice:

* + 1. delivered in person, or left at the recipient’s address, is taken to be given on the day it is delivered;
    2. sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs;
    3. sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
    4. given under clause 16.3(a)(v) is taken to be given on the business day after the notification that the notice is available is sent.
  1. **Amending the Constitution**
     1. Subject to clause [16.5(b)](#_bookmark63), the members may amend this Constitution by passing a Special Resolution.
     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.

1. **Establishing and Maintaining a Public Fund**
   1. A public Fund is to be established and maintained by the company:
      1. to which gifts of money or property for its principal purpose are to be made; and
      2. to which any money received because of such gifts is to be credited; and
      3. that does not receive any other money or property’. A public fund has:
      4. its own name;
      5. its own objects (in the context of the Register, the environmental purpose of the organization);
      6. its own management committee;
      7. its own bank account (separate to the environmental organisation); and
      8. its own rules.

1. **Complying with Assistant Treasurer and Minister for the Environment Rules**
   1. The company must answer all questions required by the Environmental Department stated on the annual statistical return form. It is to provide, with the statistical return, an audited financial statement for itself and its public fund. The statement is to provide information on the expenditure of public fund monies and the management of public fund assets
   2. The company must inform the Department as soon as possible:
      1. if it changes its name or the name of its public fund; or
      2. if there is any change to the membership of the management committee of the public fund; or
      3. if there has been any departure from the model rules of the public fund.
   3. The company must give the Secretary of the Department of the Environment within a reasonable period after the end of each income year, statistical information about gifts made to the public fund during that income year”.
   4. The company must provide the Department with statistical information about the donations and gifts made to the public fund for a financial year within four months of the end of that year.
   5. The company must include the following information in their annual statistical returns:
      1. to provide information on the expenditure of public fund monies and the management of public fund assets;
      2. to provide audited financial statements for the financial year for the environmental organization; and
      3. to answer any questions about the public fund.
      4. This will involve completing a statistical return form provided by the Department to organizations upon being admitted to the Register.