

CARBON NEUTRAL CHARITABLE FUND LTD

CONSTITUTION

February 2019

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COMPANY NAME AND TYPE

1 Company Name

1.1 The name of the company is Carbon Neutral Charitable Fund Ltd (the “company”).

2 Company Type

2.1 The company is a public company limited by guarantee.

2.2 The liability of the members is limited to the extent of the guarantee required to be given pursuant to clause 7.5 below.

OBJECTS FUNCTIONS AND POWERS

3 Objects

3.1 The objectives of the company are:-

- (a) to engage in education for environmental and climate change;
- (b) to revegetate land to assist restore biodiversity and natural habitat;
- (c) to conduct research related to carbon emissions and sequestration;
- (d) to generate unaccredited biodiverse reforestation and revegetation carbon offsets for the voluntary market;
- (e) to undertake tree propagation and planting;
- (f) to collaborate with other environmental charities with similar environmental objectives;
- (g) to encourage community involvement in plantings; and
- (h) To establish and maintain a public fund to be called the Carbon Neutral Gift Fund for the specific purpose of supporting the environmental object and purposes of Carbon Neutral Charitable Fund Ltd. The Fund is established to 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. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the *Income Tax Assessment Act 1997*.

4 Functions

4.1 The company shall strive to obtain its objects by doing all things within its powers necessary and desirable for the attainment of the objects described in clause 3.1.

5 Powers

5.1 Subject to clause 5.2 and 6.1 the company has the legal capacity and powers of an individual and all the powers of a body corporate.

5.2 The company does not have the power to issue shares.

6 Limitation on Power - Not for Profit

6.1 The company shall apply its assets and income solely to the furtherance of its objects as set out in clause 3.1 above and is not empowered to pay, transfer or distribute, directly or indirectly, by way of dividend, bonus or otherwise any income or property to any member of the company except as bona fide compensation for services rendered or expenses incurred on behalf of the company.

THE MEMBERS

7 Who Are the Members?

7.1 The members of the company are:-

- (a) Those persons who are named as members in the application for registration of the company; and/or
- (b) Such persons who, being eligible for membership, are admitted to membership from time to time in accordance with this constitution.
- (c) All new members must be approved by the Board.

7.2 There is one (1) category of membership of the company:
General members.

7.3 Subject to the following clause, a person is not eligible for membership of the company if he or she is found guilty of an offence and is sentenced to:-

- (a) imprisonment for 3 months or longer if the offence involved dishonesty; or
- (b) imprisonment for one year or longer in the case of any other offence.

7.4 In spite of the proceeding clause, a person who has been found guilty and sentenced as described is nevertheless eligible for membership of the company if:-

- (a) where the person was never actually imprisoned - at least 2 years have elapsed since the person was convicted;
- (b) where the person served a term of imprisonment - at least 2 years have passed since the person was released from prison; or
- (c) in any other case, a Court has declared that the person ought not to be disqualified

7.5 Each member of the company must guarantee that, in the event that the company is wound up and they are a member of the company on the first day of the winding up, they shall contribute to the property of the company for payment of the debts and liabilities of the company and payment of the costs, charges and expenses of winding-up such amount as may be required but not exceeding \$1.00.

(Note: See section 517 of the Corporations Act)

8 Admission of the General Members

8.1 Natural persons and incorporated bodies may apply for membership.

8.2 Each natural person or organisation who, in writing given to the company:-

- (a) Applies for membership of the company; and
- (b) Gives the guarantee which is required to be given by members under clause 7.5 above,

shall be admitted to membership of the company as a General Member and this fact shall be recorded in the register of members kept pursuant to clause 10.1 below.

8.3 General Members shall be members of the company from the date that their names are recorded in the register of members until they resign or are removed.

9 Ceasing to be a Member & Expulsion from Membership

9.1 A person shall cease to be a member of the company if the person:-

- (a) Cancels their membership by giving notice of cancellation to the company;

- (b) dies;
 - (c) becomes ineligible for membership; or
 - (d) is expelled from membership in accordance with clause 9.2 below.
- 9.2 A person may be expelled from membership of the company by a special resolution passed by the members in general meeting if:-
- (a) the members are satisfied that the person has engaged in conduct, is engaging in conduct, or is proposing to engage in conduct, which is or is likely to be detrimental to the interests of the company or the objects in clause 3.1 above; or
 - (b) the person has been absent from 2 consecutive general meetings without leave of the members.
- 9.3 Notice of intention to move a resolution to expel a member must be given to the member not less than 21 days prior to the date of the general meeting at which the resolution is to be moved.
- 9.4 The notice given to the member must set out the grounds for the proposed motion with sufficient particularity for the member to fully comprehend and answer the allegation against them.
- 9.5 Before a proposed resolution for expulsion of a member is moved, the member shall be given an opportunity to put their case to the members by:-
- (a) giving the company a written statement for circulation to the members (provided that it shall not be more than 1,000 words long and shall not be defamatory); and/or
 - (b) speaking to the motion at the meeting.
- 9.6 The members may satisfy themselves of any matter in connection with a motion for expulsion in any way they see fit including by instructing employed staff or other person to make any inquiries or carry out any investigation the members consider necessary or appropriate.
- 9.7 A member who is the subject of a motion for expulsion shall not be entitled to cast a vote in relation to that motion.
- 9.8 A person may not be admitted or re-admitted as a member if they have, for any reason, been removed from membership of the company.
- 10 Register of Members**
- 10.1 The Company shall at all times keep an up to date register of its members in accordance with section 169 of the *Corporations Act* listing in relation to each member at least:-
- (a) the member's name and address; and
 - (b) the date on which the member's name is entered in the register.
- 10.2 It is the responsibility of the Secretary to keep or cause to be kept the register of members.

PROCEEDINGS AND RESOLUTIONS OF THE MEMBERS

Note: There are many provisions relating to calling, holding and voting at members' meetings contained in the Corporations Act 2001 (see in particular Chapter 2G).

11 General Meetings

- 11.1 A meeting of the company's members is a general meeting.
- 11.2 Each year the company shall have an annual general meeting in accordance with Division 8 of Part 2G.2 of the *Corporations Act* and clauses 12.1 and 12.2 below.

11.3 All other meetings of the company's members are extraordinary general meetings.

12 Annual General Meetings

Note: See Part 2G.2 Division 8 of the Corporations Act

12.1 Subject to Article 12.1A the company shall hold an annual general meeting each calendar year on a date not later than five months following the company's end of financial year.

12.1A The company must hold an annual general meeting within 18 months after its registration

12.2 The business of an annual general meeting shall include each of the following, even if they are not referred to in the notice of the meeting:-

- (a) confirmation of the minutes of the last annual general meeting;
- (b) consideration of the annual financial report, directors' report, auditor's report and CEO's report; and
- (c) the appointment of the company auditor in accordance with Division 1 of Part 2M.4 of the *Corporations Act*.

13 Calling Annual General Meetings and Extraordinary General Meetings

Note: See Division 2 of Part 2G.2 of the Corporations Act

13.1 The company's annual general meetings will be called by:-

- (a) the Chairperson in conjunction with other directors fixing the date and other arrangements for the meeting; and
- (b) the Secretary giving notice of the meeting in accordance with clauses 14.1 to 14.3 below.

13.2 In addition to the annual general meetings, the directors may determine to hold an extraordinary general meeting, and if they do, an extraordinary general meeting will be called by:-

- (a) the Chairperson in consultation with the other directors fixing the date and other arrangements for the meeting; and
- (b) the Secretary giving notice of the meeting in accordance clauses 14.1 to 14.3 below.

13.3 If any member gives a written notice to the company requesting it to call an extraordinary general meeting, a meeting must be called within 2 months by:-

- (a) the Chairperson in consultation with the other directors fixing the date and other arrangements for the meeting; and
- (b) the Secretary giving notice of the meeting in accordance with clauses 14.1 to 14.3 below.

(Note: See also sections 249D, 249 E and 249F of the Corporations Act)

13.4 General meetings must be held on a date and at a time and a place that is reasonable having regard to the circumstances of each of the members.

13.5 Generally, all general meetings will be held at the company's principal place of business, and this place will be deemed to be reasonable.

14 Notice of General Meetings

Note: See Division 3 of Part 2G.2 of the Corporations Act

14.1 Subject to clause 14.2 below, the company must give at least 21 days written notice of any

general meeting to each member, each director and the auditor.

- 14.2 Less than 21 days notice of a members' meeting may be given where all of the members agree beforehand, except where a resolution is to be moved at the meeting for:-
- (a) removal of a member from membership;
 - (b) removal of a director from office;
 - (c) removal of an auditor under section 329 of the *Corporations Act*; or
 - (d) repeal or amendment of this constitution.
- 14.3 The written notice of a general meeting shall include details of:-
- (a) the place, date and time for the meeting;
 - (b) if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this;
 - (c) the general nature of any business to be transacted at the meeting;
 - (d) if a special resolution to:-
remove a member, a director, the secretary or the auditor; or
repeal or amend this constitution
is to be proposed, the intention to propose such resolution and the terms of the resolution proposed; and
 - (e) the rights of the member under the *Corporations Act* and this constitution in relation to the appointment of a proxy, including:-
 - (i) the fact that the member has the right to appoint a proxy; and
 - (ii) what the member must do to appoint a proxy.

15 Quorum at General Meetings

Note: See section 135 of the Corporations Act

- 15.1 No business shall be transacted at a general meeting unless a quorum is present.
- 15.2 The quorum for a general meeting shall be:

the smaller of half the total number of members or 5.
- 15.3 If within 1 hour after the time appointed for holding a meeting of the members a quorum is not present:-
- (a) if the meeting was convened upon the requisition of members, it shall be dissolved;
 - (b) in any other case, the meeting:-
 - (i) will stand adjourned to the following day at the same time and place or to such other day time and place as the Chairperson in consultation with the other directors may by reasonable notice to the members appoint; and
 - (ii) if at such adjourned meeting a quorum is not present within 1 hour after the time appointed for the holding of the meeting, the meeting shall be dissolved.

16 Non-member Attendance at General Meetings

- 16.1 The following persons, shall be entitled to attend and address each general meeting:-

- (a) the CEO;
 - (b) the Chairperson;
 - (c) the directors;
 - (d) the Secretary; and
 - (e) the company's auditor.
- 16.2 On the request of any 2 or more members, the members may permit any other person to attend and address the meeting.

17 Chairperson of the General Meeting

- 17.1 The Chairperson shall chair the meeting if present.
- 17.2 If the Chairperson is unwilling or not entitled to be the chairperson for any part of the meeting, the members shall elect another member as the chairperson of the general meeting for the purposes of that part of the meeting.

18 Proxies at General Meetings

Note: See Division 6 of Part 2G.2 of the Corporations Act

- 18.1 A member who is entitled to attend and cast a vote at a general meeting may, by instrument in writing given to the company not less than 48 hours prior to the meeting, appoint a proxy to attend and vote for the member at the meeting.
- 18.2 An instrument of appointment shall be substantially in the form of Attachment A to this constitution.
- 18.3 A proxy is entitled to vote on a show of hands or a poll.
- 18.4 An appointment of proxy will be automatically suspended or revoked if the member who appointed the proxy attends the meeting.
- 18.5 The chairperson of the general meeting, or the CEO, may require any person purporting to act as a proxy to establish, to the satisfaction of the meeting, that he or she is the person nominated as proxy in the instrument of appointment given to the company under this constitution. If the person is unable to establish his or her identity he or she may be excluded from the meeting or from voting either upon a show of hands or upon a poll.

19 Voting at General Meetings

Note: See Division 7 of Part 2G.2 of the Corporations Act

- 19.1 Only members or their properly appointed proxies may vote at general meetings.
- 19.2 At a general meeting, each member has 1 vote in relation to each resolution.
- 19.3 In the event that there is an equality of votes in relation to any proposed resolution, the chairperson of the general meeting shall have a deciding vote in addition to any vote that he or she may have as a member.
- 19.4 A challenge to the right of a person to vote at a general meeting may only be raised at the meeting and must be determined by the chairperson of the meeting, whose decision is final.
- 19.5 At any meeting of the company's members, each resolution shall be decided on a show of hands unless a poll is demanded in accordance with clause 19.8 below.
- 19.6 Before a vote on a resolution is taken, the chairperson must inform the meeting whether notice of any proxy appointments have been received and if so how the proxy votes are to be cast.

- 19.7 On a show of hands, a declaration by the chairperson of the meeting is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded in favour of or against the resolution.
- 19.8 A poll (by either public vote or secret ballot) may be demanded in relation to any resolution by any director or member.
- 19.9 A poll may only be demanded:-
- (a) before a vote is taken;
 - (b) before the voting results on a show of hands are declared; or
 - (c) Immediately after the voting result on a show of hands is declared.
- 19.10 A poll demanded must be taken immediately.

THE DIRECTORS AND OTHER OFFICERS

Note: Many provisions relating to directors which may or may not be reproduced in this constitution are contained in the Corporations Act 2001 (see in particular Chapter 2D).

20 Office Holders Generally

- 20.1 The directors of the company are:-
- (a) those persons who are listed in the application for membership as the directors (the “Interim Directors”); and
 - (b) such persons who are elected as director in accordance with the *Corporations Act*.
- 20.2 The office holders of the company are:
- (a) each of the directors, including the Chairperson;
 - (b) the Secretary; and
 - (c) the CEO.
- 20.3 A person is not eligible to hold office in the company if:
- (a) he or she has been found guilty of an offence and is sentenced to:-
 - (i) imprisonment for 3 months or longer if the offence involved dishonesty; or
 - (ii) imprisonment for one year or longer in the case of any other offenceor
 - (b) he or she is disqualified from managing corporations under Part 2D.6 of the *Corporations Act*.
- 20.4 In spite of clause 20.3(a) above, a person who has been found guilty and sentenced as described may nevertheless be eligible to hold office in the company if:-
- (a) where the person was never actually imprisoned - at least 5 years have elapsed since the person was convicted; or
 - (b) where the person served a term of imprisonment - at least 5 years have passed since the person was released from prison.
- 20.5 A person may not be appointed as a director unless:-
- (a) that person has in writing, signed by the person, consented to being a director of the company; and
 - (b) that person is more than 18 but less than 70 years of age.

21 The Interim Directors

- 21.1 The Interim Directors shall hold office until the earlier of:
- (a) the company's first annual general meeting: or
 - (b) such earlier time that the company holds a general meeting, which has, included in its agenda, a proposal to replace the interim directors

22 The Directors

- 22.1 There shall be up to 14 Directors:-
- 22.2 Directors shall be elected at an annual general meeting or other general meeting and shall hold office for a period of three years.
- 22.3 A director may be re-elected to office.
- 22.4 Where there is a vacancy in the office of director the other directors may appoint a person as director. Such an appointed director shall hold office until the next annual general meeting.

23 The Chairperson

- 23.1 There shall be a Chairperson of the company.
- 23.2 The directors shall, by secret ballot, elect one of the directors to be the Chairperson at the first Board meeting after each annual general meeting.
- 23.3 Subject to clause 28.1 below, the Chairperson shall hold office as the Chairperson from the date of their election until the date of the first Board meeting following the next annual general meeting.
- 23.4 Upon the expiry of the Chairperson's term, he or she shall be eligible for re-election as the Chairperson.

24 The Secretary

- 24.1 In accordance with section 204A of the *Corporations Act*, there shall be a secretary of the company (the "Secretary").
- 24.2 The first Secretary shall be the person named as the Secretary in the application for registration of the company, and whose appointment is confirmed at the first Board meeting of the company.
- 24.3 The Secretary need not be a director of the company but may be the CEO or another person involved in the administration of the financial affairs of the company.
- 24.4 If there should ever be any vacancy in the office of Secretary, the directors must meet to appoint an appropriate person, who has in writing signed by the person, consented to being the secretary of the company, as the Secretary.

25 The CEO

- 25.1 The company may employ a person
- (a) with proven experience in corporate management; and
 - (b) other relevant experience and knowledge,
- as the chief executive officer of the company (the "CEO").
- 25.2 The CEO shall be chosen by the directors and employed by the company on such terms as,

subject to the following clause, the directors shall deem appropriate having received competent legal and other appropriate advice, and having regard to:-

- (a) the person's level of experience, knowledge and expertise;
- (b) the norms applicable to the employment of chief executive officers in comparable bodies; and
- (c) the company's funding constraints.

25.3 The CEO's contract of employment must include provisions establishing:

- (a) the CEO's remuneration;
- (b) the term of the employment contract;
- (c) an enforceable probation period; and
- (d) specified grounds for dismissal.

26 The Powers and Functions of the Directors and the CEO

26.1 The affairs of the company are to be managed and controlled under the direction of the Board.

26.2 The Board may exercise all of the powers of the company other than those that the *Corporations Act* or this constitution requires the company to exercise in general meeting.

26.3 Subject to the following clause and the requirements of the *Corporations Act*, the management and control of all of the company's affairs may be delegated to the CEO.

26.4 The CEO must obtain the formal approval of the Board for:-

- (a) the company's policies;
- (b) the company's strategic plan;
- (c) the company's annual budgets;
- (d) the terms of any grants;
- (e) the company's financial statements;
- (f) the company's annual reports; and
- (g) such other matters as the directors determine.

26.5 The Board may delegate any of its powers, other than the powers delegated to the CEO by the clause 26.3 above, to a sub-committee of directors.

26.6 The CEO may, by instrument in writing, delegate any of his or her powers, except this power to delegate, to other employees of the company on such terms as he or she considers fit, provided that he or she must table any such delegation at the next Board meeting which meeting may amend or cancel such delegation.

26.7 No person, other than the Chairperson or the CEO may make any public statement on behalf of the company unless he or she is authorised to do so by the Board.

26.8 A contract or deed may be executed on behalf of the company by either:

- (a) any 2 of:-
 - (i) a director;
 - (ii) the Secretary; and
 - (iii) the CEO; or
- (b) by the CEO and a senior employee of the company to whom authority to execute such documents has been delegated by the Board.

26.9 A director does not have the power to appoint an alternate director to exercise some or all of the director's powers.

26.10 All acts performed in good faith by any director shall be valid even if it is subsequently revealed that there was some defect in that person's appointment or that he or she was disqualified from holding office at the time that the act was performed.

(Note: See section 201M of the Corporations Act)

27 Duties of Company Officers

(Note: See Division 1 & 2 of Part 2D.1 of the Corporations Act)

27.1 Each director and each other officer of the company (including the CEO) must, in accordance with law, exercise their powers and discharge their duties:-

- (a) honestly;
- (b) in good faith and for proper purposes; and
- (c) with the degree of care and diligence that a reasonable person would exercise if they:-
 - (i) were a director or officer of a corporation in the company's circumstances; and
 - (ii) occupied the office held by, and had the same responsibilities with the company as, the director.

(Note: See particularly sections 180, 181 & 14 of the Corporations Act)

27.2 A director and each other officer of the company (including the CEO) must not:-

- (a) improperly use their position to gain an advantage for themselves or someone else;
- (b) improperly use information gained through their position as director to gain advantage for themselves or someone else; or
- (c) in any way act so as to cause detriment to the company.

(Note: See sections 182, 183 & 184 of the Corporations Act)

27.3 A director or other officer (including the CEO), who stands to obtain any direct or indirect material benefit from a transaction or arrangement which is being considered by the company:-

- (a) must, as soon as possible after that fact comes to the director or officer's knowledge or attention, bring that fact to the attention of the company and give full disclosure of the nature and extent of the material benefit which the director would derive from the transaction or arrangement, to the company;
- (b) shall not be present for, nor participate in, any deliberations in relation to whether or not the transaction or arrangement should be entered into;
- (c) shall not vote on any resolution pertaining to the transaction or arrangement, or otherwise take part in making a decision in relation to the transaction or arrangement; and
- (d) shall not execute any document or do any thing on behalf of the company to execute or give effect to the proposed transaction or arrangement.

(Note: see Division 2 of Part 2D.1 of the Corporations Act and see also Chapter 2E of the Corporations Act)

27.4 The minutes of any meeting at which a director or other officer gives disclosure of the type referred to in sub-clause 27.3(a) in relation to a matter, or at which any matter in relation to which disclosure of the type referred to in sub-clause 27.3(a) has been given, shall record the disclosure and whether or not the director was present during, or participated in any deliberations or voting in relation to the matter.

28 Ceasing to Hold Office & Removing Office Holders

Note: See Division 3 of Part 2D.3 of the Corporations Act

- 28.1 A person shall cease to be a director upon the happening of any of the following events:-
- (a) the person resigns as a director by giving written notice of his or her resignation to the company;
 - (b) the person attains the age of 72 years;
 - (c) the person dies;
 - (d) the person becomes ineligible to hold office in the company;
 - (e) the person becomes disqualified or prohibited by law from managing or holding office in corporations;
(Note: See Part 2D.6 of the Corporations Act)
 - (f) the person is removed from office as a director under clause 28.2.
- 28.2 A person may be removed from office as a director by a special resolution passed by the members in general meeting if the members are satisfied that:-
- (a) the person has breached his or her duties to the company, including the duties set out in clauses 27.1 and 27.2 above, in a material respect;
 - (b) the person has engaged in, is engaging in, or proposes to engage in, conduct which is or may be detrimental to the interests of the company or the objects in clause 3.1 above;
 - (c) the person, being a director, has been absent from 3 consecutive meetings of the Board without leave of absence from the Board;
 - (d) the person is directly or indirectly interested in any transaction or arrangement (or proposed transaction or arrangement) with the company and, contrary to clause 27.3 above, failed to disclose that fact or the nature and extent of the interest, or was present during or participated in deliberations or proceedings in relation to the transaction or arrangement;
 - (e) the person has committed an offence under the *Corporations Act*;
 - (f) the person has become a mentally incapacitated person; or
 - (g) the person has become insolvent under administration or has made any arrangement with his or her creditors or any class of his or her creditors.
- 28.3 Notice of intention to move a resolution for the removal of a director must be given to the company at least 2 months before the meeting is to be held. However, if the company calls a meeting after the notice of intention is given under this clause, the meeting may pass the resolution even though the meeting is held less than 2 months after the notice of intention is given.
- 28.4 A copy of any notice referred to in the preceding clause must be given to the director concerned as soon as practicable after it has been received.
- 28.5 In any event, notice of intention to move a resolution to remove a director from office must be given to the director not less than 21 days prior to the date of the meeting at which the resolution is to be moved.
- 28.6 The notice given to the director must set out the grounds for the proposed motion with sufficient particularity for the director to fully comprehend and answer the allegation against him or her.
- 28.7 The director may put his or her case to the members before the resolution is moved by:-
- (a) giving the company a written statement for circulation to the members (provided

that it shall not be more than 1,000 words long and shall not be defamatory);
and/or

- (b) speaking to the motion at the meeting.
- 28.8 The members may satisfy themselves of any matter in connection with a proposed resolution for removal of a director in any way they see fit including by instructing the CEO to make any inquiries or carry out any investigation the members consider necessary or appropriate.
- 28.9 A person may not be appointed or re-appointed as a director if they have, for any reason, been removed from office in the company under clause 28.2 above.
- 28.10 A person shall cease to be the CEO or the Secretary, as the case may be, upon the happening of any of the following events:-
- (a) the person resigns by giving written notice of his or her resignation to the company;
 - (b) the person dies;
 - (c) the person becomes ineligible to hold office in the company; and
 - (d) the person becomes disqualified or prohibited by law from managing or holding office in corporations.

(Note: See Part 2D.6 of the Corporations Act)

PROCEEDINGS AND RESOLUTIONS OF DIRECTORS

Note: See also Part 2G.1 of the Corporations Act

29 Calling Board Meetings

- 29.1 The directors shall meet to attend to the company's business as often as is necessary and in any case at least once in each financial year quarter.
- 29.2 Ordinarily, Board meetings will be called by the Chairperson, and the date, time and location of Board meetings will be fixed by the Chairperson.
- 29.3 In addition, any 3 directors, may by notice in writing given to the company, require that the Chairperson call a Board meeting in which case the Chairperson shall fix the date, time and location for a Board meeting to take place within 21 days of the request having been given.
- 29.4 Board meetings must be held on a date and at a time and a location that is reasonable having regard to the circumstances of each of the directors.
- 29.5 Ordinarily, all Board meetings will be held at the company's principal place of business and this location shall be deemed to be reasonable.
- 29.6 A Board meeting may be held using telephone or other technology, provided that:-
- (a) each director taking part must be able to hear each of the other directors taking part at and from the commencement of the meeting;
 - (b) each director must acknowledge his or her presence at the commencement of the meeting to all of the directors taking part; and
 - (c) no director may leave the meeting unless the director has first obtained the consent of the chairperson of the Board meeting; and
 - (d) each director will, for the purposes of this constitution, be conclusively presumed to have been present and to have taken part at all times during the meeting by telephone unless the director obtained the consent of the meeting to leave the meeting.

30 Notice of Board Meetings

- 30.1 Reasonable notice of every Board meeting, and of the postponement of a meeting or the

change in any of the logistical arrangements for a meeting, is to be given to each director and the CEO by the Secretary.

- 30.2 Notice of a Board meeting must include notice of:-
- (a) the date, time and location of the meeting;
 - (b) if the meeting is to be held by telephone or teleconference, the arrangements for the facilitation of the meeting; and
 - (c) the agenda (to the extent that it is known in advance).
- 30.3 Notice of Board meetings may be given in writing, by email, by telephone or by any other technology, provided that the method adopted is reasonable in all the circumstances.

31 Quorum at Board Meetings

- 31.1 No business shall be transacted at a Board meeting unless a quorum is present.
- 31.2 A quorum for a Board meeting shall be one half (1/2) of the directors rounded up to the nearest whole number.
- 31.3 If within 1 hour of the time appointed for holding a Board meeting a quorum is not present:-
- (a) the meeting shall stand adjourned to the following day at the same time and location (unless circumstances prevent that); and
 - (b) if at the adjourned meeting a quorum is not present within 1 hour of the appointed time, but there are no less than 3 directors present, the meeting may proceed at the discretion of the directors present;
 - (c) if at the adjourned meeting a quorum is not present within 1 hour of the appointed time, and there are less than 3 directors present, the meeting may proceed at the discretion of the directors present only for the purposes of calling a general meeting of the company, and otherwise the meeting shall be dissolved.

32 The Chairperson of the Board Meeting

- 32.1 Generally, the Chairperson shall preside at all Board meetings, but if the Chairperson is not present at a meeting, the Board may elect another director or the CEO as the chairperson for that meeting (the “chairperson of the Board meeting”).
- 32.2 If the Chairperson or other person elected as the chairperson of the Board meeting is unwilling or not entitled to be the chairperson for any part of the meeting, the members shall elect another director, as the chairperson of the Board meeting for the purposes of that part of the meeting.

33 CEO’s Right of Attendance at Board Meetings

- 33.1 In addition to the directors, the CEO and the Secretary shall be entitled to be present at and to address each Board meeting.

34 Voting at Board Meetings

- 34.1 A resolution of the Board must be passed by a majority of votes of the directors present who are entitled to vote on the resolution.
- 34.2 Each director shall have one vote in relation to each resolution.
- 34.3 In case of an equality of votes, the chairperson of the Board meeting shall have a casting vote in addition to his or her vote as a director.
- 34.4 Unless a poll is demanded pursuant to clause 34.6 below, each resolution shall be decided on a show of hands.
- 34.5 On a show of hands, a declaration by the chairperson of the Board meeting is conclusive evidence of the result, provided that the declaration reflects the show of hands and the

votes of the proxies received. Neither the chairperson of the Board meeting nor the minutes need to state the number or proportion of the votes recorded in favour of or against the resolution.

34.6 A poll (by either public vote or secret ballot) may be demanded in relation to any resolution by any director or the CEO.

34.7 A poll may only be demanded:-

- (a) before a vote is taken;
- (b) before the voting results on a show of hands are declared; or
- (c) Immediately after the voting result on a show of hands is declared.

34.8 A poll demanded must be taken immediately.

35 Resolutions Without Meetings

35.1 The Board may pass a resolution without a Board meeting being held if all the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

35.2 If the method of passing resolutions described in the preceding clause is used, then:-

- (a) separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy; and
- (b) the resolution shall be deemed to be passed when the last director signs.

35.3 A resolution passed without a meeting must be minuted and, at the next meeting of the directors, signed by chairperson of that Board meeting.

36 Sub-Committees of Directors

36.1 If the Board delegates any of its powers to a sub-committee of directors pursuant to clause 26.6 above, the proceedings and resolutions of the sub-committee will be governed by the provisions for regulating the proceedings and resolutions of the Board contained in this constitution.

36.2 A minute of all the meetings and resolutions of every committee shall be made and signed in the same manner in all respects as minutes of meetings and resolutions of the Board are required by this constitution to be made and signed.

MISCELLANEOUS

37 Minutes

Note: See Part 2G.3 of the Corporations Act

37.1 The directors must cause minutes of the proceedings and resolutions of the members and directors to be kept in accordance with the *Corporations Act*.

37.2 Minutes of a meeting shall be confirmed at the next succeeding meeting and signed by the chairperson of that meeting.

37.3 A minute that is recorded and signed is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

37.4 The directors shall ensure that the members have such access to the company's minutes as is required by the *Corporations Act*.

38 Finance & Accounts

Note: See Chapter 2M of the Corporations Act

38.1 The directors shall ensure that the company complies with its legal obligations to:-

- (a) keep written financial records that:-

- (i) correctly record and explain its transactions and financial position and performance; and
- (ii) would enable true and fair financial statements to be prepared and audited
- (b) prepare annual financial reports and directors' reports;
- (c) have its financial reports audited and obtain auditor's reports;
- (d) lodge its financial reports, directors' reports and auditor's reports with ASIC; and
- (e) report annually to members
- (f) and all other legal obligations relating to the keeping of accounts and financial reporting.

39 Indemnity

Note: See Part 2D.2 of the Corporations Act in relation to restrictions on indemnities, insurance and termination payments.

- 39.1 To the extent permitted by law, and subject to clauses 39.3 and 39.4 below, every officer (and former officer) of the company shall be indemnified out of the funds of the company against liability in relation to all claims, proceedings and demands incurred in the course of performing his or her duties as an officer of the company.
- 39.2 The indemnity granted by the company contained in the preceding clause shall continue in full force and effect notwithstanding the repeal or modification of that clause, in respect of all claims, proceedings and demands made in relation to any acts and omissions occurring prior to the date of the repeal or modification.
- 39.3 An officer (or former officer) of the company shall not be indemnified out of the funds of the company in relation to:-
- (a) a liability owed to the company (or a related body corporate);
 - (b) a liability for a pecuniary penalty order or compensation order under the *Corporations Act*;
 - (c) a liability that is owed to someone other than the company (or a related body corporate) and did not arise out of conduct in good faith.
- 39.4 An officer (or former officer) of the company shall not be indemnified out of the funds of the company in relation to legal costs incurred in defending an action for a liability incurred as an officer or employee where the costs are incurred:-
- (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under clause 39.3 above;
 - (b) in defending or resisting criminal proceedings in which the person is found guilty;
 - (c) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
 - (d) in connection with proceedings for relief to the person under this Act in which the Court denies relief.

40 Notices

- 40.1 Where under this constitution, a person is required or entitled to give a notice or other written document to the company, they may do so by:-
- (a) Delivering the notice or other document during business hours to the company's registered office;
 - (b) Posting the notice or other document by ordinary pre-paid post addressed to the Secretary at the company's registered office; or

- (c) Forwarding the notice or other document by facsimile transmission to a facsimile number at the company's registered office.
- 40.2 A notice or other document given to or by the company shall be deemed to have been given:-
- (a) if delivered by hand, on the date that it is delivered;
 - (b) if delivered by ordinary pre-paid post, on the third business day after it is posted; and
 - (c) if sent by facsimile transmission, or other electronic means, on the next business day after successful transmission.

41 Modification or Repeal of Constitution

Note: See subsection 136(2) of the Corporations Act

- 41.1 The company may repeal or modify this constitution by a special resolution of the members in general meeting.

42 Requirements of the Public Fund

- 42.1 The company must inform the Department responsible for the environment as soon as possible if:
- (a) it changes its name or the name of its public fund; or
 - (b) there is any change to the membership of the management committee of the public fund; or
 - (c) there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations.

43 Ministerial Rules

- 43.1 The company agrees to comply with any rules that the Treasurer and the Minister with responsibility for the environment may make to ensure that gifts made to the fund are only used for its principal purpose.

44 Not-for-Profit

- 44.1 The income and property of the company shall be used and applied solely in promotion of its objects and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to members, directors, or trustees of the company.

45 Conduit Policy

- 45.1 Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the company and not be influenced by the preference of the donor.

46 Winding Up

- 46.1 In case of the winding-up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.

47 Statistical Information

- 47.1 Statistical information requested by the Department on donations to the Public Fund will be provided within four months of the end of the financial year.

An audited financial statement for the company and its public fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

48 Rules for Public Fund

- 48.1 The objective of the fund is to support the organisation's environmental purposes
- 48.2 Members of the public are to be invited to make gifts of money or property to the fund for the environmental purposes of the organisation.
- 48.3 Money from interest on donations, income derived from donated property, and money from the realisations of such property is to be deposited into the fund.
- 48.4 A separate bank account is to be opened to deposit money donated to the fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the company.
- 48.5 Receipts are to be issued in the name of the fund and proper accounting records and procedures are to be kept and used for the fund.
- 48.6 The fund will be operated on a not-for-profit basis
- 48.7 A management committee of no fewer than three persons will administer the fund. The committee will be appointed by the company. A majority of the members of the committee are required to be "responsible persons" as defined by the Guidelines to the Register of Environmental Organisations.

49 Distribution of Surplus on Winding Up

- 49.1 If any surplus remains following the winding up of the company, the surplus will not be paid to or distributed amongst members, but will be given or transferred to another institution or corporation in Australia which has:-
- (a) objects which are similar to the objects of the company as set out in clause 3.1;
 - (b) a constitution which requires its income and property to be applied in promoting its objects;
 - (c) a constitution which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the company by clause 6.1; and
 - (d) is a public benevolent institution for the purposes of any taxation law of the Commonwealth.

DEFINITIONS AND INTERPRETATION

50 Definitions

- 50.1 In this constitution, unless a contrary intention is evident, the following words convey the following meanings:-

the Board:	means the directors of the company acting together as the Board in accordance with this constitution and the <i>Corporations Act</i>
the CEO:	means the Chief Executive Officer of the company employed pursuant to clause 25.1
the Chairperson:	means the Chairperson of the company elected by the directors pursuant to clause 23.1
the company:	means Carbon Neutral Ltd
the <i>Corporations Act</i> :	means the <i>Corporations Act 2001</i> (Cth)
Interim Directors:	means each of the persons named as directors of the company in the application for registration of the company
the office holders:	means: <ul style="list-style-type: none"> (a) each of the directors, including the Chairperson; (b) the Secretary; and (c) the CEO.
officer:	has the same meaning as in section 9 of the <i>Corporations Act</i>
the Secretary:	means the Secretary of the company who holds office pursuant to clause 24.1
special resolution:	means a resolution passed by no less than three quarters (3/4) of the persons present and entitled to vote in relation to the resolution

51 Interpretation

51.1 In this constitution:-

- (a) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (b) a reference to any clause is to a clause of this constitution; and
- (c) notes and headings are for convenient reference only.

51.2 the provisions of this constitution are intended to displace the replaceable rules contained in the *Corporations Act*.

If any provision of this constitution is held to be illegal, invalid or otherwise ineffective, that provision is deemed to be severed from the constitution and the remainder of the constitution shall remain in force.

Attachment A

Notice of Appointment of Proxy

(Pursuant to clause 18.2 of the Constitution of Carbon Neutral Ltd
To the Secretary of Carbon Neutral Charitable Fund Ltd

I,
of
hereby give notice that I appoint
of
who to attend and vote at the general meeting of the Company to take place on
.....

[subject to the following condition/s]:

1. In relation to the proposed resolution:

[insert terms of the proposed resolution]

my proxy is to vote [in favour of][against] the resolution
2. (etc.)

Dated:

Signed:

Witnessed by (Signature):

Witness's name:

Witness's address and
contact number: