



## **The Governing Instrument of the Climate Justice Fund**

The Climate Justice Fund (hereinafter the “Fund”) is hereby established and will operate in accordance with the following provisions:

### **I. Objectives and guiding principles**

- a. To protect Mother Earth, people, and communities from adverse impacts of climate change;
- b. To support the development of climate change legal initiatives that effectively protect people and the planet;
- c. To support climate change legal initiatives including arguable and meritorious causes of action against States and Corporations;
- d. To engage with communities and indigenous peoples in responding to climate change and its effects;
- e. To build coalitions of campaigners, civil society organisations, scientists, lawyers and others to promote global justice on climate change and its effects;
- f. To enhance the capacity of civil society organisations, indigenous peoples, lawyers, law and policy makers and others to address climate change through the use of law;
- g. To commission and support research in relation to loss and damage from climate change, compensation, attribution, causation, human rights impacts, litigation, and other relevant areas;
- h. To engender community support through donations, community organising and communication through social and traditional media.

### **II. Governance and institutional arrangements**

The Climate Justice Fund shall have a governance structure that is of the highest standard of integrity and transparency and ensures independence between the Board, the Trustee and the Secretariat.

#### **A. Rules of procedure of the Board**

##### **1. Composition**

The Board will have at least 8 members represented in their individual capacity, composed of an equal number of members from developing and developed countries. Representation will be gender balanced, multi-disciplinary and include at least 1 indigenous representative.

## **2. Selection of Board members**

The members of the Board will be nominated by the Transitional Committee prior to the completion of its work and the Climate Justice Programme will invite individuals to become Members of the Board in a manner agreed by the Transitional Committee. Members of the Transitional Committee are eligible to be nominated as members of the Board.

Members of the Board will have the necessary experience and skills, notably in the areas of climate change law, human rights, campaigns, communications, and climate science.

## **3. Managing Conflicts of Interest**

The Board will not have organisational representation and the Board will undertake work as a priority to determine the ways in which it will manage conflicts of interest including perceived conflicts of interest

No representative of the Secretariat or the Trustee including employees or consultants will be eligible for nomination to the Board.

## **4. Term of membership**

Members will serve for an initial term of three years and be eligible to serve additional terms.

## **5. Chairperson**

Two co-chairs of the Board will be elected by the Board members from within their membership to serve for a period of one year, with one being a member from a developed country and the other being a member from a developing country.

## **6. Decision-making**

The Board will develop procedures for adopting decisions

## **7. Quorum**

A two-thirds majority of Board members must be present at a meeting to constitute a quorum.

## **8. Additional rules of procedure**

Additional rules of procedure may be developed by the Board as required.

## **B. Role and functions of the Board**

The Board of the Fund will:

- a. Oversee the operation of all relevant components of the Fund including resource mobilisation;
- b. Approve operational modalities, access modalities and funding structures;
- c. Approve specific operational policies and guidelines, including for programming, project cycle, administration, and financial management;

- d. Approve funding in line with the Fund’s principles, criteria, modalities, policies and programmes;
- e. Develop safeguards and fiduciary principles and standards;
- f. Develop criteria and application processes;
- g. Establish subcommittees and panels and define their terms of reference, as appropriate;
- h. Establish additional thematic windows and/or substructures to address specific activities, as appropriate;
- i. Establish a framework for the monitoring and evaluation of performance and the financial accountability of activities supported by the Fund and any necessary external audits;
- j. Review and approve the administrative budget of the Fund and arrange for performance reviews and audits;
- k. Enter into legal and administrative arrangements with the trustee;
- l. Provide advice to the secretariat on any issues sought by the secretariat concerning its role in serving and being accountable to the Board;
- m. Exercise such other functions as may be appropriate to fulfil the objectives of the Fund.

## **C. Secretariat**

### **1. Establishment of the secretariat**

The Climate Justice Programme shall undertake the role of secretariat on an interim basis and subject to provision of funding.

The secretariat will service and be accountable to the Board. It will have effective management capabilities to execute the day-to-day operations of the Fund.

The secretariat will be headed by an Executive Director with the necessary experiences and skills, who will be appointed by and be accountable to the Board. The Board will approve the job description and qualifications for the Executive Director.

The secretariat will be staffed with professional staff with relevant experience. The staff selection will be managed by the Executive Director and will be open, transparent and based on merit, taking into account geographical and gender balance.

### **2. Functions**

The secretariat will be responsible for the day-to-day operations of the Fund, providing administrative, legal and financial expertise. In particular, the secretariat will:

- a. Organize and execute all administrative duties;
- b. Report information on the Fund’s activities;
- c. Liaise with Board members and grant and gift recipients;

- d. Prepare performance reports on the implementation of activities under the Fund;
- e. Develop the work programme and annual administrative budget of the secretariat and trustee and submit them for approval by the Board;
- f. Work with the trustee to support the Board to enable it to carry out its responsibilities;
- g. Carry out monitoring and evaluation functions;
- h. Perform any other functions assigned by the Board.

## **D. Trustee**

An interim trustee will be put in place if appropriate, by the Transitional Committee, failing which, by the Board.

The interim trustee will be subject to a review one year after the operationalization of the Fund.

The Fund will have a trustee with administrative competence to manage the financial assets of the Fund. The trustee will maintain appropriate financial records and will prepare financial statements and other reports required by the Board.

The trustee will administer the assets of the Fund only for the purpose of, and in accordance with, the relevant decisions of the Board. The trustee will hold the assets of the Fund separate and apart from the assets of the trustee, but may commingle them for administrative and investment purposes with other assets maintained by the trustee. No assets of the Climate Justice Fund may be invested in any project, which contributes to climate change.

The trustee will establish and maintain separate records and accounts in order to identify the assets of the Fund.

The trustee will be accountable to the Board for the performance of its responsibilities as trustee for the Fund.

## **E. Access**

### **1. Financial inputs**

The Fund will receive financial inputs from a variety of sources based on criteria to be developed by the Board

### **2. Operational modalities**

The Fund will provide simplified access to funding and will encourage the involvement of vulnerable groups.

The Board will steer the Fund's operations so that they evolve with the Fund's scale and maturity and will exercise flexibility to allow the Fund to evolve over time and become a major global fund for climate change related legal initiatives.

### **A. Eligibility**

Eligibility criteria will be developed by the Board.

The Fund will finance agreed full and agreed incremental costs for activities to enable and support action on research in relation to climate impacts, rights, loss and damage, compensation, attribution, causation, litigation and finance and economics and activities consistent with the Principle Objects of the Fund.

## **B. Funding windows and fund structure**

The Fund will have thematic funding windows to be agreed upon by the Board.

An integrated approach to funding will be used to allow for cross-cutting projects and programmes.

The Board will have the authority to add, modify and remove windows and substructures or facilities as appropriate.

## **C. Programming and approval processes**

The Fund will have a streamlined programming and approval process to enable timely disbursement. The Board will develop simplified processes for the approval of proposals for certain activities, in particular small-scale activities in developing countries.

## **4. Financial instruments**

The Fund will provide financing in the form of grants and gifts, and through other modalities, instruments or facilities as may be approved by the Board.

Financial management practices and financing agreements will be in keeping with the Fund's fiduciary principles and standards and safeguards to be adopted by the Board.

The Board will develop an appropriate risk management policy for funding.

## **F. Administration**

### **1. Administrative costs**

The Fund will finance the operating costs of the Board, secretariat and trustee.

### **2. Monitoring**

The activities, funded by the Fund will be regularly monitored for impact, efficiency and effectiveness in line with rules and procedures established by the Board.

### **3. Evaluation**

There will be periodic independent evaluations of the performance of the Fund in order to provide an objective assessment of the results of the Fund, including its funded activities and its effectiveness and efficiency. The purpose of these independent evaluations is to inform decision-making by the Board and to identify and disseminate lessons learned.

The first Periodic Assessment will be undertaken 18 months after the Fund has commenced the provision of finance to projects.

The results of the periodic evaluations will be published subject to and having consideration of any potential legal professional privilege or similar confidentiality and privilege claims.

To this end, the Board will establish an operationally independent evaluation unit as part of the core structure of the Fund. The head of the unit will be selected by, and will report to, the Board. The frequency and types of evaluation to be conducted will be specified by the unit in agreement with the Board.

#### **4. Fiduciary standards**

The Board will agree on, adopt, and ensure the application of best practice fiduciary principles and standards to the Fund's entities, the trustee's function related to the Fund, and to all operations, activities, projects and programmes financed by the Fund.

#### **5. Safeguards**

The Board will agree on and adopt best practice environmental and social safeguards, which shall be applied to all activities financed and money invested using the resources of the Fund.

#### **6. Collaboration with other organisations**

The Fund will engage with other similar organisations including organisations undertaking campaigns, crowd funding entities, private sector law firms and other legal organisations and networks.

The Secretariat will enter into discussions with any entities that have expressed interest in the Fund and report back to the TC and the Board as appropriate.

Further rules for engagement with other organisations will be developed by the Board as required.

#### **7. Expert and technical advice**

In carrying out its functions the Board will develop mechanisms to draw on appropriate expert and technical advice.

#### **8. Termination of the Fund**

Termination of the Fund will be based on a recommendation of the Board.