

A

**Constitution**

of

**Oak Tasmania**

ACN 055 920 306

**Dated:**

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**Part A – Company, Objectives & Purposes**

**Part B – Membership**

**Part C – Meetings**

**Part D – Management**

**Part E – Miscellaneous**

# Constitution of Oak Tasmania

## Part A – Company, Objectives & Philosophy

### 1 The Company

#### 1.1 Name of the Company

The name of the Company is 'Oak Tasmania'.

#### 1.2 Nature of the Company

The Company is a public company limited by guarantee.

#### 1.3 Replaceable Rules do not apply

The replaceable rules in the Act do not apply to the Company.

#### 1.4 Affiliation

The Company will be affiliated with the Tasmanian Council on Intellectual Disability and will be a Member of that Company.

### 2 Objectives & Philosophy

#### 2.1 Objectives

The objects for which the Company has been established are to promote and advance the interests and wellbeing of people who have intellectual or other disabilities and who are residing in Tasmania.

#### 2.2 Philosophy

The underlying philosophy of the Company is:

- (a) The Company exists to support people in the Tasmanian community, particularly as defined within the Company's objects and accepts the responsibility for the provision and delivery of effective services to meet their individual needs.
- (b) Regardless of the severity of their disability, people with disabilities are entitled to a quality of life based upon the same rights and opportunities as any other citizen.
- (c) The Company adopts the Universal Declaration of Human Rights which proclaims that all the human family, without distinction of any kind, have equal and unalienable rights of human dignity and freedom to education and training to enable development of their abilities to their fullest potential.

## **Part B – Membership**

### **3 Members**

#### **3.1 Ordinary Members**

An ordinary member of the Company will be any person:

- (a) Who has applied for membership; and
- (b) Who has agreed to accept the objects of the Company; and
- (c) Who has paid the prescribed membership subscription; and
- (d) Who in the opinion of the Board is considered desirable to admit to membership.

#### **3.2 Membership Classes**

The Company may by special resolution:

- (a) Establish categories or classifications of Members; and
- (b) Introduce new classes of members.

#### **3.3 Nature of & rights of Members**

Subject to the other provisions of this Constitution:

- (a) An ordinary Member will have full membership rights from the date of the Board's acceptance of the Member except that they will have no voting rights until one clear calendar month from the date of admission; and
- (b) A person may only hold one membership of the Company and the rights and privileges of a Member are personal and incapable of being transferred.

#### **3.4 Life Members**

- (a) A life member is any person who is deemed to have rendered meritorious service to or on behalf of the Company and who, upon the recommendation of the Board, has been elected to a life member at an Annual General Meeting by two-thirds majority of members present and voting at such a meeting; life membership will carry with it full membership rights of the Company without the payment of an annual subscription.
- (b) Any person who was an honorary life member of a Branch of the Retarded Citizens' Welfare Association of Tasmania prior to the day of 27<sup>th</sup> April 1992 will be entitled to life membership of the Company provided that the person is not also a life member of any other Member Company of the Retarded Citizens' Welfare Association of Tasmania.

#### **3.5 Register of Members**

- (a) The Secretary will keep a register of the full names and addresses of all classes of Members and the date of their latest payment of subscriptions (where applicable) and such other particulars as the Board may determine and such register may be in the form of a book, card index, computer printout or such other form as the Board may determine.

- (b) A member of any class will communicate a change in his or her address to the Company in writing and any such change of address will be entered in the register.

## **4 Application for Membership**

### **4.1 Form of Application**

Every application for membership of the Company shall be made in writing, signed by the applicant and be in such form as the Board from time to time prescribes.

### **4.2 Determination of Application**

- (a) Upon receipt of an application for membership the Board shall at its absolute discretion, determine whether the applicant may become a Member and if so, whether a Member is in a particular membership class.
- (b) The Company may receive the subscription of a candidate for membership in advance of being accepted, but that will not bind the Company to accept such candidate as a Member and if a candidate is not accepted in due course a refund of any monies forwarded will be a complete discharge to the Company.
- (c) The Board is not required to give any reason for the rejection of any application to become a Member.
- (d) If an application to become a Member is accepted, the Company must give written notice of the acceptance to the applicant and enter the applicant's name in the register of Members.
- (e) If an application to become a Member is rejected, the Company must give written notice of the rejection to the applicant.

## **5 Members Contribution & Liability**

### **5.1 Liability**

The Liability of the Members is limited by guarantee, being the contribution specified in clause 5.2.

### **5.2 Contribution on winding up**

- (a) Every Member of the Company undertakes and guarantees to contribute to the assets of the Company in the event of the Company being wound up while they are a Member or within one year of cessation of such membership for payment of the debts and liabilities of the Company contracted before the time at which such membership ceased and the costs charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves.
- (b) The amount of such guarantee will be in the sum of ten dollars (\$10.00) for each and every Member or such other sum as may be determined by the Board from time to time.

### **5.3 Membership Fees**

The subscription fee payable in each of the classes of membership will be such sum(s) and of such frequency as the Board may from time to time determine.



#### **5.4 Levies**

In addition to the subscriptions, the Board will have power at its discretion to make or impose from time to time upon any one or more class of Members to the exclusion of all other classes or class of Members to call or levy for such an amount and payable in such manner and at such times as the Board may from time to time determine.

#### **5.5 Failure to pay fees & levies**

- (a) Any subscription, fee or levy paid by the Member after the due date for payment thereof will run or date from the due date of payment thereof but the Member so paying will not be entitled to any of the rights or privileges attaching to their class of membership between the due date for payment and the actual date of payment.
- (b) No Member will be entitled to any of the privileges of membership unless they will have paid their subscription or be otherwise entitled as an Honorary Life Member.

#### **5.6 Acceptance of constitution & by-laws**

The payment by a Member in any class of their subscription will imply the acquiescence by the Member to the provisions contained in this Constitution and By-Laws of the Company, and will bind them accordingly.

### **6 Cessation of Membership**

#### **6.1 Resignation or Retirement**

- (a) Any Member may by giving notice in writing to the Secretary retire from membership of the Company. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of the notice to the Company.
- (b) On the date on which the resignation takes effect, or as soon as reasonably practicable thereafter, the entry of the Member must be removed from the Register.
- (c) The Member continues to be liable for all subscriptions fees and other moneys which are due and payable but unpaid at the date of retirement. Any fees which have been paid by a Member who subsequently retires will not be refunded.

#### **6.2 Overdue fees or levies**

- (a) If all or part of a Member's annual membership fee remains outstanding 30 days after the date on which the fee was due and payable, the Board may send a notice to the Member stating
  - (i) the amount outstanding and the date on which it was due; and
  - (ii) that, if the Member does not pay the amount outstanding within 14 days of the date of the notice, the Member will be deemed to have resigned as a Member upon the expiration of that 14 day period
- (b) If the Member does not pay the amount outstanding within 14 days of the date of the notice, the Member will be deemed to have resigned as a Member upon the expiration of that 14 day period as if the Member had delivered a notice of resignation to the Company, and the provisions of clause 6.1 apply.

### 6.3 Suspension or expulsion

- (a) If any member willfully refuses or neglects to comply with the provisions of this Constitution or is guilty of any conduct which in the opinion of the Board is unbecoming of a member or prejudicial to the interests of the Company, the Board will have power by resolution to censure, fine, suspend, or expel the member from the Company, provided that:
  - (i) at least one week prior to the meeting of the Board at which such a resolution is passed the member will have had notice of such meeting and of what is alleged against them and of the intended resolution; and
  - (ii) that they will, at such meeting and before the passing of such resolution, have had an opportunity of giving, orally or in writing, any explanation they may think fit.
- (b) Where a resolution is passed by the Board to censure, fine, suspend, or expel the Member from the Company, the Company must give the Member notice ("Discipline Notice") in writing of the Board's decision to censure, fine, suspend, or expel the Member, within 10 Business Days of the passing of the resolution.
- (c) A Member may, by notice in writing to the Company within 10 Business Days of receipt of a Discipline Notice, request that a resolution to expel (but not censure, fine or suspend) that Member be reviewed by the Company at the next general meeting.
- (d) If such a request under Clause 6.3(c) is made, the Board must propose at the next general meeting of the Company that a resolution be moved by the Members to confirm the expulsion of the Member concerned.
- (e) A resolution made by the Board under Clause 6.3(a) takes effect:
  - (i) if the Member does not give a notice under Clause 6.3(c), on the date of the resolution; or
  - (ii) if the Member gives a notice under Clause 6.3(c), on the date of the general meeting of the Company at which the resolution is put to Members in accordance with Clause 6.3(d) provided the resolution is passed by a simple majority of Members present and entitled to vote (such a vote to be taken by ballot).
- (f) Subject to any other determination of the Board, any Member expelled will not be eligible to rejoin the Company for a period of not less than five years from the date of their expulsion.
- (g) A Member who is expelled from the membership of the Company will forfeit all current subscription fees and will return to the Company any property of the Company which is in that Member's possession, care or control

### 6.4 No claim on Company assets

A person who ceases to be a Member for whatever reason is not entitled to use or have any claim upon any property or funds of the Company.

### 6.5 Refusal to renew membership

The Board may for reasons it considers in the best interests of the Company decline to accept the renewal of any Member's subscription notwithstanding that payment may have been accepted by the Company. Upon such refusal the person concerned will cease to be a Member and will be entitled to a refund of the moneys (if any) paid in respect of the renewal which has been refused.

## **Part C – Meetings**

### **7 General Meetings**

#### **7.1 Calling of General Meetings**

- (a) Subject to the Act, the Board may call a general meeting at such time and place as the Board may resolve.
- (b) The Board must call and arrange to hold a general meeting on the request of Members made in accordance with the Act.
- (c) The Members may call and arrange to hold a general meeting as provided by the Act.

#### **7.2 Annual General Meeting**

The Company must hold an Annual General Meeting in accordance with the Act.

#### **7.3 Notice of Meetings**

- (a) Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, twenty-one (21) days notice at least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and in case of special business the general nature of that business shall be given to such persons as are entitled to receive such notices from the Company.
- (b) If a special resolution is to be proposed at the meeting the notice must set out an intention to propose the special resolution and state the resolution.

### **8 Proceedings at General Meetings**

#### **8.1 Quorum Required**

- (a) No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided, a quorum for a meeting of Members is the lesser of five (5) Members present, or, a majority of Members entitled to vote at the meeting, being present in person or by proxy.

#### **8.2 Effect on Meeting if Quorum not Present**

If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved, in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present (being not less than two (2)) shall be a quorum.

#### **8.3 Chairman to preside at General Meetings**

- (a) The Chairman shall preside at every general meeting of the Company.
- (b) If the Chairman is unable to preside, the Deputy Chairman will preside.

- (c) If neither the Chairman or the Deputy Chairman is present within 15 minutes after the time appointed for the holding of the meeting, or if they are unable or unwilling to act, then the Members present shall elect one of their number to be the chairman of the meeting.

#### **8.4 Chairman may adjourn meeting**

- (a) The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment for the business to be transacted at an adjourned meeting.

#### **8.5 Resolutions to be decided by show of hands unless poll demanded**

At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:

- (a) by the chairman; or
- (b) by at least two (2) members present.

#### **8.6 When a poll may be demanded**

A poll may 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 results on a show of hands are declared.

#### **8.7 Chairman may declare resolution on show of hands**

Unless a poll is so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

#### **8.8 Non-individual Members & voting representatives**

- (a) A non-individual applicant for membership of the Company must include with its application a nomination of an individual as its voting representative, in a form approved by the Board from time to time.
- (b) The form for nomination of a voting representative of a non-individual applicant for membership of the Company must be in a form as the Board may prescribe or accept from time to time.
- (c) A non-individual Member may revoke its nomination of its voting representative and nominate a new voting representative at any time by notice to the Company, provided that such revocation and nomination does not take effect until the Company receives the notice.
- (d) Notwithstanding anything else contained in this Constitution, a non-individual Member:

- (i) may only attend, speak at, vote at and demand a poll at meetings of Members by its voting representative, by proxy or by attorney; and
- (ii) is only present in person at a meeting of Members if its voting representative is present in person at that meeting.

#### **8.9 Members may appoint proxy or representatives**

- (a) A Member may attend a general meeting of the Company by appointing any person as a proxy or representative to attend the meeting on its behalf.
- (b) The appointment must be in writing, notice of which must be given to the Secretary not less than seven (7) days before the date fixed for the meeting.
- (c) An instrument appointing a proxy or representative must be in a form as the Board may prescribe or accept from time to time.
- (d) Except for the chairman, no person may act as proxy or representative for more than ten (10) Members.

#### **8.10 Poll**

If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith.

#### **8.11 Chairman to have Casting Vote**

In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

#### **8.12 Voting & entitlement to Vote**

- (a) All matters arising for determination will be decided by a simple majority except as otherwise provided by the Act.
- (b) The Members are entitled to cast one vote each.

### **Part D – Management**

#### **9 Income & Property**

##### **9.1 Application of income & property**

Except as otherwise provided in this constitution:

- (a) The income and property of the Company must be applied solely towards promoting the Company's objects and purposes; and
- (b) No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, fee or otherwise, to any of the Members or a Director.

## 9.2 Exceptions

- (a) Clause 9.1 does not prohibit making a payment approved by the Board for:
  - (i) out of pocket expenses incurred by a Director in performing a duty as a director of the Company; or
  - (ii) a service rendered to the Company by a Director in a professional or technical capacity or as an employee of the Company, other than in the capacity as a director of the Company, where:
    - (A) the provision of the service has the prior approval of the Board; and
    - (B) the amount payable is not more than an amount that commercially would be reasonable payment for the service.
- (b) Clause 9.1 does not prohibit making a payment:
  - (i) in good faith to any member for goods or services supplied in the ordinary and usual course of business;
  - (ii) of reasonable and proper interest on money borrowed from a Member; or
  - (iii) of reasonable and proper rent for premises let by any Member to the Company;
  - (iv) for indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this Constitution.

## 9.3 Members not entitled to surplus on winding up

If, on the winding up or dissolution of the Company, a surplus remains after the satisfaction of all debts and liabilities, the surplus must not be paid to the Members but, subject to the operation of Clause 10.3, must be given or transferred to some other body or bodies having similar objects to the Company or other educational objects and that prohibit(s) the distribution of its or their income, profits and property among its or their members.

## 10 Gift Fund

### 10.1 Gift Fund may be established

The Company may establish and/or maintain one or more Gift Funds to receive donations from the public for purposes which fall within the objects of the Company.

### 10.2 Rules for Gift Funds

If a Gift Fund is to be established and/or maintained then:

- (a) the Gift Fund is to be established and/or maintained to ensure that donations to the Company are separated from other money or property of the Company;
- (b) all donations to the Company and interest accruing on those donations must be credited to the Gift Fund. The Gift Fund must not receive property or money other than donations; and
- (c) receipts in the name of the Gift Fund must be issued for all donations.

### **10.3 Winding up or revocation of DGR status**

- (a) Upon the earlier of:
  - (i) the winding up or dissolution of the Gift Fund; and
  - (ii) the endorsement of the Gift Fund to receive income tax deductible gifts being revoked,  
  
any surplus assets of the Gift Fund remaining after payment of liabilities attributable to it must be transferred to a fund, authority or institution:
  - (iii) which is charitable at law; and
  - (iv) whose rules or constitution prohibits distribution of income among its members and which is eligible to receive income tax deductible gifts.
- (b) The identity of the institution must be decided by the Board, or failing that, by the Australian Taxation Office.

## **11 Board & Management**

### **11.1 Management by the Board**

The Management of the Company will be vested in the Board which will be responsible for the overall control and management of the Company and all its affairs.

### **11.2 Composition of the Board**

The Board will consist of six (6) to ten (10) Directors:

- (a) at least four (4) of whom must be elected by the Members as provided for in this Constitution;
- (b) no more than four (4) of whom may be appointed by the Board; and
- (c) all of whom must be Members.

### **11.3 Appointment of Officers**

- (a) The Officers of the Company will consist of a Chairman, Deputy Chairman, Secretary and Treasurer, appointed by the Board as provided herein.
- (b) One person may hold more than one office but the Chairman and the Deputy Chairman will be two different officers.
- (c) The Board will annually at the first meeting of the Board to be held after each Annual General Meeting of the Company, elect from their number:
  - (i) a Chairman;
  - (ii) a Deputy Chairman;
  - (iii) a Secretary, who shall also be the Public Officer; and
  - (iv) a Treasurer,

each of whom will hold office until their respective successors have been appointed at the first meeting of the Board held after the next Annual General meeting.

#### **11.4 Term of office, & election of Directors**

- (a) Subject to the other provisions of this Constitution and the Act:
  - (i) Directors of the Board will hold office for two (2) years, whether elected or appointed; and
  - (ii) The position of each Board member, whether elected or appointed, will fall vacant on completion of a term of two (2) years.
- (b) All Directors elected or appointed to the Board will be eligible for re- election or re-appointment at the expiration of their term of office, provided that no elected or appointed person will serve more than three consecutive terms of two (2) years unless their continuation is endorsed by resolution passed by both the Board and the Company at a General Meeting, for each subsequent term.
- (c) The election of Directors to the Board will be carried out at the Annual General Meeting of the Company as follow:
  - (i) Nominations of candidates for election to the Board will be made in writing signed by two members of the Company and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination) and will be delivered to the company secretary at least ten (10) days before the date fixed for the holding of the Annual General Meeting;
  - (ii) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated will be deemed to be elected; and
  - (iii) If the number of nominations exceeds the number of vacancies to be filled, a ballot will be held.

#### **11.5 Casual vacancy**

Any casual vacancy occurring on the Board will be filled as soon as practicable after such vacancy occurs provided that:

- (a) Any vacancy of a position arising under this Constitution will be filled by a person appointed by the Board who will hold office only until the next following Annual General Meeting; and
- (b) No such casual vacancy will invalidate any action of the Board made after such vacancy occurs and before it is filled so long as the number of Board members is not reduced below the number required for a quorum.

#### **11.6 Vacancy**

The office or position of any Director of the Board will become vacant if the person occupying that position:

- (a) ceases to be a director by virtue of the Act;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes prohibited from being a director of a company by reason of any order made under the Act;



- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) resigns their office by notice in writing to the Company;
- (f) for more than three (3) months is absent without permission of the Board from meetings of the Board held during that period;
- (g) shall be guilty of any conduct which in the opinion of the Board is unbecoming of a director or prejudicial to the interests of the Company; or
- (h) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest in the manner required by the Act, provided always that nothing in this sub-clause shall affect the operation of the other provisions of the Constitution of the Company; or
- (i) in the case of an elected Director, the Director ceases to be a Member.

## **12 Powers & Duties of the Board**

### **12.1 General powers**

- (a) Subject to this Constitution, the Company may exercise, in any manner permitted by the Act, any power which a public company limited by guarantee may exercise under the Act.
- (b) The business of the Company is to be managed by, or under the direction of, the Board.
- (c) The Board may exercise all the powers of the Company except any powers that the Act or this Constitution requires the Company to exercise in general meeting.

### **12.2 By-Laws**

- (a) Without limiting the generality of the preceding clause, the Board will have the power to make, alter and repeal all By-Laws necessary, expedient or convenient for the proper conduct and management of the Company and in particular but not exclusively may make such By-Laws to regulate.
  - (i) The creation of and various classes of membership and the entrance fees and subscription fees payable by Members each respective class of membership;
  - (ii) The terms as to payment or otherwise of admission of Members to participate in the benefits of any of the privileges of the Company and the use by or supply to Members of any of the property of Company;
  - (iii) The rights and privileges associated with each class of membership;
  - (iv) The procedure for meetings of the Company and the Members except as otherwise provided for in this Constitution or the Act;
  - (v) The conduct of Members in relation to one another and to the Company's employees and other personnel;
  - (vi) Member's requisitions and resolutions and any other dealing with Members; and
  - (vii) The provision of resources and training into local communities to enable community development and other services to local communities.

- (b) All By-Laws, so long as they will be in force, will be binding upon all Members.
- (c) The Board will adopt such means as it deems sufficient to bring to the notice of Members of all classes all By-Laws, amendments and repeals of By-Laws.
- (d) No such By-law will be inconsistent with or will affect or repeal anything contained in this Constitution, and any By-Law may be set aside by a special resolution of a General Meeting.

### **12.3 Sub-boards or committees**

- (a) The Board may delegate any of its powers (excluding this power to delegate) to a sub-board or committee. The Board may appoint sub-boards or committees which may consist of Board members or any other persons considered by the Board to be appropriate. Such committees will meet as they see fit in accordance with the instructions of the Board and will report as required to the Board.
- (b) The Board will appoint a chairman for each committee. The Chairman will ex officio be a member of all committees.
- (c) The Board will have power to appoint any other members of any committee.
- (d) The Board may dissolve any committee or terminate the appointment of any member of a committee.
- (e) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the persons present, and in the case of an equality of votes the chairman shall have a second or casting vote.
- (f) The proceedings of the committee will be reported to the next ensuing meeting of the Board.

### **12.4 Common Seal & execution of documents**

- (a) If the Company has a common seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by:
  - (i) two Directors; or
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Directors for that purpose.
- (b) The Company may execute a document without a common seal if the document is signed by:
  - (i) two Directors;
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Directors for that purpose.
- (c) The Board may resolve, generally or in a particular case:
  - (i) that any signature on certificates for membership, or other common use documents specified by the Board, may be affixed by mechanical or other means; and
  - (ii) the manner in which negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Company.

## **13 Proceedings of the Board**

### **13.1 Board meetings**

- (a) The Board may meet together, adjourn and otherwise regulate its meetings as it thinks fit, including the number and frequency of meetings to be held in any given year.
- (b) A Director may at any time and the Secretary shall on the requisition of a director summon a meeting of the Board.
- (c) The Board may meet personally or through any available means of electronic audio or audio/visual means as the Board may determine. If a meeting of the Board is held in two or more places linked together by any technology:
  - (i) a Director present at one of the places is taken to be present at the meeting unless and until that Director states to the chairman of the meeting that he or she is discontinuing participation in the meeting; and
  - (ii) the chairman may determine at which place the meeting will be taken to have been held.

### **13.2 How to Call Board meetings**

- (a) A notice of a meeting of the Board must:
  - (i) be given to each Director, not less than 24 hours prior to the proposed meeting time, unless all Directors agree otherwise;
  - (ii) specify 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); and
  - (iii) state the general nature of the business of the meeting.
- (b) A Director may waive notice of a meeting of the Board by notice in writing to that effect.

### **13.3 Quorum for Board Meetings**

The quorum necessary for the transaction of the business of the Board shall be a majority of the Directors of the Board or, subject to the provisions of the Act, such other number as may be fixed by the Board.

### **13.4 Chairman of meetings**

The Chairman shall preside at every meeting of the Board, or if the Chairman is not present within fifteen (15) minutes after the time appointed for holding the meeting, the Deputy Chairman shall be the chairman. If the Deputy Chairman is not present at the meeting then the Board may choose one of their number to be chairman of the meeting.

### **13.5 Decisions & Resolutions**

- (a) Subject to the Act and this Constitution:
  - (i) questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the directors shall for all purposes be deemed a determination of the Board;

- (ii) a resolution of the Board is passed if a majority of the votes cast are in favour of the resolution;
  - (iii) each Director has one vote on a matter arising at a meeting of the Directors; and
  - (iv) in case of an equality of votes the chairman of the meeting shall have a second or casting vote.
- (b) The Board may pass a resolution, without a meeting of the Board being held, if all the Directors entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (c) Separate copies of a document referred to in Clause 13.5(b) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.
- (d) A Director may signify assent to a document under this Clause 13.5 by signing the document or by notifying the Company of that assent:
- (i) in a manner permitted by Clause 16.3; or
  - (ii) by any technology including telephone.
- (e) Where a Director signifies assent to a document under Clause 13.5(d) other than by signing the document, the Director must, but way of confirmation, sign the document before, or at, the next meeting of the Board attended by that Director.
- (f) The resolution the subject of a document under Clause 13.5(c) is not invalid if a Director does not comply with Clause 13.5(e).

### **13.6 Insufficient number of Directors**

If the number of Directors comprising the Board is below the minimum number required by this Constitution, the Board must act for the sole purpose of increasing the number of Directors to the minimum number required by this Constitution, including by appointing a Director, or summoning a General Meeting of the Company but for no other purpose.

### **13.7 Validation of acts**

All acts done by any meeting of the Board or delegated sub-board or committee or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid or that the Directors or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

## **14 Directors and officers protection and insurance**

### **14.1 Indemnity**

To the extent permitted by law, the Company must indemnify each Relevant Officer against:

- (a) a Liability of that person; and
- (b) Legal Costs of that person.

## 14.2 Legal Costs

To the extent permitted by the law, the Company may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.

## 14.3 Insurance

To the extent permitted by the law, the Company may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:

- (a) a Liability of that person; and
- (b) Legal Costs of that person.

## 14.4 Deeds

To the extent permitted by law, the Company may execute a deed with a Relevant Officer under which the Company must do all or any of the following:

- (a) keep books of the Company and allow that officer, and his or her advisers, access to those books on the terms agreed;
- (b) indemnify that officer against any Liability of that officer;
- (c) make a payment (whether by way of advance, loan or otherwise) to that officer in respect of Legal Costs of that officer; and
- (d) keep that officer insured in respect of any act or omission by that officer, while a Relevant Officer or an officer of the Company on the terms agreed (including as to payment of all or part of the premium for a contract of insurance).

## 15 Accounts & Financial Matters

### 15.1 Proper accounts to be kept

- (a) The Board will:-
  - (i) Cause to be implemented appropriate systems to control and to disburse the funds of the Company under the direction of the Board.
  - (ii) Cause regular accounts to be kept and examine them when required.
  - (iii) Cause to prepare and submit a duly audited balance sheet and financial statement at the Annual General Meeting.
- (b) True account will be kept:
  - (i) Of all sums of money received and expended by the Company and the matter in respect of which the receipt and expenditure takes place; and
  - (ii) Of the properties, credits and liabilities of the Company.
- (c) The Company will keep or cause to be kept all general records, accounting books and records of receipt and expenditure connected with the operations and business of the Company in any such form and manner as the Board may direct. Any employee of the Company responsible for the maintenance of such reports will permit the same to be available for inspection to any member of the Board whenever reasonably required.

- (d) No withdrawal or electronic transfer will be made and no cheques will be drawn on any bank account in the company's name unless the withdrawal form or cheque is signed by any two of the persons appointed by the Board for the time being for such purposes.
- (e) The Treasurer will present to the Board at each of its regular meetings a detailed summary of the financial transactions of the Company since the last regular meeting of the Board and an accurate statement of the Company's financial affairs as at the time of that meeting or at a period agreed and determined by the Board.

## 15.2 Audit

- (a) A properly qualified Auditor or Auditors shall be appointed and the remuneration for their services fixed and duties regulated in accordance with the Act and this Constitution.
- (b) The Board will determine whether and to what extent, at what time and place or places, and under what conditions, the accounting records and other documents of the Company will be open to the inspection of Members other than Directors, and except as provided by the Act or authorised by the Board, a Member not being a Director does not have the right to inspect or to require or receive any information, or to require discovery of any record or document of the Company or any information respecting any detail of the Company's trading or business, including any matter which is or may be in the nature of a trade secret, mystery or trade or secret process relating to the conduct of the business of the Company.

## Part E – Miscellaneous

### 16 Notices

#### 16.1 Method of Service of Notices

- (a) A notice may be served by the Company on a Member receiving notice under this Constitution by any of the following methods:
  - (i) by serving it personally on the Member; or
  - (ii) by leaving it at the Member's registered address; or
  - (iii) by sending it by post in a prepaid letter envelope or wrapper addressed to the Member at the Member's registered address; or
  - (iv) by insertion in or supplement to any newspaper periodical or other publication posted or delivered to all Members; or
  - (v) by advertisement in a newspaper or newspapers circulating in the districts of the Member's registered addresses; or
  - (vi) by sending it by facsimile transmission to a facsimile number nominated by the Member for the purpose of serving notices on the Member or;
  - (vii) by sending it via email, with a delivery receipt notification, to a email address nominated by the Member for the purpose of serving notices on the member.
- (b) A Member may provide the Company with an alternate address for the purpose of serving notice on that Member.

- (c) All notices to persons who are joint Members will be given to the person named first in the Register, and notice so given will be sufficient notice.

## 16.2 Notice to a Director

Notice may be given to a Director:

- (a) by hand delivery; or
- (b) by sending it by prepaid post to the usual residential address of that person or the alternative address (if any) nominated by that person; or
- (c) by sending it to the fax number or email address nominated by that person; or
- (d) by any other means agreed between the Company and that person.

## 16.3 Notice to the Company

Notice may be given to the Company:

- (a) by leaving it at the registered office of the Company; or
- (b) by sending it by prepaid post to the registered office of the Company; or
- (c) by sending it to the fax number or email address of the Company; or
- (d) by and other means permitted by the Act.

## 16.4 Time of Service

- (a) A notice is treated as having been given and received:
  - (i) if delivered to an address, on the day of delivery if a business day, otherwise on the next following day;
  - (ii) if sent by pre-paid mail, on the third business day after posting;
  - (iii) if transmitted by facsimile, a correct and complete transmission report is received, on the day of transmission if a business day otherwise on the next following business day showing that the notice was sent to the correct fax number;
  - (iv) if sent via email, on the receipt by the sender of the email of a successful delivery receipt notification; and
  - (v) if served by advertisement on the day on which the advertisement appeared.
- (b) In proving service by post it will be sufficient to prove that the letter, envelope, periodical, publication or wrapper containing the notice was correctly addressed and put into the post office or other public postal receptacle. A certificate in writing signed by any manager, secretary or other officer of the Company that the letter, envelope or wrapper containing the notice was so addressed and posted is conclusive evidence thereof.

## 16.5 Persons Entitled to Notice of General Meeting

- (a) Notice of every General Meeting of the Company must be given in a manner authorised by this clause or as otherwise allowed by the Act to:

- (i) every Member;
- (ii) every Director; and
- (iii) the Auditors.

(b) No other person is entitled to receive notices of General Meetings.

## 16.6 Signatures on Notices

The signature to any notice to be given by the Company may be written or printed or a facsimile thereof may be affixed by mechanical or other means.

## 17 Altering the Constitution

### 17.1 Alterations by law

No addition, alteration or amendment will be made to or in the Constitution for the time being in force, unless the same will have been previously submitted to and approved by law.

### 17.2 Alterations requiring ATO consent

- (a) A special resolution making a material alteration to, or materially affecting, clauses 2, 9, 10, or this clause 17 except an alteration necessary to enable the Company to comply with the fundraising or collections legislation, has no effect unless approved in writing by a Deputy Commissioner of Taxation.
- (b) All alterations making a material alteration to or materially affecting this Constitution must be notified in writing to a Deputy Commissioner of Taxation.

### 17.3 Licence from ASIC & alterations requiring consent

- (a) Under the Company's previous memorandum of association, the Licence was granted to the Company subject to certain conditions.
- (b) One of the conditions of the Licence is that the Company's Constitution must not be altered without such alteration first being submitted to and approved by the Australian Securities Commission.
- (c) Whilst the Licence continues in force, the Company must comply with its conditions, except as modified from time to time by the Act.

## 18 Interpretation

### 18.1 Definitions

In this Constitution:

“**Act**” means the Corporations Act 2001 (Cth).

“**AGM**” means the Annual General Meeting of Members.

“**Board**” means the board of management of the Company which is constituted by the persons who hold office as Directors, from time to time.

“**Chairman**” means the Director elected as the chairman of the Company under clause 8.6.



“**Company**” means Oak Tasmania ACN 055 920 306.

“**Constitution**” means this constitution.

“**Director**” means a director of the Company for the time being.

“**Gift Fund**” has the meaning given by section 30.125(4) of the *Income Tax Assessment Act 1997* (Cth).

“**Legal costs**” of a person, means legal costs incurred by that person in defending an action for a Liability of that person.

“**Liability**” of a person, means a liability incurred by that person as an officer of the Company or a related body corporate of the Company.

“**Licence**” means the licence granted to the Company in or around 1992 by the Australian Securities Commission, pursuant to Section 383 of the *Corporations Law 1990* (Cth), allowing the Company to be incorporated without the word “Limited” in its name.

“**Member**” means a person whose name is entered in the Register as a member of the Company.

“**Register**” means the register of Members kept under the Act.

“**Relevant Officer**” means a person who is, or has been, a Director, Secretary or acting as an executive officer of the Company.

“**Secretary**” means the company secretary of the Company for the time being.

## 18.2 Interpretation

Unless the context otherwise requires:-

- (a) a reference to a meeting of Members includes a meeting of any class of Members;
- (b) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy or attorney;
- (c) a reference to a notice or document in writing includes a notice or document given by fax, e-mail or another form of written communication;
- (d) headings are for convenience only and do not affect interpretation;
- (e) unless the context indicates a contrary intention:
  - (i) words importing the singular include the plural (and vice versa);
  - (ii) words indicating a gender include every other gender;
  - (iii) the word “**person**” includes an individual, corporation, authority, association or joint venture (whether incorporated or unincorporated) and a partnership;
  - (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
  - (v) the word “**includes**” in any form is not a word of limitation;
  - (vi) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all

ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;

- (vii) an expression that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and
- (viii) an expression that is defined in section 9 of the Act has the same meaning as in that section.

### **18.3 Exercise of powers**

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed, from time to time, as the occasion requires.

### **18.4 Severing invalid provisions**

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, it does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution