

CONSTITUTION

1. BACKGROUND:

- 1.1 The society is an incorporated charitable body registered as an incorporated society pursuant to the Incorporated Societies Act 1908.

2. NAME:

- 2.1 The name of the society shall be "Dunedin Kindergartens Incorporated" (Mana Manaaki Puawai O Otepoti) ("Dunedin Kindergartens").

3. REGISTERED OFFICE:

- 3.1 The registered office of Dunedin Kindergartens shall be at 81 Forbury Road, Dunedin or such other place as the Board shall from time to time determine.
- 3.2 The Registrar of Incorporated Societies shall be notified of any change of location of the registered office.

4. OBJECTS:

- 4.1 The objects of Dunedin Kindergartens shall be to:
- (a) Provide and promote early childhood education;
 - (b) Establish, govern and guide Kindergartens within the greater Dunedin area and such other areas as may come under the ambit of Dunedin Kindergartens from time to time;
 - (c) Provide a constant, safe and nurturing environment for all children and their families; and
 - (d) Promote positive relationships/partnerships amongst all parties associated with the Association.

5. MEMBERSHIP:

- 5.1 The following shall be members of Dunedin Kindergartens:
- (a)(i) Every parent or caregiver who has a child on the roll or waiting list of a Kindergarten; or
 - (ii) All persons over the age of 18 years who:
 - (aa) apply for membership in the form prescribed by the Board from time to time;
 - (bb) have their application approved by the Board; and
 - (cc) pay the annual subscription fee as fixed by the Board.

The Board shall have the right to decline a membership application without giving any reason for such decision.

(b) The Teacher Representative; and

(c) All Life Members of Dunedin Kindergartens.

5.2 Employees of Dunedin Kindergartens are ineligible to become Members save for the Teacher Representative appointed pursuant to clause 5.1(b).

5.3 A Member may at any time resign from membership of Dunedin Kindergartens by giving written notice to the Board. A resignation shall not be effective until receipt of the notice by the Board and shall not extinguish any liabilities of that Member which arose during that person's membership of Dunedin Kindergartens.

5.4 Those Association Members whose membership of Dunedin Kindergartens is solely by virtue of clause 5.1(a) shall terminate on the day that that Association Member's child leaves the Kindergarten at which the child was enrolled unless the Member is a member of a Kindergarten Committee or a member of the Board in which case the membership of that Association Member shall end at the end of that Association Member's current term of appointment to the Kindergarten Committee or the Board.

5.5 The membership of a Member who acts in a manner deemed by the Board to be contrary or prejudicial to the interests of Dunedin Kindergartens may be suspended or terminated if:

(a) after due enquiry and not less than 75 percent of members of the Board present and voting at a Board Meeting vote in favour of such action; provided that

(b) the Member shall be afforded the opportunity to respond to the Board's concerns at the Board meeting before the vote is taken to suspend or terminate their membership.

6. LIFE MEMBERSHIP:

6.1 Life membership may be conferred upon any person who has in the Board's opinion rendered outstanding service to Dunedin Kindergartens.

6.2 The process for nominating and electing Life Members is detailed in Dunedin Kindergartens' Procedure Statements.

6.3 Life Members shall be entitled to exercise all the rights of membership of Dunedin Kindergartens including the right to attend all meetings of Dunedin Kindergartens but shall not be entitled to vote.

7. TEACHER

7.1 A representative of the teaching staff shall be elected by a simple majority of currently appointed teaching staff by secret ballot ("Teacher Representative").

7.2 The Teacher Representative shall be appointed from the end of the Annual General Meeting at which they are appointed and ending at the end of the second Annual General Meeting following their appointment or for the term of their employment with Dunedin Kindergartens whichever is the lesser ("Teacher Representative Term").

- 7.3 If the Teacher Representative's membership is terminated before the Annual General Meeting in any year then the current teaching staff of Dunedin Kindergartens may appoint a replacement Teacher Representative for the balance of the Teacher Representative Term.
- 7.4 The process for nominating and electing the Teacher Representative shall be detailed in Dunedin Kindergartens' Procedure Statements.

8. GOVERNING BOARD:

- 8.1 The governance of the affairs of Dunedin Kindergartens shall be vested in the Board.
- 8.2 The Board shall consist of the following members:
- (a) Not less than 3 and not more than 7 elected members ("Elected Members"); and
 - (b) Any member appointed by the board under clause 8.5; and
 - (c) The Teacher Representative (if appointed).
- 8.3 Only Association Members shall be eligible for election as Elected Members.
- 8.4 The Elected Members shall be elected at the Annual General Meeting for a term of office commencing from the close of the Annual General Meeting at which they are elected and terminating at the close of the second Annual General Meeting following their election.
- 8.5 The Board may from time to time, following consultation with Kindergartens, appoint up to 4 persons as additional Board members. Any member appointed under this clause shall hold office for a term of one year or such lesser term as the Board determines and is eligible for re-appointment at the next Annual General Meeting.
- 8.6 At the first full Board meeting following each Annual General Meeting the Board shall elect from the Elected Members;
- (a) a person to chair meetings of the Board and to represent Dunedin Kindergartens in accordance with the directions of the Board ("Chairperson"); and
 - (b) a person to chair meetings of the Board and to represent Dunedin Kindergartens in accordance with the directions of the Board in the absence of the Chairperson ("Deputy Chairperson").
- 8.7 In the event of a vacancy occurring on the Board among the Elected Members other than by retirement at an Annual General Meeting, the Board shall fill the vacancy in such manner as the Board deems to be appropriate in the circumstances following consultation with Kindergartens. The term of office of any person appointed to fill a vacancy will end at the close of the next Annual General Meeting.
- 8.8 The Board shall meet at least 10 times in each financial year to conduct the affairs of Dunedin Kindergartens.
- 8.9 Any Board member who is absent from 3 consecutive Board meetings without leave of absence shall be deemed to have resigned and that member's position on the Board may be filled in accordance with clause 8.6. Leave of absence shall be deemed to have been granted if an apology has been tendered and accepted for any meeting.
- 8.10 Any Board member who wishes to resign during his or her term of office may do so by giving notice of resignation to Dunedin Kindergartens. Such resignation shall be effective from the date stated in the notice or sooner if the Board so determines.
- 8.11 Where, in the opinion of the Board, a member of the Board has a conflict or interest in any matter being considered by the Board that member shall;

- (a) declare any potential conflict or interest prior to the Board discussion of the matter commencing; and
- (b) have no right to vote on any motion in relation to that matter and shall be excluded from that part of the meeting unless permitted to stay by the Board.

8.12 The Board shall have the power to:

- (a) co-opt additional persons with specific skills to assist in the attainment of the objects of Dunedin Kindergartens;
- (b) appoint a suitably qualified person or persons with specific skills on a consultancy basis to assist in the attainment of the objects of Dunedin Kindergartens provided that any person appointed on a consultancy basis shall not be entitled to vote at a Board meeting;
- (c) employ a person or people to oversee the day to day running of Dunedin Kindergartens; and
- (d) invite employees of Dunedin Kindergartens and other persons to attend Board meetings to report to the Board on specific matters provided that no such person shall be entitled to vote at a Board meeting, provided that nothing in this clause shall limit the power of the Board to determine whether any person or persons other than Board members may be or remain in attendance at any Board meeting or part thereof.

8.13 The Board may remove any person appointed or co-opted in accordance with clause 8.12 at any time.

9. NOMINATIONS:

- 9.1 Nominations for Elected Members shall be called for by Dunedin Kindergartens not less than 30 days prior to the Annual General Meeting at which the nominations are to be considered.
- 9.2 Nominations called for in accordance with clause 9.1 shall be made in writing on the form prescribed by Dunedin Kindergartens from time to time. Nominations are required to have a proposer and seconder, who must be Members from different Kindergartens.
- 9.3 Nominations must be in the hands of Dunedin Kindergartens not less than 21 days prior to the commencement of the Annual General Meeting at which such nominations are to be considered.

10. ANNUAL GENERAL MEETING:

- 10.1 An Annual General Meeting shall be held as soon as possible after the end of each financial year (31 December) but not later than 30 April in each year to receive and conduct the following business:
 - (a) Receive a report from the Board for the relevant financial year;
 - (b) Receive the financial report;
 - (c) Elect the Elected Members for the relevant positions on the Board;
 - (d) Appoint the Honorary positions within Dunedin Kindergartens; and
 - (e) Any other general business relevant to the affairs of Dunedin Kindergartens.

10.2 At least 30 days notice shall be given to all Members of the Annual General Meeting and the

general nature of the business to be brought before the Annual General Meeting.

- 10.3 The financial report of Dunedin Kindergartens presented at the Annual General Meeting shall include the financial statements audited by a member of the New Zealand Institute of Chartered Accountants and shall contain a statement of financial performance and a statement of financial position of Dunedin Kindergartens and a proposed budget for the ensuing year.

11. EXTRAORDINARY GENERAL MEETING:

- 11.1 The Board shall call an Extraordinary General Meeting upon receipt of a notice from at least half of all Kindergarten Committees requesting such meeting, for the purpose of dealing with the matter or matters specified in the notice.
- 11.2 An Extraordinary General Meeting shall be held not less than 14 days or more than 35 days after the receipt of the notice referred to in clause 11.1.
- 11.3 The Board may also call an Extraordinary General Meeting to be held at such time and for such purpose as is deemed necessary, provided that at least 14 days notice of the Extraordinary General Meeting describing the general nature of the business to be brought before the Extraordinary General Meeting is provided in the manner prescribed by clause 12.1 below.

12. NOTICE OF ANNUAL GENERAL MEETINGS AND EXTRAORDINARY GENERAL MEETINGS:

- 12.1 The Board shall notify Members of the Annual General Meeting and any Extraordinary General Meetings by:
- (a) sending written notice to each Kindergarten requesting such notice to be displayed on the Kindergarten notice board; and
 - (b) advertising details in at least one newspaper circulating in the greater Dunedin area or such other area as is covered by Dunedin Kindergartens.

13. VOTING:

- 13.1 Association Members shall:
- (a) be entitled to attend all Annual General Meetings and Extraordinary General Meetings;
 - (b) be entitled to speak on any matter coming before such meeting, at the invitation of the Chairperson; but
 - (c) not be entitled to vote on any resolution put to such meeting save as provided by clause 13.2.
- 13.2 Each Kindergarten Committee shall nominate an Association Member to be their Representative ("Nominated Representative") who shall have the right to cast 1 vote on every matter to be voted on in an Annual General Meeting or Extraordinary General Meeting.
- 13.3 A Nominated Representative shall not be entitled to vote unless the Kindergarten Committee being represented has notified the Board in writing of their Nominated Representative at least 3 days prior to the Annual General Meeting or any Extraordinary General Meeting to be held.
- 13.4 If a Nominated Representative is unable to attend the Annual General Meeting or an Extraordinary General Meeting a replacement person may attend and vote in place of the Nominated Representative.

- 13.5 Unless otherwise required in this Constitution a matter being voted on shall be approved by a simple majority of those entitled to vote and voting on the matter.
- 13.6 Voting on matters other than the election of Elected Members shall be determined by voice, a show of hands or by ballot. A ballot shall be taken at the discretion of the chairperson or at the request of 3 or more Nominated Representatives.
- 13.7 A ballot shall be used for the election of each Elected Member.
- 13.8 Prior to any ballot being taken at least 2 independent scrutineers shall be appointed by the Nominated Representatives present.
- 13.9 Where only one person is nominated for each Board position in accordance with clause 9 that person shall only be elected as a member of the Board if at least fifty-one percent (51%) of the votes cast at the meeting are cast in favour of that person. If more than one person is nominated for any position the highest polling candidate shall be elected to that position.
- 13.10 In circumstances where the voting is such that 1 further vote would achieve the majority required the Chairperson shall open the matter up to enable further discussion before putting the matter to a vote for a second time.

14. QUORUM:

- 14.1 The quorum for all Annual General Meetings and Extraordinary General Meetings shall be 50 percent of all the Nominated Representatives appointed to vote on an issue at that Annual General Meeting or Extraordinary General Meeting (as the case may be).
- 14.2 The quorum for all Board meetings shall be at least 50 percent of the Elected Members.

15. MINUTES:

- 15.1 The Board shall ensure minutes of all Annual General Meetings, Extraordinary General Meetings and Board meetings are duly recorded in minute books and retained at the offices of Dunedin Kindergartens. The minutes shall record the names of those present and all resolutions and proceedings of each meeting.
- 15.2 A copy of the minutes of each Annual General Meeting, Extraordinary General Meeting and Board Meeting shall be sent to every Board member and to every Kindergarten provided that the Board shall be entitled to keep confidential those parts of any meeting the Board deems to be held "in closed session".

16. POWERS OF BOARD AND GENERAL MEETINGS:

- 16.1 The Board shall have the power to do all things which are conducive to the attainment of the objects of Dunedin Kindergartens, including but not limited to the power to buy, sell or otherwise deal in property, borrow and secure the payment of money, control and invest the funds of Dunedin Kindergartens, hire and dismiss employees and do such other things as it may see fit.
- 16.2 The Board shall be authorised to exercise all of the powers of Dunedin Kindergartens, including the power to frame such policies, regulations and standing orders as may from time to time be deemed necessary for the purpose of regulating the affairs of Dunedin Kindergartens. All policies, regulations and standing orders framed in accordance with this clause shall be binding until rescinded by resolution of the Board.
- 16.3 Dunedin Kindergartens is entitled at all reasonable times to full access of all minutes and financial records of each Kindergarten Committee.

17. KINDERGARTEN COMMITTEES:

- 17.1 If possible, each Kindergarten shall be administered by a committee which is to be elected and formed by the Members affiliated with that Kindergarten ("Kindergarten Committee").
- 17.2 Where possible each Kindergarten Committee shall consist of not less than 3 persons, appointed for a term commencing at the close of the Annual General Meeting of the particular Kindergarten and ending at the close of the next Annual General Meeting of the particular Kindergarten following their appointment. Each committee member shall be entitled to offer themselves for election for a further term or terms.
- 17.3 The quorum for each Kindergarten Committee meeting shall be 50 percent of its elected committee members. If the number of persons on any Kindergarten Committee should fall below 3, the Board may co-opt additional persons on to the respective Kindergarten Committee to fill any vacancies until such time as that Kindergarten Committee can restore its members to 3 or more persons. Any committee member co-opted by the Board shall have the same voting rights as the other committee members and shall count towards calculating the required quorum for the meeting.
- 17.4 The Kindergarten Committees shall be entrusted with the responsibility of stimulating interest in their respective kindergartens and the raising of funds to assist with the resourcing of the Kindergarten.
- 17.5 The Kindergarten Committees shall comply with and regulate their affairs according to the Constitution and policies of Dunedin Kindergartens. The Kindergarten Committees are responsible to the Board.
- 17.6 The Board can co-opt to any Kindergarten Committee a suitably qualified person or persons whom in the Board's sole discretion they deem able to assist that Kindergarten Committee in carrying out its operations.

18. SUB-COMMITTEES:

- 18.1 The Board shall have the power to appoint such sub-committees as it shall from time to time deem advisable and may delegate and assign to such sub-committees such powers, duties and responsibilities as the Board shall see fit.
- 18.2 Sub-committees shall meet and report as required to carry out their functions.
- 18.3 The Board shall have the power to fill any casual vacancies or to make further appointments to a sub-committee from time to time.

19. FINANCES:

- 19.1 The Board shall ensure that proper records are kept of all:
- (a) moneys received and expended by Dunedin Kindergartens; and
 - (b) the assets and liabilities of Dunedin Kindergartens, including all mortgages, charges and securities of any description affecting any or all of the property of Dunedin Kindergartens.
- 19.2 All funds of Dunedin Kindergartens shall be held in the name of Dunedin Kindergartens and shall only be lodged in bank accounts or investments authorised by the Board.

- 19.3 The authorised signatories of Dunedin Kindergartens shall be as determined by the Board from time to time. Not fewer than two of the authorised signatories must sign all cheques, and authorised signatories may only sign cheques which are within the scope of a Board approved budget for the operation of Dunedin Kindergartens or which have otherwise been approved by the Board. In this clause “cheque” is deemed to include the electronic transfer of funds, and “sign” is deemed to include authorisation of the electronic transfer of funds.
- 19.4 The raising of capital, promissory notes and other documents, which have a charge against funds of Dunedin Kindergartens, must be authorised by the Board.
- 19.5 The financial year of Dunedin Kindergartens shall commence on the 1st of January in each year and finish on the 31st of December in each year.

20. PECUNIARY GAIN:

- 20.1 The funds of Dunedin Kindergartens shall be applied exclusively for the attainment of the objects of Dunedin Kindergartens. No portion of the funds shall be paid or advanced to Association Members or members of the Board in any way except by way of bona fide remuneration to employees or agents or for services rendered or as reimbursement of authorised expenses incurred on behalf of Dunedin Kindergartens on an arms-length basis.

21. COMMON SEAL:

- 21.1 The common seal of Dunedin Kindergartens shall be retained by a Board Member or suitable delegate of the Board's choosing.
- 21.2 Documents shall be executed on behalf of Dunedin Kindergartens pursuant to a resolution of the Board:
- (a) By affixing the common seal witnessed by any 2 members of the Board; or
 - (b) Where the document is not required to be executed under the common seal by any 2 members of the Board.

22. ALTERATION OF RULES:

- 22.1 This Constitution may be altered, added to or rescinded as follows:
- (a) The proposer of any change shall provide the proposed change in writing to the Board at least 60 days (60) days prior to the Annual General Meeting;
 - (b) In the case of an Extraordinary General Meeting being called to decide on any proposed alteration of these rules, the proposer must provide notice of the proposed wording of the alteration to the Board together with the notice requiring the Board to call the Extraordinary General Meeting;
 - (c) If the proposed alteration is to be determined at an Extraordinary General Meeting the Board shall provide notice and details of the proposed alteration with the notice calling the Extraordinary General Meeting and in the manner provided by clause 12;
 - (d) If the proposed alteration is to be determined at the Annual General Meeting the Board shall include notice and details of the proposed alteration with the notice required under clause 10.2 and in the manner provided by clause 12;
 - (e) If the proposed alteration or addition does not affect the charitable status of Dunedin Kindergartens, a majority of 66 percent of the votes at the Annual General Meeting or Extraordinary General Meeting will be required to pass the resolution;

- (f) in respect of a motion to rescind this Constitution or any alteration or addition which will effect the charitable status of Dunedin Kindergartens, a majority of 75 percent of the votes at the Annual General Meeting or Extraordinary General Meeting will be required to pass the resolution.

22.2 In the case of a resolution passed pursuant to clause 22.1(f) no removal, addition to or alteration of the charitable objects, the pecuniary gain clause or the winding up clause shall be approved without the consideration of the Inland Revenue Department and the Charities Commission.

23. NOTICES

23.1 A notice required to be given under this Constitution shall be in writing and delivered or electronically transmitted to the receiving party's last known place of business or abode or to such other address, facsimile number or email address as shall be advised from time to time.

23.2 A notice given under this Constitution must be in writing and shall be deemed to have been given:

- (a) On the day of delivery where the Notice is delivered between 9am and 5pm on a Business Day;
- (b) On the following Business Day where the Notice is delivered after 5pm or on a day that is not a Business Day;
- (c) On the day of despatch where an email or other electronic communication is despatched between 9am and 5pm during business hours on a Business Day; or
- (d) On the following Business Day where an email or other electronic communication is despatched after 5pm or on a day that is not a Business Day.

24. AFFILIATION:

24.1 Dunedin Kindergartens is affiliated to New Zealand Kindergartens Incorporated. A proposal to end this affiliation must be considered at an Annual General Meeting or Extraordinary General Meeting and to succeed must be supported by 66 percent of the Nominated Representatives present and entitled to vote at the meeting.

25. WINDING UP:

25.1 If on the winding up or dissolution of Dunedin Kindergartens there remains any property or funds whatsoever, after satisfaction of all debts and liabilities, the remaining property or funds shall be distributed as determined by the Board at or before the time of such winding up or in default of such disposition by the High Court of New Zealand. Provided, however, that such property or funds shall only be distributed to one or more early childhood organisations of a charitable nature having similar objects to Dunedin Kindergartens and operating within New Zealand at the time of winding up.

26. DEFINITIONS:

26.1 "**Association Members**" means the persons detailed in clause 5.1

26.2 "**Board**" means the Board defined in clause 8.2.

- 26.3 **“Kindergarten”** means a Kindergarten under the control of Dunedin Kindergartens including but not limited to the 22 Kindergartens currently under the control of Dunedin Kindergartens
- 26.4 **“Life Member”** means the persons elected as life members pursuant to clause 6.1.

**The Common Seal of
DUNEDIN KINDERGARTENS INCORPORATED**

was affixed this ^ day of ^ 2017

in the presence of: ^ and ^

