

**THE CONSTITUTION
OF
PEAK ASSOCIATION INC**

CONSTITUTION

CONTENT

SECTION

TITLE

1.	Name	3
2.	Objects and Purposes.....	3
3.	Powers	4
4.	Membership	4
5.	Powers of the PEAK Committee.....	6
6.	PEAK Executive Committee.....	7
7.	PEAK Executive Officer.....	7
8.	Meetings of the Association and Proceedings.....	8
9.	Notice of Meeting.....	11
10.	Vacation of Office.....	12
11.	Seal of PEAK.....	12
12.	Accounts, Books and Documents.....	12
13.	Audit.....	13
14.	Alteration of Constitution and Rules.....	14
15.	Income and Property.....	14
16.	Dissolution and Disposition of Assets.....	14
17.	Office.....	15

CONSTITUTION AND RULES OF THE PORGERA ENVIRONMENTAL ADVISORY KOMITI ASSOCIATION

“Promoting a better future”

PORGERA ENVIRONMENTAL ADVISORY KOMITI ASSOCIATION INC (“PEAK”) is an independent association which seeks to ensure that long-term, sustainable development arises from the activities of the Porgera gold mine in Enga Province, Papua New Guinea, and that these activities are consistent with international best practice in social, economic and environmental terms.

1. **NAME**

The name of the Association is the **PORGERA ENVIRONMENTAL ADVISORY KOMITI** and is hereinafter referred to as **PEAK**.

2. **OBJECTS AND PURPOSES**

The objects and purposes of PEAK are:-

- (a) To assist through the provision of written reports and to provide reviews, the long-term sustainable development activities of the Porgera gold mine in the Enga Province, Papua New Guinea (the “**Mine**”);
- (b) To ensure that these outcomes are consistent with international best practice in social, economic and environmental terms;
- (c) To provide advice, brokering information and reviewing services to further the interest of the directly affected communities, the Porgera Joint Venture (“**PJV**”) and other parties involved in the sustainable development in the region and other significant stakeholders;
- (d) To provide an independent review of the sustainability process, including the scope of recommendations and proposals arising from the Porgera Mine Closure and Sustainability Plan, and ensure monitoring and compliance of requirements or accepted practices arising from the above, in terms of the social, economic and environmental performance of PJV and other parties;
- (e) To identify key issues and impact in each of the areas of social, economic and environmental programs, and where appropriate, to commission studies using independent experts and institutions;
- (f) To provide advisory services to all major stakeholders, in particular, to communities, PJV and the Government;
- (g) To provide input into mine closure planning;
- (h) To compile a knowledge bank and serve as a clearing-house for information on topics relevant to sustainable development and environmental management in the

target region accessible by a wide range of stakeholders and clients, locally, nationally and internationally and by the general public;

- (i) To act as a conduit for communication of relevant information into the target communities in Porgera, and from these communities to other stakeholders, and to external, national and international constituencies;
- (j) To act as a facilitator for effective partnerships, to assist with linkages and networks between potential partners, brokering capacity building or support to community level organisations engaged in partnerships, independent monitoring of partner contributions and assessment of impact.

3. POWERS

PEAK shall have the following powers in pursuance of its objects:-

- (a) To purchase, take on lease or exchange, hire or otherwise acquire and maintain any real or personal property and any rights or privileges in relation thereto.
- (b) To erect, maintain and improve repair, pull down or rebuild any building or other structures part of the real and personal property of PEAK.
- (c) To sell, exchange, lease, hire, dispose of, turn to, account or otherwise deal with all or any part of the real and personal property of PEAK.
- (d) To borrow, raise or secure the payment of money in such manner as the Committee of PEAK may deem fit with powers to issue debentures, grant mortgages charges, or any other class of security upon all or any of the property real or personal of PEAK and to redeem or pay off any existing or future security.
- (e) To invest and deal with the moneys of PEAK not immediately required for the purposes of PEAK in such manner as may from time to time be determined.
- (f) To amalgamate, co-operate, affiliate with or enter into reciprocal arrangements with any other body, institution or association having objects wholly or in part similar to those of PEAK.
- (g) To appoint, employ, pay, dismiss, suspend, fine, expel or discipline any officer, member or employee of PEAK.
- (h) To do all such things as are necessary, incidental or conducive to the attainment of the objects of PEAK.

4. MEMBERSHIP

- (a) PEAK shall have a total membership not exceeding 17 comprising the following Membership groups.
 - (i) 2 Observers (Non Voting); and

(ii) 15 Members (Voting),

of which:

(A) 6 members representing key institutions, including:

- (i) 2 PNG Government Representatives from the Department of Mining and Department of Environment & Conservation whose status is that of observers and who have no voting rights except for the purpose of electing a Chairperson;
- (ii) 1 Representative from PJV;
- (iii) 1 Representative from Barrick (PNG) Ltd (“**BPNGL**”);
- (iv) 1 Representative from Porgera District Women’s Association; and
- (v) 1 Representative from the Enga Provincial Government.

(B) Up to 11 members who have individual specialist expertise, knowledge or networks of relevance to PEAK’s objects and which include:

- (i) At least one member who comes from the Porgera communities;
- (ii) At least two members with experience in NGOs or civil-society institutions; and
- (iii) The remainder, specialists from any organization with expertise relevant to sustainable development, and representing a balance of social, economic and environmental backgrounds.

(A) and (B) are members groups. From these 11 members the total membership shall elect a Chairperson.

- (b) In the case of the 6 members representing key institutions referred to in clause 4 (a)(A) above the Chairperson will invite each of the member groups to nominate in writing an individual to represent them in PEAK.
- (c) A member group may withdraw its nominee from PEAK at any time by written notification to the Chairperson, however, the member group shall be expected to nominate a replacement at the same time.
- (d) A member group may also nominate, in writing to the Chairperson, an alternate nominee should their primary nominee be unable to attend a particular PEAK meeting. Such temporary nominations terminate after each said meeting is held.
- (e) Remaining members selected in an individual capacity shall be selected by consensus of the full current committee, following nomination and seconding by any current PEAK members, and respecting the balances outlined in clauses 4 (a)(A) and 4 (a)(B).

- (f) The Chairperson shall be elected by a majority of the current committee. PEAK members representing PJV or BPNGL would not be eligible to stand as Chairperson.
- (g) The position of Chairperson shall be a three (3) year appointment, which can be extended with the agreement of all PEAK members.
- (h) The Chairperson may elect to stand down at any point during the term of his or her appointment.
- (i) All other members of the Committee shall hold office for a three-year period, after which all current members will retire from office and 50% of the members will offer their services for a one-term extension.
- (j) In the event that an individual or member group fails to participate, in two consecutive PEAK meetings, without apologies to the Chairperson of PEAK the Chairperson, with the agreement of the remaining members, may terminate that member's appointment to the Committee and approach an alternate group seeking their nomination of an individual to join PEAK to replace the terminated member.
- (k) From time to time, other parties may be invited to serve on PEAK on a temporary, non-voting basis, to strengthen its response to particular issues.
- (l) PJV shall fund the involvement of all PEAK members (as required) covering travel and accommodation at PEAK meetings, or as required until such time that PEAK gains external funding resources.

5. POWERS OF THE PEAK COMMITTEE

The PEAK Committee shall have power to do any or more or all of the following:-

- (a) To appoint any official or employee of PEAK, to regulate their duties, powers and responsibilities and to remove them as occasion may require at their discretion.
- (b) To regulate and control its own meetings, proceedings and the transaction of business thereof.
- (c) To enter into and accept any lease or tenancy of any premises, furniture, goods, chattels and effects used in connection with the business of PEAK for such time or term upon such conditions and at such rentals or charges as it may deem fit.
- (d) To draw, make, accept, endorse and issue cheques, drafts, bills of exchange promissory notes, any negotiable securities instruments or documents of whatever kind or nature for and on behalf of PEAK and to determine by what officers of PEAK such securities instruments or documents shall be signed or endorsed.
- (e) To take and defend all legal proceedings by or on behalf of PEAK and to appoint all necessary attorneys for any such purpose.

- (f) To borrow, raise or secure the payment of money and to sell and dispose of any assets of PEAK.
- (g) To do and perform any other acts, matters or things in connection with or relative to the management of PEAK as shall not by these Rules, be required to be done by PEAK in General Meeting.

6. PEAK EXECUTIVE COMMITTEE

- (a) The powers and affairs of PEAK shall be managed and exercised by the PEAK Executive Committee which shall comprise of:-
 - (i) The Chairperson of the PEAK Executive Committee or his/her Deputy;
 - (ii) The Secretary of the PEAK Executive Committee, who shall also act as the Public Officer of PEAK for the purpose of the Associations Incorporation Ordinance, 1966; and/or
 - (iii) The Treasurer.
- (b) If any one of the PEAK Executive Committee is unable or unwilling to act, any other member of the PEAK Executive Committee duly appointed shall act in his or their place.
- (c) The Direction in writing of the Chairperson of the PEAK Executive Committee or his Deputy, countersigned by the Secretary and/or the Treasurer and stamped with the Seal of PEAK, shall constitute sufficient authority justification or obligation upon PEAK as to anything done or purported to be done by them in pursuance of such direction, notwithstanding that it may afterwards be discovered that there was some defect in the appointment of any such Committee of PEAK or Management or the person or persons acting as aforesaid or that any or all of them were disqualified.
- (d) Rules or Regulations made by PEAK in a General Meeting shall invalidate any prior act of the PEAK Executive Committee which would have been valid if that Rule or Regulation had not been made.
- (e) The PEAK Executive Committee may act, notwithstanding any vacancy, provided that the vacancy shall not fall short of the required number or quorum.

7. PEAK EXECUTIVE OFFICER

- (a) PEAK will be supported by an Executive Officer whose role shall be:
 - (i) To support PEAK meetings, including convening, preparing materials, reporting meeting outcomes, and where mandated by PEAK, conducting relevant follow-up;

- (ii) To support the commissioning and implementation of external reviews and studies;
 - (iii) To develop and maintain the knowledge bank, and
 - (iv) To develop a wide program of communications including the website, reports and ongoing networking with stakeholders.
- (b) The position of the Executive Officer shall, in the first instance, be a part-time position with office facilities. The Executive Officer will report to, rather than be a member of, the Committee, and shall attend the meetings of PEAK ex-officio. Between meetings of PEAK the Executive Officer shall report to the PEAK Chairperson. The Executive Officer will table reports on operations at each PEAK meeting.
- (c) PJV will fund the cost of the Executive Officer until such time as other external resources can be secured.

8. MEETINGS OF THE ASSOCIATION AND PROCEEDINGS

- (a) There shall be a minimum of two (2) meetings in a year in accordance with the directions of the PEAK Chairperson.
- (b) The meetings shall convene to address issues relating to the Environment Management and Monitoring Program (“**EMMP**”) for the Porgera Operation and the Porgera Mine Closure and Sustainability Plan (“**MCP**”).
- (c) PEAK shall not, in either its meetings or in any of its operations, become involved in any compensation issues.
- (d) Subject to clause 8 (1) (ii) and (iii) PEAK Members are to advise the Chairperson, in writing prior to any meeting, if they wish to have any item on matters included in the Agenda of the Meeting. Alternatively, they can raise the issues in the “Any Other Business” section, seven (7) days prior to the meeting.
- (e) In response to major issues raised at a meeting, PJV management may request through the Chairperson, an opportunity to prepare a detailed response for presentation at a subsequent meeting.
- (f) PEAK may also agree that a particular issue requires independent assessment and input, and request, through the Chairperson, that PJV consider the involvement of independent external parties selected by PEAK. The outcome of any such considerations shall be communicated to the Chairperson, who will in turn relay those matters to the PEAK Members.
- (g) Any information presented to or discussed within PEAK that is considered confidential will be identified as such, and may not be disseminated without the written permission of the PEAK Chairman.

- (h) All business deemed to be Extraordinary that is transacted at a meeting other than the ordinary meetings, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance sheets, the ordinary report of the Committee and Auditors', the election of members of the Committee and other officers, and the fixing of fees, charges, gratuities, out of pocket expenses and remunerations shall be deliberated and decided upon in accordance with the decision-making process outlined in the next following sub-clause (i).
- (i) Decision-making process:
 - (i) All voting members of PEAK shall have equal standing and shall be provided with equal opportunity to express their point of view or opinion.
 - (ii) PEAK has a mandate to request, respond and advise PJV and other stakeholders on issues associated with the operation and mine closure.
 - (iii) Decisions or positions shall ideally be reached by PEAK through consensus with the agreement of all voting members present. Where it is not possible to reach consensus a majority decision will be accepted and the minority dissension will be recorded.
 - (iv) The content of all such decisions or positions shall be coordinated by the Chairperson and finalised for approval at the meeting.
- (j) External reporting:
 - (i) The Chairperson shall be the only official spokesperson for PEAK.
 - (ii) In response to a particular issue, the Chairperson may express without consulting the Members, publicly a position previously approved by PEAK at a properly convened meeting.
 - (iii) Where a particular issue arises publicly, and in the absence of an approved PEAK position, the Chairperson may respond to the issue only after first consulting with and having the written approval of all PEAK members. Failing such approval by all Members, and if considered to be urgent, then a formal vote may be called for by circulating a summary to all PEAK Members. In the case of a tied vote by the 14 voting Members, the casting vote shall be made by the Chairperson.
 - (iv) PEAK shall report externally on its activities and general conclusions on an annual basis. This report may take the form of a short written document, which is prepared, each year by the Chairperson for review and approval of the PEAK members prior to public release.
 - (v) PEAK shall maintain a web site incorporating minutes of meetings and any additional information which the Chairperson approves to be posted on the website. Information to be posted on the website must first receive Chairperson's approval and shall be brought to the Committees attention by the

Executive Officer through the development of the agenda under Clause 8 (d) or under any other business at each Committee meeting.

(k) **Review:**

- (i) The Objects and Purposes of PEAK may be reviewed every three years by PEAK's members.
- (ii) Any changes to the Objects and Purposes of PEAK shall be proposed through and by the Chairperson for approval by PEAK's members.
- (iii) When updated or varied Objects and Purposes are produced, they are to be dated and endorsed by all PEAK members.

(l) **Administration:**

- (i) The location of PEAK meetings shall be determined by its members with all meetings to be held preferably at Porgera or in Port Moresby.
- (ii) PEAK members shall advise the Chairperson in writing of any items to be included on the agenda at least seven (7) days prior to the meeting, and provide any supporting information for inclusion in the agenda papers.
- (iii) An agenda with any supporting information for each meeting shall be developed by the Executive Officer in consultation with PEAK members and distributed to all members prior to the meeting.
- (iv) Any PEAK member unable to attend a scheduled meeting is to advise the Chairperson in writing as soon as possible and indicate whether an alternate shall be attending in his or her place.
- (v) Where possible, PJV and BPNG management personnel will attend PEAK meetings when requested by the Chairperson.
- (vi) Under special circumstances, and with the agreement of all members, other parties may be permitted to attend specific meetings. Requests for such attendance shall be made in writing to the Chairperson.
- (vii) The Executive Officer shall maintain minutes of all meetings for endorsement by the Chairperson and members. Draft minutes of each meeting, shall be circulated to all members for comment following each meeting.
- (viii) The final minutes of each meeting shall be included in the agenda for the next PEAK meeting and listed as an agenda item requiring members' approval and acceptance as being a true and correct record.
- (ix) Unless otherwise determined by the Chairperson, the duration of the formal component of each PEAK meeting shall not exceed one full day.

- (x) An annual schedule of meetings shall be developed by the Chairperson and the Executive Officer in consultation with all PEAK members.
- (xi) At the request of individual members, and in consultation with PJV, the Chairperson may convene special meetings to address particular issues.
- (m) Sub-Committee:
 - (i) PEAK Members are empowered to establish Sub-Committees for the purpose of assisting and carrying out tasks and projects identified by the PEAK Committee;
 - (ii) the Members of such Sub-Committees and their tenure, objects and purposes and procedures of the Meeting to be adopted by the Sub-Committee, shall be determined by the PEAK Members.
- (n) Quorum:
 - (i) a quorum for an Annual General Meeting or Special Meeting of PEAK shall consist of not less than eight (8) members present in person, or by proxy; and
 - (ii) a quorum for a meeting of PEAK shall consist of not less than (8) members present in person.
- (o) Voting:
 - (i) at any meeting of PEAK, the members including the Chairperson present in person or by proxy shall be entitled to one vote only on each matter deliberated;
 - (ii) the Chairperson shall have the casting vote in the event there is an equality of votes; and
 - (iii) a member shall be entitled to appoint in writing a person who is also a member of PEAK to be his proxy, and attend and vote at any meeting of PEAK.
- (p) Proxies:

Every voting member shall be, by notice in writing, entitled to one vote at every Annual or Special General Meeting and may appoint any other member to vote on his behalf by proxy. Notice of this shall be deposited with the Executive Officer at least twenty-four (24) hours before the time of the meeting for which the proxy is appointed.

9. NOTICE OF MEETING

- (a) At least seven (7) days prior written notice of every meeting shall be given by e-mail to each and every member at his address appearing in the Register Book of Membership. Such notice will state the Date, Time and Place of the Meeting and

the nature of the business to be transacted. No business other than that set out in the notice of meeting shall be transacted at any general meeting or meeting but, with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by shorter notice and in such manner as those members may deem fit.

- (b) Any member desiring to bring forward any business must give notice thereof in writing to the Executive Officer who thereupon shall include the same in the notice calling the next meeting or general meeting to be called after the receipt of such notice from a member.
- (c) The accidental or inadvertent omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any member shall not invalidate the proceedings at any meeting

10. VACATION OF OFFICE

- (a) A member shall cease to be a member of the PEAK Committee in the following manner:-
 - (i) by resigning;
 - (ii) upon death;
 - (iii) upon dissolution or liquidation, in the case of a corporate member; and
 - (iv) by expulsion from PEAK.

11. SEAL OF PEAK

- (a) The Secretary of PEAK shall make provision for a Common Seal of PEAK to be made. The Common Seal of PEAK shall be the same pattern, design, shape and size and shall have inscribed thereon PEAK ASSOCIATION INC. - COMMON SEAL.
- (b) The Seal of PEAK shall be used in all cases or matters in which the Executive Committee of PEAK so directs. In the absence of such direction, it shall be used in all cases or matters in which the Executive Committee of PEAK exercises its powers, authority or obligations.
- (c) The Common Seal of PEAK shall be kept under lock and key and shall be under the safe custody of the Executive Officer of PEAK.

12. ACCOUNTS, BOOKS AND DOCUMENTS

- (a) The Executive Committee of PEAK shall cause proper books of Accounts to be prepared by the Treasurer and kept with respect to:-

- (i) all sums of money received and expended by PEAK and the matter in respect of which the receipt and expenditure takes place;
 - (ii) all sales and purchases by PEAK; and
 - (iii) the Assets and Liabilities of PEAK.
- (b) The books of accounts and all books, documents and securities of PEAK shall be kept at the office of PEAK under the custody and control of the Executive Officer of PEAK, or in such manner as the Committee may deem fit, and shall always be open for inspection to any member of the PEAK Committee.
- (c) The PEAK Committee may from time to time determine what conditions or regulations the books and accounts or other documents of PEAK or any of them shall be open for inspection by members of PEAK not being Committee members and no member (not being a Committee member) shall have the right of inspecting any account, book or document of PEAK except as conferred by law or authorised by the Committee or by PEAK in general.
- (d) The Committee shall cause to be prepared by the Treasurer and to be laid by him before PEAK in each and every Annual General Meeting, such profit and loss accounts, balance sheets and reports as to the Treasurer, the Auditor or Committee may deem fit.
- (e) A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the PEAK in annual general meeting together with a copy of the Auditor's Report shall not be less than fourteen (14) days before the date of such meeting be sent by the Treasurer to all persons entitled to receive notices of general meetings of PEAK.
- (f) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two (2) authorised members of the PEAK Committee or one (1) member of the PEAK Committee and the Executive Officer.

13. AUDIT

- (a) The PEAK Committee shall appoint an Auditor who shall be a qualified Accountant and 'who shall examine audit and certify as to the correctness or otherwise of the Accounts, the Balance Sheets and the Profit & Loss Account, at least once in each and every year to be submitted to the Annual General Meeting. The Auditor shall not be a member of any Committee of the Association or the Public Officer' of the Association.
- (b) The PEAK Committee may make rules and impose such terms and conditions as to the appointment, duties and responsibilities, power of and removal of the Auditor, and in default thereof, the relevant provisions of the Companies Act, 1997 shall apply.

14. ALTERATION OF CONSTITUTION AND RULES

No object, purpose, power, constitution or rule of PEAK shall be rescinded, repealed, altered or amended AND no new object, purpose, power, constitution or rule shall be made EXCEPT upon the passing of a SPECIAL RESOLUTION carried out by a majority of not less than seventy-five per cent (75%) of members present and voting at a general meeting, the notice of which shall have set out in full the proposed rescission, repeal, alteration or amendment.

15. INCOME AND PROPERTY

The income and property of PEAK shall be applied solely to the promotion of its objects and purposes and no part thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit to the members **PROVIDED THAT** remuneration rations may be paid in good faith for out of pocket expenses or services actually rendered to PEAK or interest at a current bank rate on money lent or the repayment of reasonable and proper rent for premises demised or let to PEAK.

16. DISSOLUTION AND DISPOSITION OF ASSETS

- a. PEAK may be dissolved or wound up by the passing of a Special Resolution in like manner to rescission, repeal, alteration or amendment of the Constitution and Rules of PEAK.
- b. In a dissolution or winding-up of PEAK, the liability of the members is limited. However, every member of PEAK, other than Honorary Members undertakes to contribute to the assets of PEAK in the event of same being wound up during the time he/she is a member, or within one year afterwards, for the payment of debts and liabilities of PEAK contracted before the time at which he/she ceased to be a member and of the costs, charges and expenses of winding up same, and for the adjustment of the rights of the contributories amongst themselves such amount as may be required, but in no case shall each member's undertaking to contribute, exceed one hundred kina (K100).
- c. If upon the dissolution or winding-up of PEAK there remains after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of PEAK, but shall be given or transferred to some other institution or organisation having objects similar wholly or in part to the objects of PEAK and which shall prohibit the distribution of its or their income and property among its or their members or to some charitable object or objects, such institution, organisation, charitable object or objects shall be determined by the members of PEAK at or before the time of dissolution or winding up or in default thereof then such payment contribution or transfer shall be determined by a Judge of the Supreme Court of Papua New Guinea.

17. OFFICE

The office of PEAK shall be located anywhere in Papua New Guinea as decided by the PEAK Committee from time to time.