

SPHINX FOUNDATION (INC)

CONSTITUTION (revised 2008)

DEFINITIONS

In these rules, unless the contrary intention appears:

“**Board Member**” means person referred to in rule 8 or 8A.

“**general meeting**” means a meeting convened under rule 20.

“**member**” means member of the Association.

“**ordinary resolution**” means resolution other than a special resolution.

“**special resolution**” has the meaning given under section 24 of the Act.

“**the Act**” means the Associations Incorporations Act 1987.

“**the Foundation**” means the Foundation referred to in rule 1.

“**the Chairperson**” means in relation to the proceeding of a Board meeting or a general meeting the person presiding at the Board meeting or general meeting in accordance with rule 10.

“**the Board**” means the board managing the Foundation referred to in rule 8.

“**the Secretary**” means the Secretary referred to in rule 9.

“**the Treasurer**” means the Treasurer referred to in rule 9.

NAME AND OFFICE

- 1 The name of the Foundation shall be the “Sphinx Foundation” (hereinafter referred to as the “Foundation”).
- 2 The office of the Foundation shall be situated at Perth Modern School, Roberts Road Subiaco in the State of Western Australia or at such other place as the Board of the Foundation (hereinafter referred to as “the Board”) may determine.

OBJECTS

- 3 The objects of the Foundation shall be:
 - 3.1 The primary object of the Foundation is the advancement of education for the benefit of the community as a whole. In undertaking its primary object the Foundation must have regard to the educational principles and practices of Perth Modern School (“the School”) from its inception to the present and which may guide the School in the future.
 - 3.2 Each of the following objects and purposes shall be regarded as furthering the primary object of the Foundation:
 - (a) to document and make available the educational principles and practices of the School as a resource for the community at large and in particular for educators, students, parents and those whose decisions may affect or be affected by the quality of education and learning experiences of students wherever educated;
 - (b) to advance the education, learning and knowledge of students attending the school;
 - (c) to undertake research and to collect, analyse and classify data and information in relation to the School, including, without limitation, educational methods, selection criteria and processes, subjects offered, results achieved, biographical and statistical information regarding staff and students, oral and written histories;
 - (d) to publish and disseminate by any means the results of the research or the data and information so collected;
 - (e) to provide, preserve, maintain and develop the standards and facilities of the School, whether directly or indirectly;
 - (f) to provide scholarships and bursaries to students to assist or enable the students to be educated at the school;
 - (g) to make grants for education or research scholarships, endowments or fellowships for research scholars, educators or administrators and to encourage visits from overseas specialists or any other activities

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considered by the Board as being of direct or indirect benefit to the students, the School, the community or the advancement of education generally.

POWERS

- 3 For the purposes of undertaking its objects the Foundation has the following powers:
- (a) to solicit attract and encourage bequests, donations and gifts to or for the benefit of the Foundation;
 - (b) to undertake fundraising activities of all kinds;
 - (c) to acquire any real or personal property and to construct, alter or improve any buildings or other facilities at or for the benefit of the school;
 - (d) to acquire books, works of art, educational equipment and teaching aids for the benefit of the school;
 - (e) to make available any property of the Foundation, or over which it has control, to members of the community for educational purposes on such terms as the Board considers fit;
 - (f) to establish or maintain trusts or funds for any of the objects of the foundation;
 - (g) to administer or manage any funds or property of whatsoever nature of the Foundation or in the possession or control of the Foundation; and
 - (h) to do all such other things as may be incidental or conducive to attain the objects of the Foundation.

INCOME AND PROPERTY

4. The income and property of the Foundation howsoever derived is to be applied solely towards the promotion of its objects as set forth in this Constitution and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever to the Members provided that nothing herein shall prevent the payment in good faith of remuneration to any Member of the Foundation for services actually rendered to the Foundation.

SCHOLARSHIP FUND

5. If the Foundation establishes a fund for the provision of scholarships to assist or enable students to be educated at the School ("Fund"), then the following provisions shall apply to the Fund:
- (a) The Foundation must invite contributions from the public to the Fund and do whatever is desirable in the opinion of the Board to obtain such contributions.
 - (b) The Fund forms part of the property of the Foundation but, for the purposes of identification, the Board shall maintain separate management accounts in respect of the Fund, its income and payments or applications of its income or capital.
 - (c) The Board must maintain for the purposes of the Fund a gift fund:
 - (i) to which gifts of money or property for that purpose are to be made by any member of the public;
 - (ii) to which any moneys received to the Fund because of those gifts are to be credited; and
 - (iii) that does not receive any other money or property.
 - (d) The Board must use the following only for the purposes of the Fund:
 - (i) gifts made to the gift fund;
 - (ii) any moneys received because of those gifts.
 - (e) At the first occurrence of the winding up of the Fund or the Fund ceasing to have endorsement as a deductible gift recipient, then any surplus assets of the gift fund remaining after payment of the gift fund's liabilities must be transferred

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to another fund, authority or institution which has similar objects and to which income tax deductible gifts can be made.

- (f) A scholarship may only be awarded to an Australian citizen or a permanent resident of Australia.
- (g) A scholarship may only be granted to a student who has been selected to be eligible for enrolment in the School by way of merit based competition open to students throughout Western Australia.
- (h) The Foundation must determine the criteria for the award of a scholarship which may include academic achievement; other merit based non-academic achievements or considerations to achieve equity recognising any disadvantage, disability or hardship arising from a student's circumstances.
- (i) The scholarship shall be awarded to enable and assist the recipient to attend the School to further the student's education and is payable during the period of enrolment.

MEMBERSHIP

6. The members of the Foundation ("the Members") shall be members of the Board and the Council of Management of the Perth Modernian Society (Inc) ("the Council of the Society") for the time being and such other persons and such other persons as the Board may admit as members of the Foundation from time to time pursuant to by laws promulgated by the Board. The Board may cause cessation of a membership in accordance with by laws promulgated by the Board.

REGISTER OF MEMBERS OF FOUNDATION

- 7.
- 7.1 The Secretary shall on behalf of the Foundation keep and maintain the register of Members in accordance with section 27 of the Act and that register shall be kept and maintained at his or her place of residence.
 - 7.2 The Secretary shall cause the name of a person who dies or who ceases to be a member under rule 6 to be deleted from the register of Members referred to in rule 7.1.

BOARD OF FOUNDATION

8. The control management and conduct of the affairs of the Foundation shall be vested in the Board.
- 8.1 The Board shall comprise of not more than seven and not less than two members as shall be appointed by the Council of the Society from time to time.
 - 8.2 Each member of the board must be a responsible person. A responsible person is one who has a responsibility to the community as a whole being a person who:
 - (a) performs a significant public function;
 - (b) is a member of a professional body having a code of ethics or rules of conduct;
 - (c) is officially charged with spiritual functions by a religious institution;
 - (d) is a director of a company whose shares are listed on the Australian Stock Exchange; or
 - (e) has received formal recognition from government for services to the community.
- 9 The members of the Board shall continue in office until they casually vacate their office within the meaning of rule 14.
- 10 When a casual vacancy within the meaning of rule 17 occurs in the membership of the Board:
 - (a) the Board may appoint a member to fill that vacancy, and

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- (b) a member appointed under this sub-rule shall:
 - (i) hold office until the commencement of: and
 - (ii) be eligible for appointment to membership of the Board by the Council of the Society at the next following annual general meeting.
- 11 From the incorporation of the Foundation until such time as the Council of the Society has appointed members of the Board, the first members of the Board shall be:
 - John Robin Hayward
 - John Karasinski
 - John Katavatis
 - Ross Edward Ledger
 - John Grahame Young
- 12 The Principal of the School shall be entitled to attend all meetings of the Board and to speak but shall not be entitled to vote unless otherwise qualified to do so by members of the Board.
- 13 The Officers of the Foundation shall comprise a Chairperson, a Secretary and a Treasurer who shall be appointed by the Board from among their members. The Board shall have the power, in conjunction with the Principal of the School to appoint an Executive Director of the Foundation.

DUTIES OF SECRETARY

- 14 The Secretary shall:
 - (a) co-ordinate the correspondence of the Foundation;
 - (b) keep full and correct minutes of the proceedings of the Board and of the Foundation;
 - (c) comply on behalf of the Foundation with:
 - (i) section 27 of the Act in respect of the register of members of the Foundation;
 - (ii) section 28 of the Act in respect of the rules of the Foundation; and
 - (iii) section 29 of the Act in respect of the record of the officeholders, and any trustees of the Foundation.
 - (d) have custody of all books, documents, records and registers of the Foundation, including those referred to in paragraph (c), other than those required by rule 12 to be kept and maintained by, or in the custody of, the Treasurer; and perform such other duties as are imposed by these rules on the Secretary.

DUTIES OF TREASURER

- 15 The Treasurer shall:
 - (a) be responsible for the receipt of all moneys paid to or received by, or by him on behalf of, the Foundation and shall issue receipts for those moneys in the name of the Foundation;
 - (b) pay all moneys referred to in paragraph (a) into such account or accounts of the Foundation as the Board may from time to time direct;
 - (c) make payments from the funds of the Foundation with the authority of a general meeting or of the Board and in so doing ensure that all cheques are signed by two Board members other than himself or herself;
 - (d) comply on behalf of the Foundation with sections 25 and 26 of the Act in respect of the accounting records of the Foundation;
 - (e) whenever directed to do so by the Chairperson, submit to the Board a report, balance sheet or financial statement in accordance with that direction;
 - (f) have custody of all securities, books and documents of a financial nature and accounting records of the Foundation, including those referred to in

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paragraphs (d) and (e); and perform such other duties as are imposed by these rules on the Treasurer.

SUB-COMMITTEES

16. The Board may appoint such Standing or Sub-Committees which shall comprise any such members of the Board or any other persons (whether such persons are members of the Foundation or the Society or not) and those persons may be co-opted upon such terms and conditions and with such power and responsibility as the Board may from time to time determine.

CASUAL VACANCY

17. A casual vacancy occurs in the office of a member of the Board if the member of the Board:
- (a) dies;
 - (b) resigns by notice in writing delivered to the chairman, or if the member is the chairman, to another member of the Board;
 - (c) is convicted of an offence under the Act;
 - (d) is permanently incapacitated by mental or physical ill-health;
 - (e) is absent from more than:
 - (i) Three (3) consecutive Board meetings without the Board's consent;
 - or
 - (ii) Three (3) Board meetings in the same financial year, of which he or she has received notice without tendering an apology to the person presiding at each of those Board meetings;
 - (f) ceases to be a member of the Foundation.

MEETINGS

18. The Board shall regulate their meetings and proceedings as they see fit. All members of the Board shall receive due notice of meetings of the Board. Until the Board shall otherwise determine a quorum at any meeting of the Board shall be three (3) members. Questions arising at any meeting shall be decided by a majority of votes. The Chairperson of the meeting shall have a casting vote.

POWERS

19. The Board may:
- (a) open close and operate any bank account for and on behalf of the Foundation;
 - (b) invest moneys for the Foundation or under the control or trusteeship of the Foundation in such manner as the Board may determine;
 - (c) act as trustee of any trust or other fund;
 - (d) raise money in any manner it sees fit including the undertaking of or participating in commercial ventures at any time;
 - (e) act as nominee trustee agent attorney delegate substitute or financial controller either solely or jointly with others or any person or persons company corporation fund trust or institution and to undertake any other office of trust and to perform and discharge the duties and functions incidental thereto and generally to transact all kinds of business either gratuitously or otherwise;
 - (f) give mortgage charges or other securities over any part of the real or personal property of the Foundation;
 - (g) insure any property of the Foundation against any risk the Board considers necessary and pay all premiums in respect of any insurance policies taken out by the Board in relation to that property; to purchase sell lease or grant a lease acquire hold either solely or jointly with any

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- other party and in any way deal with any real or personal property of any kind including any business undertaking or scheme;
- (h) lend and advance money or give credit to any person or company or the School to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or company or the School to secure or undertake in any way the repayment of moneys lent or advanced to or liabilities incurred by any person or company or the School; and to otherwise assist any person or company or the School;
 - (i) borrow or raise or secure the payment of money in such manner as the Board may think fit and to secure the same or the repayment or performance of any debt liability contract guarantee or other engagement incurred or to be entered into by the Foundation in any way and in particular by the issue of debentures perpetual or otherwise charged upon all or any of the Foundation's property; and to purchase redeem or pay off any such security;
 - (j) to borrow or accept monies from the Society with or without security for the purposes of the Foundation;
 - (k) to exercise all or any powers and to do all such acts and things as may appear to the Board conducive to the attainment of the objects of the Foundation;
 - (l) employ on a full-time or part-time basis such persons companies partnerships or institutions as the Board may consider appropriate;
 - (m) enter into contracts for personal service or any consultancy agreements or seek any professional or expert advice from any person as is considered necessary by the Board from time to time;
Provided always that these powers shall be exercised by the Board solely for the purpose and towards the promotion of the objects of the Foundation as set forth in this Constitution.
- 20 The Secretary shall keep and record minutes of all meetings of the Board and the Board shall confirm such minutes at its next meeting. Copies of the minutes of each meeting shall be sent forthwith to each member of the Board and to the Council of the Society.

ACCOUNTS AND REPORTS

- 21 The Board shall:
- (a) keep proper accounts with respect to all sums of money received and expended by the Foundation the manner in which the receipt and expenditure takes place and the assets and liabilities of the Foundation;
 - (b) prepare a Balance Sheet and a Statement of Income and Expenditure as at the 31st of December of each year;
 - (c) prepare an Annual Report covering the various activities of the Foundation for the year for presentation at the Annual General Meeting.
- 22 The accounts of the Foundation shall be:
- (a) subject to audit and a duly audited copy of the latest annual Balance Sheet and Statement of Income and Expenditure shall be furnished to the Society not later than 28 days prior to the Annual General Meeting;
 - (b) available for inspection by any member of the Board or any member of the Council of the Society.

AUDITOR

- 23 The Auditor of the Foundation unless otherwise determined by the Council of the Society shall be the Council of the Society's auditor for the time being.

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COMMON SEAL

24

- (a) The Common Seal of the Foundation shall be kept in the safe custody of the Secretary and shall only be affixed to any Deed Instrument or other document by the authority of a resolution of the Board;
- (b) Any two members of the Board nominated from time to time by the Board and the Secretary shall countersign the affixing of the Seal;
- (c) The Secretary shall keep a record of all documents to which the Seal has been affected.

INSPECTION OF RECORDS

25 A member may at any reasonable time inspect without charge, the books, documents, records and securities of the Association.

FOUNDATION YEAR

26 The financial and business year of the Foundation shall commence on the first day of January in each year and end on the 31st day of December in each year.

ANNUAL GENERAL MEETING AND SPECIAL GENERAL MEETINGS

27 The Annual General Meeting of the Foundation shall be held on such day and time and place as the Board may determine provided always that the Annual General Meeting shall be held during the first four months of each financial year of the Foundation;

- (a) The business of the Annual General Meeting shall be the consideration and adoption of the Annual Report of the Board the Balance Sheet and Statement of Income and Expenditure for the year and such other matters that are brought before the meeting by the Board or any Member;
- (b) The Board may also at any time call a Special General Meeting in the manner prescribed hereunder;
- (c) The quorum at all General Meetings shall be three members of the Board.
- (d) All Members may attend and vote at such meetings and all matters arising during the meeting shall be decided by a majority of votes of those Members present and voting;
- (e) The Chairman of all General Meetings shall be the Chairman of the Board or his nominee;
- (f) Every Member shall be given at least fourteen (14) days notice of any General Meeting and of any motions to be moved at the general meeting.
- (g) Every Member shall be given at least twenty-one (21) days notice of any general meeting at which a special resolution is to be proposed and of any other motions to be moved at that general meeting.
- (h) A notice given under sub-rule (f) shall specify -
 - (i) when and where the general meeting concerned is to be held;and
 - (ii) particulars of the business to be transacted at the general meeting concerned and of the order in which that business is to be transacted.
- (i) The Secretary may give notice under sub-rule (f) or (g) by -
 - (i) serving it on a member personally; or
 - (ii) sending it by post to a member at the address of the member appearing in the register of members kept and maintained under section 27 of the Act.

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j) When a notice is sent by post under sub-rule (i)(ii) sending of the notice shall be deemed to be properly effected if the notice is sufficiently addressed and posted to the member concerned.

BY-LAWS

- 28 Subject to the approval of the Council of the Society the Board may pass By-Laws for:
- (a) the operation of the Foundation, the Board and any Standing or Sub-Committees established by the Board pursuant to Clause 10 of this Constitution;
 - (b) the admission of Members of the Foundation (provided that there shall be no annual subscription fees or other fees imposed on Members);
 - (c) classes of membership of the Foundation, the rights and privileges attaching to classes of membership of the Foundation;
 - (d) cessation of membership; and
 - (e) such other matters not inconsistent with the objects of the Foundation as the Board may consider desirable for the purposes of advancing the objects of the Foundation.

DISSOLUTION

29. Subject to the approval of the Council of the Society the Foundation may be dissolved with the consent of 75% of members voting at a meeting to dissolve the association.
- 30 If, on the winding up of the Foundation, any property of the Foundation remains after satisfaction of the debts and liabilities of the Foundation and the costs, charges and expenses of that winding up, that property shall be distributed:
- (a) to another association incorporated under the Act; or
 - (b) for charitable purposes, which incorporated association or purposes, as the case requires shall be determined by resolution of the members when authorizing and directing the Committee under section 33(iii) of the Act to prepare a distribution plan for the distribution of the surplus property of the Foundation.

AMENDMENT OF CONSTITUTION

- 31 The Foundation may alter or rescind these rules, or make rules additional to these rules, in accordance with the procedure set out in section 17, 18 and 19 of the Act.
- 32 These rules bind every Member and the Foundation to the same extent as if every Member and the Foundation had signed and sealed these rules and agreed to be bound, by all their provisions.
- 33 This Sphinx Foundation shall be inaugurated under the terms of this Constitution amended on the 21st day of April 2008.