



PERTH MONTESSORI SCHOOL INCORPORATED CONSTITUTION

April 2018

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PERTH MONTESSORI SCHOOL INC. CONSTITUTION

1. NAME

- 1.1 The name of the association is "Perth Montessori School Inc." (**the School**).

2. OBJECTS

- 2.1 The objects of the School are to propagate, maintain and further the rights of the child in society.
- 2.2 The objects shall be pursued by all lawful means, more particularly by:-
- 2.2.1 demonstrating the importance of young people in and for the progress of civilisation;
- 2.2.2 propagating the Montessori method;
- 2.2.3 spreading knowledge concerning the physical, intellectual, moral, social and mental development of the child, at home as well as at school and in society;
- 2.2.4 the spreading and maintenance of the educational methods created by Doctor Maria Montessori, aiming at developing the self-reliance and the personality of the child by allowing it to work on its own and thus to further the interest which society has in young people;
- 2.2.5 the creation of an atmosphere and an opportunity for a normal development of young people, so that youth and adults may work together in harmony for higher and more peaceful civilisation;
- 2.2.6 the development of the general recognition of the rights of the child and this irrespective of race, religion or political conviction;
- 2.2.7 the co-operation with other bodies and organisations which fight for Human Rights, for the development of the system of education and for the furtherance of peace.

3. POWERS

- 3.1 The School shall have the following powers in addition to and without prejudice to any other powers herein expressed or implied:
- 3.1.1 To raise, receive, have, hold, administer and dispose of monies in the form of subscriptions, donations, legacies, bequests, or as a consequence of fund raising activities of all types or otherwise received from any other source whatsoever.
- 3.1.2 To apply for and enter into arrangements and conclude agreements in relation to grants of any public monies to assist the School in the furtherance of its objects.
- 3.1.3 To borrow or raise money at interest for any purpose whatsoever as the School in General Meeting may approve.
- 3.1.4 To purchase, take on lease, exchange, hire or acquire and hold any real or personal property (including chattels real).
- 3.1.5 To pay for any real or personal property acquired or to be acquired by the School for cash, or to allow the whole or any portion of the purchase money to remain owing on mortgage or otherwise, upon such terms, as the School in General Meeting may approve.
- 3.1.6 To sell, lease, let, mortgage or charge any real or personal property belonging to or to belong to the School as the School in General Meeting may approve.
- 3.1.7 To construct, maintain and alter any buildings or works necessary or convenient for the purpose of the School.

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- 3.1.8 To employ, instruct, direct, deploy and dismiss such staff as from time to time may be required for the purposes of the School and in furtherance of the School's management.
- 3.1.9 To do all such other acts, matters and things as are incidental or conducive to the attainment of its objects.

4. INCOME AND PROPERTY

- 4.1 The income and property of the School shall be vested in the School and shall be applied solely for the promotion of its objects and no part thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise or by way of pecuniary profit to the Members PROVIDED THAT remuneration may be paid in good faith to officers and employees of the School or other persons or Members of the School in return for services actually rendered to the School.

5. INCOME

- 5.1 The income of the School will be drawn from gifts, fund raising, contributions and any other incidental profits plus fees, the amount of such fees being decided or modified by the Board and being due and payable in advance.

6. MEMBERSHIP

- 6.1 The following persons shall be Members of the School:
 - 6.1.1 Any parent, guardian, or custodian of a child enrolled at the School;
 - 6.1.2 Any employee of the School; and
 - 6.1.3 Any person, interested in the objects of the School, who shall be approved by the Board as a Member and who shall have paid any annual fee prescribed by the Board for that purpose.
- 6.2 The names of all Members of the School shall be entered in a Register of Members to be kept in the custody of the Board's Secretary.

7. BOARD OF DIRECTORS

- 7.1 The School shall be governed by a Board of Directors.
- 7.2 The Board of Directors (**the Board**) shall be comprised of no fewer than four (4) Directors and no more than seven (7) Directors."
- 7.3 The Principal shall be a Director.
- 7.4 At the first meeting of the Board following the Annual General Meeting, the Board shall elect from their number a Chair, Deputy Chair and Finance Director.
- 7.5 The Board shall appoint an employee of the School to be the Board's Secretary and who shall carry out the duties identified in this Constitution, attend at Board meetings to take minutes and carry out such other administrative duties as directed by the Chair to facilitate the operation of the Board. The Board's Secretary may not vote at any Board meeting.
- 7.6 A Director need not be a Member.
- 7.7 The Board:
 - 7.7.1 has the role of governing the School;

- 7.7.2 is responsible for, and has the authority to determine, all matters relating to the policies, practices, management and operations of the School;
- 7.7.3 is required to do all things that may be necessary to be done in order to carry out the objects of the school; and
- 7.7.4 has the final responsibility for the successful operation of the School.

8. APPOINTMENT AND REMOVAL OF DIRECTORS

- 8.1 The Board shall have the power at any time to appoint any other person, subject to the terms of this Constitution, as a Director.
- 8.2 At all times, subject to the receipt of nominations, the Board shall use its best endeavours to ensure that at least two (2) Directors are non Members.
- 8.3 At all times, subject to the receipt of nominations, the Board shall use its best endeavours to ensure that at least two (2) Directors are Members who are the parent, guardian, or custodian of a child currently enrolled at the School.
- 8.4 A Director appointed pursuant to Article 8.1 shall hold office only until the next Annual General Meeting of Members. A Director retiring in this manner is eligible for re-election pursuant to Article 8.10 but such a retiring Director cannot be reappointed pursuant to Article 8.1 until after the second Annual General Meeting of Members following their retirement as required by this Article.
- 8.5 No Director may retain office for more than two (2) years, or until the second Annual General Meeting following the Director's appointment, whichever is the longer. A Director retiring pursuant to this Article is eligible to nominate for re-election pursuant to Article 8.9.
- 8.6 At every Annual General Meeting, at least one third of the Directors (excluding the Principal) or other number nearest to, but not exceeding, one-third of the number of Directors (excluding the Principal) shall retire from office.
- 8.7 If fewer than one-third of the number of Directors (excluding the Principal) either choose, or are required by the operation of Article 8.6, to retire at an Annual General Meeting then the director or directors required to retire pursuant to Article 8.4 is the one-third or other number nearest to, but not exceeding, one-third of the number of Directors (excluding the Principal) who have been longest in office since their last election. A retiring director is eligible for re-election.
- 8.8 For the purposes of Article 8.7:
 - 8.8.1 the Principal shall not retire as a director as set out above; and
 - 8.8.2 as between those directors who became directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.
- 8.9 Any Member may nominate as a Director, in a form approved by the Board, at each Annual General Meeting. The Members shall decide from such nominees and such other Directors seeking re-election who shall be elected as Directors.

- 8.10 A Director may resign from office upon giving such notice to the School of the Director's intention to do so and such resignation takes effect upon the expiration of the notice.
- 8.11 A Director who is a Member must resign from office upon giving notice to the School that such Membership has ceased or will cease. A Director resigning from office under this Article may seek appointment to the Board as an independent Director pursuant to Article 8.1.
- 8.12 The Members at General Meeting may, by resolution, remove a Director, except the Principal and appoint another Director in the Director's stead. The resolution proposing the removal of a Director must be included in the Notice for that meeting and the Director must have the opportunity to include a written statement with that Notice and address the Members at that meeting. The process for calling such a meeting is set out in Article 10.2.

9. BOARD MEETINGS

- 9.1 No business shall be transacted at a meeting of the Board unless at least three (3) Directors holding voting rights or fifty per centum (50%) of the voting Directors, whichever is greater, are present.
- 9.2 All Directors have one (1) vote, with all Board decisions being approved by the majority. In the case of an equality of votes on any decision, if the Chair is entitled to vote on the decision, the Chair may exercise a casting vote in addition to any other vote the Chair may have except when only two (2) Directors are present and are taken to form a quorum.
- 9.3 If all of the Directors have signed a document containing a statement that they are in favour of a resolution, as set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of Directors held on the day, and at the time, at which the last Director signs the document. One (1) or more documents, in identical terms, each of which is signed by one or more Directors shall together be deemed to constitute the resolution of the Board referred to in this Article.
- 9.4 The Board shall not meet less than six (6) times per year provided that the period between any Board Meeting shall in no circumstances be more than twelve (12) weeks.

9A SUB-COMMITTEES

9A.1 the Board may, from time to time, appoint from the Members, or otherwise, such sub-committees as it may deem necessary, and may depute or refer to them such of the powers and duties of the Board as the Board may determine. Each sub-committee shall report its proceedings to the Board and shall conduct its business in accordance with the directions of the Board which may itself act in any matter, notwithstanding the existence of a sub-committee formed for that purpose.

9A.2 Except in relation to those items of business of the Board that the Chair might nominate as confidential, every Member shall be entitled to attend at meetings of the Board and participate at that meeting to the extent permitted by the Chair, save that only Directors may vote at a meeting of the Board.

10. MEETINGS

- 10.1 The Annual General Meeting of the Members of the School shall be held in every calendar year within six (6) months after the end of the School's financial year (or such longer period as may in a particular case be allowed by section 50 of the *Associations Incorporation Act 2015*) to:-
- 10.1.1 receive and consider the Board's report and the audited financial statements;
 - 10.1.2 elect Directors as set out in this Constitution;
 - 10.1.3 consider and if thought fit to approve any amendment to the Constitution;
 - 10.1.4 appoint an auditor;
 - 10.1.5 transact such other business as may be brought before the Meeting in conformity with this Constitution or which the Board may consider relevant.
- 10.2 A Special General Meeting may be called at any time by direction of the Board to consider any business determined by the Board or shall be called by the Chair within seven (7) days after receipt by the Chair of a requisition to that effect signed by not less than ten per centum (10%) of the Members of the School specifying the business to be transacted at such Meeting.
- 10.3 Notice of all Annual General Meetings and Special General Meetings shall be given with not less than fourteen (14) days notice for an Annual General Meeting and not less than seven (7) days notice for a Special General Meeting (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) prior to the date of the Meeting, specifying the place, the day, and the hour of the Meeting, and in the case of special business, the general nature of that business. In the case of any proposed modification of the Constitution or dissolution of the School, Articles 13 and 14 shall apply. The non-receipt of notice of a Meeting by, any Member shall not invalidate the proceedings at any Meeting.
- 10.4 No business shall be transacted at any Annual or Special General Meeting unless a quorum of not less than fifteen (15) Members is present in person at the commencement of such business. If, within thirty (30) minutes from the time appointed for the Meeting, a quorum is not present, the Meeting shall stand adjourned to the same place and time one (1) week later. If at such adjourned Meeting a quorum is not present, those present shall constitute a quorum and may proceed to transact the business for which the Meeting was called.

11. CHAIR

- 11.1 The Chair of the Board shall take the chair at all Annual and Special General Meetings of the School and in his/her absence the Deputy Chair shall take the chair. In the absence of both the Meeting shall appoint its own Chair for the purpose of that meeting.
- 11.2 The Chair has overall responsibility on behalf of the Board to ensure that all Board directions are carried out.

12. VOTING RIGHTS

Deleted

13. MODIFICATION OF THE CONSTITUTION

13.1 Any modification of the Constitution shall:

13.1.1 be only made by special resolution in accordance with the relevant procedure set out under the *Associations Incorporations Act 2015*; and

13.1.2 require a majority of at least seventy-five per centum (75%) of the Members present in person, or voting by proxy, and entitled to cast votes in the General Meeting of Members convened for that purpose. Notice of the Meeting must have been given at least seven (7) days prior to the date of the Meeting, together with the notification of the proposed modifications.

14. DISSOLUTION

14.1 The School shall not be wound up or dissolved except by the consent of seventy-five per centum (75%) of those present at a General Meeting having been called for that purpose provided that at least fifty per centum (50%) of the Members of the School are present at such Meeting and only by special resolution in accordance with the procedure set out under the *Associations Incorporations Act 2015*.

14.2 The Chief Secretary of Western Australia shall be informed of the intention to hold such a Meeting and his approval sought on the proposed realisation and distribution of the assets of the School.

14.3 In the event of the School not having functioned for a period of two (2) years, dissolution shall be compulsory. The last available list of Members shall be used to give effect to the provisions of this Article.

14.4 If, on the winding up of the School, any property of the School remains after the satisfaction of the debts and liabilities of the School and the costs, charges and expenses of that winding up, the property shall be distributed:

14.4.1 to another incorporated association having objects similar to those of the School; or

14.4.2 for charitable purposes;

which incorporated association or purposes, as the case requires shall be determined by resolution of the Members when authorising and directing the Committee under Section 129(b)(ii) of the *Associations Incorporations Act 2015* to prepare a distribution plan for distribution of the surplus property of the School.

15. COMMON SEAL01

15.1 The School shall have a Common Seal which shall remain in the custody of the Board's Secretary.

15.2 The Common Seal of the School shall only be affixed by any instrument by authority or by resolution of the Board.

15.3 The Common Seal shall be affixed by an instrument by and in the presence of any two (2) Members of Board who shall each sign the instrument to attest the proper affixing of the seal thereto.

16. MANAGEMENT

16.1 The Principal shall manage the School in accordance with the direction of the Board.

17. INTERPRETATION OF ARTICLES OF ASSOCIATION AND BY-LAWS

Deleted.

18. CIRCUMSTANCES NOT PROVIDED FOR

18.1 If any circumstances shall arise as to which this Constitution is silent or are incapable of taking effect or being implemented according to its strict provisions the Board shall, subject to any direction from time to time given to it by resolution of an Annual or Special General Meeting, have power to determine what action may be taken to best give effect to the objects of the School and ensure its efficient administration and every act of the Board bona fide resolved upon pursuant to this Article shall be as valid and effectual as if specifically authorised herein.

19. CONDITIONS OF MEMBERSHIP

19.1 Members are bound by this Constitution and any subsequent agreements between the School and its Members.

20. VOTING

20.1 At all Meetings of Members voting shall be by secret ballot or by show of hands as stipulated by the Chair of the Meeting for the time being.

20.2 Except where otherwise specifically provided in this Constitution, resolutions shall be carried by a majority of votes.

21. VOTES OF MEMBERS

21.1 Subject to Articles 21.2 and 21.3, each Member present in person or by proxy at any Meeting of Members shall be entitled to one (1) vote.

21.2 No Member shall be entitled to vote at any General Meeting unless all monies presently payable by him/her to the School have been paid. Monies presently payable by him/her will be considered to be paid if the Member is meeting payments within the invoicing periods and/or is meeting any payment schedules agreed in writing with the Finance Director.

21.3 Any Member may appoint any other Member as proxy by writing in the form set out as the Board may from time to time approve. An appointed proxy shall be entitled to a vote for each proxy appointment of him or her, in addition to a single vote in his or her own capacity as a Member.

21.4 Forms appointing proxies must be deposited at the office of the School not less than two (2) business days before the time announced for the Meeting at which the proxy is appointed to vote, otherwise the form shall be treated as invalid. Any Member shall be entitled forthwith to obtain from the Chair the full details of all proxies given.

22. NOTICES

- 22.1 A Notice in accordance with the Constitution may be given by the School to any Member either personally or by sending it by post to him/her at his/her registered address, or (if he/she has no registered address in Western Australia) to the address, if any, within Western Australia supplied by him/her to the School for the giving of Notices to him/her, or by sending it by email to him/her at the email address provided by him/her to the School.
- 22.2 Notice of every General Meeting shall be given to every Member except those Members who have not provided any postal (Western Australian) or email address for the giving of Notices to them. No other persons shall be entitled to receive Notices of General Meetings.

23. DEPUTY CHAIR

23.1 The Deputy Chair shall be vested with all the powers and shall perform all the duties of the Chair in the absence of the latter, and shall have such other duties as may, from time to time, be determined by the Board. In the event that the Chair shall be absent at any Meeting, the Deputy Chair shall preside.

24. BOARD'S SECRETARY

24.1 The Board's Secretary, or a Board Member appointed by the meeting to fulfil the role of Board's Secretary, shall act as clerk thereof, he/she shall record all votes and minutes of all Meetings in a book to be kept for that purpose; and he/she shall, as directed by the Chair, send notices of all Meetings to the Members of the School; and he/she shall perform such other duties as prescribed by the Board or this Constitution; and shall be custodian of the corporate seal and all of the books and records of the corporation (any of which books and records may be inspected by any Member on reasonable notice to the Board's Secretary) except as may otherwise be provided.

25. FINANCE DIRECTOR

25.1 The duties of the Finance Director shall be to:-

- 25.1.1 Oversee the receiving of all monies for the School and account for the same. The Finance Director shall ensure that a receipt is issued by or on behalf of the School in respect of payments to the School and such a receipt shall be sufficient discharge in respect of any payment to the School.
- 25.1.2 Oversee the making of all payments under the order of Board.
- 25.1.3 Oversee the keeping of an account of all monies received and disbursed in a book to be open to the inspection of the Board at any Meeting thereof, and to the auditors at any time, and at each Board Meeting present a statement showing the progress and financial position of the School.
- 25.1.4 Oversee the preparation and compilation of the Annual Balance Sheet to the end of each Financial Year and a Report to be submitted to the Annual General Meeting.
- 25.1.5 Do such other things as may be directed by the Board.

26. DISQUALIFICATION OF MEMBERS OF THE BOARD

26.1 The office of any Director of the Board shall be vacated if he/she:-

26.1.1 Without the consent of the School given in General Meeting holds any office of profit under the School. Such consent is deemed to have been given if the Member is employed by the School at the time when they are elected as a Director of the Board.

26.1.2 Resigns his/her office by notice in writing to the School.

26.1.3 Is directly or indirectly interested in any contract with the School and fails to declare the nature of his/her interest in accordance with Article 27.

26.1.4 Fails to attend three (3) consecutive Board Meetings, unless prior notice is given and accepted by the Board.

26.1.5 Is removed by ordinary resolution of Members in General Meeting.

26.1.6 Is a Member of the School and monies presently payable by him/her to the School have not been paid as pursuant per Article 21.2.

27. INTERESTS OF DIRECTORS

27.1 No Director shall be disqualified from obtaining or continuing his/her membership of the School by reason of the fact that he/she is an employee of the School or has been remunerated by the School for any business or other act done by him/her in the conduct of the School.

27.2 Any Director who is in any way, whether directly or indirectly, interested in any contract or proposed contract with the School shall, as soon as the relevant facts have come to his/her knowledge, declare the nature of his/her interest to the Board and shall if required by the Board withdraw from all discussion and voting on such contract.

28. FINANCE

28.1 All monies shall be deposited in the School's bank account at such bank as shall be determined from time to time by the Board.

28.2 Cheques, or if a savings account, the withdrawal forms on such account, shall be signed by any two (2) Board Members or as otherwise resolved by the Board.

28.3 Notwithstanding the provisions of this Article, the Board may by resolution from time to time authorise Directors, Members or Staff to retain such sum or sums by way of petty cash as it shall deem appropriate and to make expenditure therefrom upon and subject to such conditions as the Board shall lawfully prescribe. The Finance Director shall oversee all such expenditure.

29. AUDITOR

29.1 The Auditor shall. -

29.1.1 Be appointed annually at the Annual General Meeting to audit the annual statement of accounts and Balance Sheet.

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29.1.2 Certify the same before they are presented to the Annual General Meeting.

29.1.3 Be either a Member of a recognised accountancy society or a Bank Manager provided that he/she shall not be an officer, Member or employee of the School.

29.1.4 Have the power to call for the production of all books, papers, accounts and documents relating to the affairs of the School and be entitled to require proper explanations thereof by the officers and employees of the School.

29.1.5 Be eligible for re-election from year to year.

THIS CONSTITUTION WAS AMENDED ON 10 NOVEMBER 2004 BY MEMBERS IN A SPECIAL GENERAL MEETING CALLED FOR THAT PURPOSE.

THIS CONSTITUTION WAS AMENDED ON 3 MAY 2005 BY MEMBERS AT THE ANNUAL GENERAL MEETING OF WHICH NOTICE TO AMEND THE CONSTITUTION WAS INCLUDED.

THIS CONSTITUTION WAS AMENDED ON 30 MARCH 2006 BY MEMBERS AT THE ANNUAL GENERAL MEETING OF WHICH NOTICE TO AMEND THE CONSTITUTION WAS INCLUDED.

THIS CONSTITUTION WAS AMENDED ON 04 APRIL 2012 BY MEMBERS AT THE ANNUAL GENERAL MEETING OF WHICH NOTICE TO AMEND THE CONSTITUTION WAS INCLUDED.

THIS CONSTITUTION WAS AMENDED ON 09 APRIL 2014 BY MEMBERS AT THE ANNUAL GENERAL MEETING OF WHICH NOTICE TO AMEND THE CONSTITUTION WAS INCLUDED.

THIS CONSTITUTION WAS AMENDED ON 28 APRIL 2015 BY MEMBERS AT THE ANNUAL GENERAL MEETING OF WHICH NOTICE TO AMEND THE CONSTITUTION WAS INCLUDED.

THIS CONSTITUTION WAS AMENDED ON 25 APRIL 2018 BY MEMBERS AT THE ANNUAL GENERAL MEETING OF WHICH NOTICE TO AMEND THE CONSTITUTION WAS INCLUDED.