

DATED: 23rd January 2013

CONSTITUTION OF

THE REGISTERED TRUSTEES OF THE

SIR HARRY JOHNSTON INTERNATIONAL SCHOOL ASSOCIATION

PREAMBLE

WHEREAS

1. Sir Harry Johnston International School in Zomba (hereinafter SHJ) was founded in the early 1950s and was registered in accordance with the Education Act 1962 (Cap 30:01 The Laws of Malawi) in 1967.
2. After independence SHJ was managed under the provisions of the Designated School Order as amended by the Education (Designated Schools) (Board of Governors) (Amendment) Order of 1982, together with the other designated schools as set forth in the schedule to the Order;
3. In a memo dated the 3rd November 1997, the Way Ahead Committee, formed by the Designated School Board, advised that the Designated School Board be abolished and its powers and responsibilities be transferred to school level management, whereby the (former) designated schools would enjoy full autonomy and the relationship with Government would be strictly at arm's length. Each (former) designated school should then be registered as a Trust under the Trustees Incorporations Act (Cap 5:03, The Laws of Malawi);
4. In 1998 the Ministry of Education acting on the request of parents of children at the designated schools agreed to dissolve the Designated Schools Board and to transfer management and control of affairs of the designated schools (including SHJ) to a Board of Governors;
5. On the 18th June 1998, each designated school received a letter from the Minister of Education, indicating that the Ministry had no problem dissolving the Designated School Board and requesting each designated school to confirm its wish to operate as an individual and independent school;
6. After lengthy consultations with the other designated schools, it was finally decided by the Interim Board of Governors of SHJ and so communicated to the Minister of Education in a letter dated 24th March 1999, that it would wish to continue as an individual and independent school.
7. In 1999 the Board of Governors of SHJ was officially appointed and has been effectively running all the affairs of SHJ since its establishment and has under its control all the assets and affairs of SHJ, even though SHJ was never registered as a Trust; and
8. Considering the above and the obvious need to formalize the status of SHJ as suggested by both the Way Ahead Committee of the Designated School Board in 1997, the Minister in 1998 and in meetings held with the former designated schools in the years thereafter, the current School Board of Governors has resolved to incorporate SHJ as a Trust under the Trustees Incorporation Act (Cap 5:03 of the Laws of Malawi), with the following constitution.

PART 1: INTERPRETATION.

Article 1: In this Constitution unless the context otherwise requires:

- 1.1 "Act" means the Trustees Incorporation Act (Cap. 5:03 of the Laws of Malawi);
- 1.2 "Association" means the Registered Trustees of the Sir Harry Johnston International School Association;
- 1.3 "Board of Trustees" means the Board of Trustees established under Article 11;

- 1.4 “Capital Investment” means the sum of money forming the capital of the Trust and includes any sum of investments which, at the discretion of the Board of Trustees or at the request of the person giving or remitting, be added to the capital investment as an accretion to the capital of the Trust;
- 1.5 “Constitution” means this constitution establishing the Association;
- 1.6 “Income” includes the income from the Capital Investment or any other moneys being income, given or channelled to the Trust, as part of the income of the Trust Fund;
- 1.7 “Member” or “Member of the Association” means every parent or guardian of any pupil attending full time tuition at the School and shall include the teachers of the School.
- 1.8 “School” means the Sir Harry Johnston International School, which may consist of a separate pre-school, primary school and secondary school;
- 1.9 “School Board of Governors” means the board of governors of the School in its composition immediately prior to the incorporation of the Association under the Act and by this Constitution.
- 1.10 “Trustee” means a member of the Board of Trustees;
- 1.11 “Trust Fund” means the Trust Fund referred to in Article 11; and
- 1.12 Unless otherwise stated, the masculine gender includes the feminine gender.

PART 2: INTRODUCTION.

Article 2: Vision & Mission of the Association.

2.1 Vision

As a culturally and academically inclusive school, we strive to ensure the best possible education for children in Zomba, to international standard; encouraging the development of values and attitudes, skills and knowledge, that will ‘release the potential’ in each individual, for the benefit of others, in an ever changing world.

2.2 Mission

The Association is a not-for-profit organisation and runs a school community of children, parents and staff our actions and attitudes are underpinned by Three Keys to Success (attitudes):

- Be Determined
- Be the Best You Can Be
- Be Cool (taking a pride in ourselves and being in control of our choices)

Together we are working to develop learners who are:

- High achievers by becoming engaged learners, who are prepared to take risks and give every element of learning the best of their efforts; finding enjoyment in what they do, with high aspirations and expectations, for and of themselves;
- Engaged thinkers, who can think creatively and critically, seeing ‘the other perspective’ and are able to help find solutions to problems they encounter; maturing into active participants rather than passive recipients;

- Community builders, who listen to those around them, work collaboratively for the common good and consistently see the best in others and seek to draw it out; recognising, accepting and celebrating cultural differences as appropriate;
- Clear communicators, who are practically literate, numerate and able to utilise modern technologies; able to generate, organise and evaluate their ideas, in order to make themselves understood, whilst allowing the space and time to consider the views of others; and
- Outward looking, valuing others, contributing as global citizens to the environmental and social issues of the day; developing and sharing their unique, creative talents with others, freely and compassionately.

Article 3: Name of the Association.

- 3.1 The name of the organisation shall be the REGISTERED TRUSTEES OF THE SIR HARRY JOHNSTON INTERNATIONAL SCHOOL ASSOCIATION.
- 3.2 The Registered Office of the Association shall be situated in Zomba, Post Office Box 52, Kalimbuka Road, Zomba in the Republic of Malawi or such other place as the Board of Trustees may decide.

Article 4: Administration

Subject to the matters set out below the Association and its property shall be administered and managed in accordance with this Constitution by the Board of Trustees.

Article 5: Aims and Objectives of the Association.

The aims and objectives of the Association shall be:

- 5.1 to maintain a non-profit making school offering internationally transferable education;
- 5.2 to offer, using the English medium, a wide, coherent, and relevant education that prepares pupils to live a responsible life in society in the spirit of understanding, tolerance and co-operation;
- 5.3 to provide a learning environment and education that fosters positive attitudes to learning and enhances the pupil's self esteem to maximise individual achievement;
- 5.4 to help each pupil achieve to his or her maximum in literacy and numeracy;
- 5.5 to create and maintain a complete environment to meet the objectives of the school;
- 5.6 to make pupils aware of their heritage and respect their heritages;
- 5.7 to encourage a spirit of co-operation and mutual respect between the school and its community;
- 5.8 To establish and maintain working partnerships with other international schools in Malawi and abroad, Government Departments, Non-Governmental Organisations, private sector institutions, individuals and other bodies and to collaborate with agencies and other authorities concerned with education;

- 5.9 To do all things necessary to raise funds for the Association and to collect, receive and hold all monies or other assets or buildings which may become available to the Association as a result of any appeal for funds, donations, grants or subscription or otherwise devised, donated, granted, decreed, bequeathed, inherited, or in any other manner becoming available and which the Board of Trustees may at its sole discretion decide to accept;
- 5.10 To do all such other lawful things as are incidental or conducive to the attainment of the above objectives.

PART 3: MEMBERSHIP

Article 6: Members of the Association

- 6.1 The membership of the Association shall comprise of every parent or guardian of any pupil enrolled at the School and shall include the School's teachers.
- 6.2 The Members of the Association present at a properly convened meeting of the Association shall constitute a general meeting of the Association, subject to the provisions of this Constitution and the Act.

Article 7: Authority of the Association

The authority of the Association derives from the general meeting and is exercisable by that meeting, the Board of Trustees and the teaching staff of the School in accordance with this Constitution.

Article 8: General Meetings of Members of the Association

- 8.1 The Annual General Meeting shall be convened by the Board of Trustees once every year, provided that an extraordinary general meeting may be convened by the Board of Trustees at any time to discuss a matter of extreme urgency.
- 8.2 The Board of Trustees shall serve every Member with a notice and agenda of the meeting at least two weeks before the meeting, except that this requirement may be dispensed with after the widest publicity possible in respect of a matter of extreme urgency.
- 8.3 The general meeting shall normally receive reports from the Chairperson of the Board of Trustees, the Head teacher, and the Chairperson of the Finance Committee, but the Board of Trustees may further place on the agenda any matters of interest.
- 8.4 The Chairperson of the Board of Trustees or her or his representative shall preside at general meetings and at extraordinary general meetings.
- 8.5 Every Member shall have a right to make representations to the Board of Trustees with a view to having a certain matter discussed at a general meeting or an extraordinary general meeting. Prior notice, in writing is required.
- 8.6 The quorum for any general meeting shall be one quarter of the number of Members of the Association eligible to vote at the meeting

- in accordance with this Constitution. Members may attend in person or by proxy; Members may carry a maximum of two proxies.
- 8.7 Subject to this Constitution, resolutions of the general meeting shall be by consensus, or if necessary, by a simple majority.
- 8.8 All Members present at the general meeting shall have a right to vote on a one-person one-vote basis, provided however that the number of votes per household with a pupil or pupils at the School shall be limited to one.
- 8.9 Voting shall take place by a show of hands, unless at least 5 members eligible to vote request a secret ballot.

PART 4: BOARD OF TRUSTEES

Article 9: Appointment of the Trustees.

- 9.1 The initial Trustees shall be the current members of the School Board of Governors (hereinafter the "Initial Trustees").
- 9.2 Upon expiry of the term of office of the Initial Trustees, new Trustees shall be elected in accordance with this Constitution. The Initial Trustees shall be eligible for re-election.
- 9.3 There shall be a Board of Trustees consisting of:
- not less than five (5) and not more than nine (9) persons elected by the general meeting (hereinafter the "Member Trustees";
 - the Head Teacher; and
 - a teacher representative, elected by the teaching staff of the School (hereinafter the "Teacher Trustee").
- 9.4 Any Member may stand for election. The Board of Trustees may nominate up to two persons who are not Members for election or re-election to the Board of Trustees. .
- 9.5 The Board of Trustees may in addition to the Trustees specified in Article 9.3 co-opt not more than two (2) persons as Trustees, provided however that there shall never be more than two non-Members on the Board of Trustees. The Board of Trustees shall promptly notify the Members in writing of any Trustee appointed in accordance with this provision.
- 9.6 Each appointment of a co-opted Trustee shall be made at a special meeting of the Board of Trustees and shall take effect from the end of that meeting, unless otherwise determined at the meeting.
- 9.7 Any candidate nominated to stand for election to the Board of Trustees must submit a letter of intent and a written self-description to the Head Teacher or the Chairperson who will introduce the candidate during the elections at the Annual General Meeting.
- 9.8 Trustees will be elected by secret ballot at the Annual General Meeting after short speeches by the candidates.
- 9.9 In the case of a tie, the names of the tied candidates will be resubmitted for a majority vote.
- 9.10 The Board of Trustees shall elect a Chairperson, Vice Chairperson, Secretary, and Deputy Secretary from amongst themselves.
- 9.11 Subject to this Constitution, Trustees shall hold office for two (2) years and shall be eligible for re-election.

Article 10: Cessation of office of a Trustee

- 10.1 A Trustee may resign his or her office by giving one (1) month notice in writing to the Board of Trustees.
- 10.2 Trustees shall hold office as long as they shall:
- not be incapacitated;
 - not be convicted of criminal offence;
 - not be absent from more than three consecutive meetings of the Board of Trustees;
 - not be declared bankrupt;
 - not have lost confidence of two thirds of the Members;
 - not have lost the professional capacity in which they were appointed, where applicable; or
 - not have resigned.
- 10.3 Any Member Trustee vacancy in the Board of Trustees shall be filled at a general meeting or at an extraordinary general meeting or by co-option by the Board of Trustees, in accordance with article 9.6 hereof, from the Members or any person whose knowledge or experience is considered by the Board or Trustees to be useful, provided however that the co-opted Trustees may not constitute more than one third of the total number of Trustees and provided further that there shall never be more than two non-Members on the Board of Trustees. Co-opted Trustees have all the rights and responsibilities of elected Trustees. The appointment of a Trustee in accordance with this provision shall run from the date of the appointment, unless the meeting decides otherwise.
- 10.4 Any Teacher Trustee vacancy in the Board of Trustees shall be filled by a teacher representative elected by the teaching staff of the School.

Article 11: Powers of the Board of Trustees.

- 11.1 The Board of Trustees shall represent the Association and be responsible for the control of the Association's financial resources and assets.
- 11.2 The Board of Trustees shall hold all property, donations, subscriptions, legacies, grants, subventions and other monies which may at any time belong to the Trust (in this constitution referred to as "The Trust Fund"). The Trust Fund shall be managed by the Board of Trustees in the best interest of the children at the School and the Members.
- 11.3 In particular the Board of Trustees powers and functions shall include:
- To raise funds and to invite contributions for the attainment of the objectives of the Association as stated in article 5 hereof;
 - To buy, take on lease or in exchange any property necessary for the attainment of the objectives as stated in article 5 hereof;
 - To invest all or such part (if any) of the Trust Fund and all or such part (if any) of the income produced by any investments at any time forming part of the Trust Fund as they shall from time to time think fit;
 - To approve the utilization of the Capital Investment;

- To sell, as and when the Board of Trustees shall think fit and upon agreement with the general meeting, all or any of the investments at any time representing the Trust Fund, and to permit the proceeds of every such sale and any monies, income or capital then forming part of the Trust Fund to be applied to the activities of the Trust in accordance with the powers stated in this Article and in accordance with the Association's mission and vision stated in article 2 hereof and its objectives stated in article 5 hereof;
 - To ensure that the objectives of the Association as stated in Article 5 hereof are realised;
 - To appoint teachers and attract staff of an appropriate quality to achieve the Association's objectives;
 - To determine and review the policies of the School concerning, among other matters, admission, discipline of staff and pupils, finance and development;
 - To oversee the administration, management and upkeep of the School;
 - To determine School fees as appropriate;
 - To authorise the Head Teacher and other responsible officers to enter into contracts and other transactions on behalf of, and for the benefit of, the school;
 - To open and operate bank accounts, nominating at least two Trustees as signatories, in addition to the Head Teacher and Chairperson;
 - To keep, or cause to be kept, all records and minutes of the proceedings of the Association in the books to be kept for that purpose;
 - To be the final arbiter in all matters pertaining to the School; and
 - To ensure that the school's accounts are audited to a professional, international standard by appointing Certified Public Accountants as auditors.
- 11.4 In carrying out its obligations, the Board of Trustees shall, establish a Finance Committee and may establish other committees with specified terms of reference.

Article 12: Meetings of the Board of Trustees.

- 12.1 The Board of Trustees shall meet at least twice each term the School is in session.
- 12.2 The Chairperson shall call the meeting and the Secretary of the Board of Trustees shall serve each Trustee with at least seven (7) days notice for a meeting of the Board of Trustees.
- 12.3 Extraordinary meetings may however be called on requisition of any Trustee upon giving not less than three (3) days written notice and setting forth the agenda of the meeting.
- 12.4 The Chairperson of the Board of Trustees, or the Vice-Chairperson, shall preside at all meetings of the Board of Trustees, in the event both are absent, the meeting shall elect a Trustee to act as chairperson of that meeting.
- 12.5 The quorum for any meeting of the Board of Trustees shall be at least two thirds of the total number of Trustees at any time.

- 12.6 The Board of Trustees may invite any person whose knowledge or experience is considered by the Board of Trustees to be useful to attend any of its meetings, or part thereof, if it is in the interests of the School to do so.
- 12.7 Decisions and resolutions will normally be taken by consensus. In the case where a consensus cannot be reached, decisions and resolutions shall be taken by a two thirds majority of those Trustees present at the meeting.
- 12.8 Voting shall be by a show of hands, though any Trustee shall have the right to demand a secret ballot.
- 12.9 Resolutions may also be adopted without holding a meeting provided the proposal concerned is submitted to all Trustees and none of them objects to adopt the resolution without a meeting.
- 12.10 Where Trustees agree to adopt a resolution without holding a meeting a report shall be prepared by the Chairperson and such report shall be signed by the Chairperson and one other Trustee.
- 12.11 Resolutions adopted without holding a meeting shall be confirmed by written statements from all Trustees.
- 12.12 Decisions and resolutions of the Board of Trustees shall be accessible to all the Members.

Article 13: Declaration of Interest.

- 13.1 A Trustee who has a direct or indirect personal interest in a matter being considered or about to be considered by the Board of Trustees, shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his/her interest to the Board of Trustees.
- 13.2 A Trustee shall not cease to be a Trustee by reason only of his or her receiving or likely receipt of a benefit from the Association as long as such interest has been declared to and approved by the Board of Trustees in advance, and that such interest does not prejudice his/her interest in the organisation.
- 13.3 A conflict of interest arises, inter alia, in the event of the performance of a legal act for value between the Association and (i) its Trustees and/or its employees; (ii) persons that have a close family relationship with any of the persons mentioned under (i); and/or (iii) companies with legal personality of which any of the aforementioned persons under (i) and (ii) are a member of the board or supervisory board or shareholder.
- 13.4 In case of a conflict of interest in respect of a Trustee, the Trustee must report such conflict to the Board of Trustees. Such Trustee shall subsequently not take part in the discussions and resolutions in respect thereof.

Article 14: Minutes of Meetings.

- 14.1 The Secretary shall record and maintain minutes of all proceedings at meetings of the Board of Trustees.

- 14.2 A copy of the minutes of each meeting shall be duly signed by the Chairperson and the Secretary and filed by the Secretary. Minutes of each meeting shall be circulated to the Trustees.

Article 15: Trustee Liability.

In the professed execution of these trusts and powers no Trustee being an individual shall be liable for any loss to the Trust Fund arising by any reason of any improper investment made in good faith (so long as he or she shall have sought professional advice before making such investment) or for the negligence or fraud of any agent employed by him or her or by any other Trustee hereof in good faith although employment of such agent was not strictly necessary or expedient (provided reasonable supervision shall have been exercised) or by any reason of any mistake or omission made in good faith by any Trustee or by reason of any other matter or thing except wilful and individual fraud or wrongdoing or wrongful omission on the part of the Trustee who is sought to be made liable.

PART 5: HEAD TEACHER.

Article 16: The appointment and functions of the Head Teacher

- 16.1 The Board of Trustees shall recruit a Head Teacher to manage (each of) the Schools at the direction of the Board of Trustees.
- 16.2 In particular, the Head Teacher shall:
- provide leadership and supervision to teachers and the pupils in the attainment of the objects of the Association;
 - ensure conditions of safety for pupils, staff and visitors on the School premises;
 - recruit staff subject to the approval of the Board of Trustees;
 - ensure the maintenance and development of structures necessary for the attainment of the objects of the Association; and
 - all other tasks that are required in furtherance of the Association's vision and mission as stated in article 2 hereof and its objectives as stated in article 5 hereof.
- 16.3 The Board of Trustees shall set the conditions of service and job description in consultation with the Head Teacher.
- 16.4 The Head Teacher and other teachers shall maintain close liaison with the Members regarding their children and provide performance and other feedback reports.

PART 6: GENERAL

Article 17: Finance.

- 17.1 The Trust Fund other than monies donated to the Trust for designated purposes shall be under control of the Trustees.
- 17.2 The Board of Trustees shall designate a bank or banks in which all funds of the Association shall be deposited, either on current or interest bearing accounts at its discretion.

- 17.3 Cheques drawn on any such bank accounts as aforesaid shall be signed by at least two signatories. The Board of Trustees shall agree upon regulations for the signing of the Association's bank accounts in accordance with this Constitution.
- 17.4 The books of the Association shall be open to inspection by all Trustees and shall be subject to audit annually by auditors appointed by the Board of Trustees.
- 17.5 The financial year of the Association shall end on the 31st August in each year.
- 17.6 Before the end of the financial year the Board of Trustees shall prepare a budget for the next financial year and such budget shall be accompanied by an investment plan.
- 17.7 The Board of Trustees shall prepare an annual report that shall contain a narrative of the activities of the Association and a financial report for the relevant financial year.

Article 18: Regulations.

- 18.1 The Board of Trustees may make regulations for the better carrying out or execution of the objectives of the Association.
- 18.2 The regulations shall not be in conflict with the provisions of this Constitution.
- 18.3 The Board of Trustees may amend or revoke the regulations.

Article 19: Income and Property.

- 19.1 The income and property of the Association whenever derived shall be applied solely towards promotion of the objectives of the Association as set forth in Article 5 hereof and shall not directly or indirectly be paid by way of dividends, bonus or otherwise howsoever by way of profit to the Trustees.
- 19.2 Nothing herein shall prevent the payment in good faith of reasonable and proper remuneration to any employee or Trustee in return for any services actually rendered to the Association nor prevent payment or interest on money lent or reasonable and proper rent to premises demised or let by any Trustee.

Article 20: Dissolution of the Trust.

- 20.1 The Association may be dissolved by a three quarter majority vote of the Members at a general meeting.
- 20.2 Upon dissolution of the Association, any property held in its name shall be transferred to a charity or association with objectives similar to those of the Association.
- 20.3 Such charities or associations will be identified by the Members present at the general meeting of the Association in which the dissolution of the Association was resolved or in any prior general meeting provided the matter has been included in the agenda of that meeting.

Article 21: Common Seal.

- 21.1 The Common Seal of the Association shall be in such form as shall be prescribed by the Board of Trustees and shall have the words “The Registered Trustees of the Sir Harry Johnston International School Association” inscribed thereon.
- 21.2 The Common Seal of the Association shall be dealt with as hereinafter appears:
 - The Common Seal shall be kept in securely locked receptacle under the immediate custody of the Head Teacher;
 - The Common Seal shall be affixed in the presence of not less than two (2) Trustees who shall sign every instruction to which the Common Seal is so affixed in their presence.

Article 22: Indemnity.

Every Trustee or member of staff of the Trust shall, subject to provisions of the Trustees Incorporation Act, be indemnified out of the Association against any loss or liability incurred in the execution of Association duties, except insofar as that Trustee or member of staff was grossly negligent in performance of those duties.

Article 23: Amendments to this Constitution.

- 23.1 The Board of Trustees may amend this Constitution provided that no amendment shall be effective unless confirmed by a two thirds majority of the Members eligible to vote at a properly convened general meeting and registered under the Act.
- 23.2 A resolution by the Board of Trustees to amend this Constitution shall require a unanimous vote of all Trustees of the Board of Trustees at a meeting.
- 23.3 If, at a meeting in which a resolution to amend this Constitution is to be discussed, not all Trustees are present, a second meeting shall be called to be held no earlier than two weeks and no later than four weeks after the first meeting. At such second meeting a valid resolution with respect to the proposal presented for discussion at the first meeting may be adopted, provided there is a quorum and that all the Trustees present agree.
- 23.4 A copy of the proposal, containing the verbatim text of the proposed amendment, shall be attached to the notice of the meeting in which an amendment of the Constitution is to be discussed.