

COMPANIES (VICTORIA) CODE
A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A
SHARE CAPITAL

CONSTITUTION

OF

MELBOURNE BUSINESS SCHOOL LTD.

COMPANIES (VICTORIA) CODE

CONSTITUTION

OF

MELBOURNE BUSINESS SCHOOL LTD.

PART A

1. NAME

The name of the Company is **MELBOURNE BUSINESS SCHOOL LTD.** (hereinafter called 'the School').

2. OBJECTIVES

The Objectives of the School are to:

- undertake the education of university graduates, undergraduates and others in management studies;
- conduct post-experience courses for practicing managers;
- conduct postgraduate research programs into management and related areas, and to promote, licence, develop and apply the results of research activities;
- offer consulting services in management and related areas;
- conduct seminars and conferences on issues and problems of management;
- prepare, publish, distribute or license ideas and material on management;
- establish such physical facilities as are necessary to carry out the above; and
- undertake research, development, consultancy or other services for commercial organizations, public bodies or individual.

3. POWERS

In pursuance of the School objectives the School shall have the rights, powers and privileges of a natural person as set out in Section 67 of the Companies (Victoria) Code.

4. INCOME & PROPERTY OF THE SCHOOL

4.1 The income and property of the School, whencesoever derived, shall be applied solely towards the promotion of the Objectives of the School 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, to the Members of the School PROVIDED that nothing herein contained shall prevent the payment in good faith of remuneration

to any officers or servants of the School or to any Member of the School in return for any service actually rendered to the School nor for goods or services supplied in the ordinary and usual way of business, nor prevent the payment of interest at a market rate on money borrowed from any Member of the School or reasonable and proper rent for premises demised or let by any Member to the School.

- 4.2 True accounts shall be kept of all sums of money received and expended by the School, and the matter in respect of which such receipt and expenditure takes place, and of the property, credits and liabilities of the School, and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the Constitution of the School for the time being in force shall be open to the inspection of the Members. Once at least in every year, the accounts of the School shall be examined by one or more properly qualified Auditor or Auditors who shall report to the Members in accordance with the provision of the Companies (Victoria) Code.

5. **LIABILITY OF MEMBERS LIMITED**

- 5.1 The Liability of the Members is limited.
- 5.2 Every member of the School undertakes to contribute to the property of the School, in the event of the same being wound up while he is a Member, or within one year after he ceases to be a Member, for payment of the debts and liabilities of the School (contracted before he ceases to be a Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding one hundred dollars (\$100).

6. **WINDING UP**

If upon the winding-up or dissolution of the School in accordance with the Companies (Victoria) Code there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the same shall not, save as provided for below, be paid to or distributed among the Members of the School, but shall be given or transferred to some other institution or institutions having objectives similar to the objectives of the School and whose Constitution shall prohibit the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the School under or by virtue of Clause 4.1 hereof, such institution to be the University of Melbourne if it complies with the pre-requisites set out above, or in default, such institution or institutions as are determined by the Members

of the School at or before the time of dissolution and in default thereof by application to the Supreme Court of the State of Victoria for determination.

7. **ALTERATION OF CONSTITUTION**

The School shall not alter its Constitution unless the Council of the University of Melbourne has by prior resolution approved the alteration.

COMPANIES (VICTORIA) CODE

CONSTITUTION

OF

MELBOURNE BUSINESS SCHOOL LTD.

PART B

All clauses referred to in Part B are clauses of Part B unless otherwise stated.

1. **DEFINITIONS**

In these presents unless there is something in the subject or context inconsistent therewith:

- 1.1 “Academic Staff” shall mean those persons who are (a) employed or currently engaged by means of a contract of more than two (2) years in duration by Melbourne Business School Ltd., Mt. Eliza Graduate School of Business and Government Limited or the University of Melbourne and (b) contracted by Melbourne Business School Ltd., Mt. Eliza Graduate School of Business and Government Limited or the University of Melbourne to work 20 hours per week or more for the purposes of one or more of:
 1. the teaching of courses offered by Melbourne Business School Ltd. or Mt. Eliza Graduate School of Business and Government Limited;
 2. the conduct of research carried out by Melbourne Business School Ltd. or Mt. Eliza Graduate School of Business and Government Limited; or
 3. the provision of academic administration/service by Melbourne Business School Ltd. or Mt. Eliza Graduate School of Business and Government Limited pursuant to an agreement or arrangement made with Melbourne Business School Ltd. or Mt. Eliza Graduate School of Business and Government Limited.
- 1.2 “The Constitution” and “these presents” means the Constitution of the School for the time being in force.
- 1.3 “the School” means Melbourne Business School Ltd. being the Company of which this is the Constitution.
- 1.4 “The Code” means the Companies (Victoria) Code and any statutory modifications, amendment or re-enactment thereof for the time being in force and any reference to any provision thereof is to that provision as so modified, amended or re-enacted.

- 1.5 “Director” shall include any person occupying the position of a Director (by whatever name called) of the School.
- 1.6 “The Directors” or “the Board” shall mean the Directors for the time being of the School or such number of them as has authority to act for the School.
- 1.7 “Donor Member” means a Member who is not the University of Melbourne.
- 1.8 “Member” means any person for the time being admitted to membership of the School and includes the Subscribers to the Constitution of the School.
- 1.9 “Month” means calendar month.
- 1.10 “School Director” means the School Director appointed pursuant to Article 11.
- 1.11 “Seal” means the Common Seal of the School.
- 1.12 “Secretary” means any person appointed to perform the duties of Secretary of the School.
- 1.13 “The Office” means registered office for the time being of the School.
- 1.14 “The University of Melbourne” means the University established pursuant to the Melbourne University Act 1958 and its successors.
- 1.15 “In writing” and “written” include typing, printing, lithography and any other mode of representing or reproducing words or figures in a visible form including words or figures displayed on any electronic screen.
- 1.16 “Year” means calendar year.
- 1.17 Words importing the singular include the plural and vice versa.
Words importing any gender shall include the other genders.
Words importing persons shall include companies, corporations, public bodies and any other bodies corporate.

2. MEMBERS OF THE SCHOOL

THE Members of the School shall consist of:

- 2.1 the subscribers to the Constitution of the School.
- 2.2 such other persons who agree in writing to become Members of the School and who are admitted to membership from time to time pursuant to these Articles.

3 MEMBERSHIP

- 3.1 THE Directors may from time to time invite any eligible person to apply for membership of the School. To be eligible a person shall need to satisfy one or more of the following criteria:
- 3.1.1 be prepared and able to support the activities of the School whether financially or otherwise to an extent which the Directors consider is such that the person concerned will enhance the activities of the School; and

- 3.1.2 possess such abilities and qualities or be of such standing that the Directors believe the person concerned would contribute to the achievement of the School objectives.
- 3.2 AN application for membership following invitation as provided above shall be in writing executed by the applicant and be in such form as the Directors may from time to time prescribe.
- 3.3 THE Secretary shall submit each application to the Directors who shall determine upon the admission or rejection of the applicant. In no case shall the Directors be required to give any reason for the rejection of the applicant.
- 3.4 WHEN an application has been accepted for membership the Secretary shall forthwith send to the applicant written notice of his acceptance.
- 3.5 THE rights and privileges of a Member shall not be transferable during his lifetime and shall cease upon his ceasing to be a Member whether by death liquidation retirement resignation or otherwise.

4. CESSATION OF MEMBERSHIP

- 4.1 A Member may at any time by giving notice in writing to the Secretary resign his membership of the School but the Member shall continue to be liable for payment of monies due to the School by the Member and unpaid as at the date of his resignation and in addition for any sum for which he is liable as a Member of the School under Clause 5.2 of the Constitution, Part A.
- 4.2 IF any Member shall wilfully refuse or neglect to comply with the provisions of the Constitution or any rules of the School or shall be guilty of any conduct which in the opinion of the Directors is unbecoming to a Member or prejudicial to the interests of the School the Directors shall have the power to expel the Member from the School PROVIDED THAT:
- 4.2.1 at least one month before the meeting of the Directors at which a resolution for his expulsion is to be considered, the Member shall have been given notice of such meeting and of what is alleged against him and of the intended resolution for his expulsion; and
- 4.2.2 he shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence he may think fit.

Any such Member may by notice in writing lodged with the Secretary at least twenty-four hours before the time for holding the meeting at which the resolution for his expulsion is to be considered by the Directors or within seven days after the decision of the Directors proposing his expulsion elect to have the question of his expulsion

dealt with by the School in General Meeting and in the event of an Extraordinary General Meeting of the School shall be called for the purpose and if at the meeting a resolution for the expulsion of the Member is passed by a majority of two-thirds of those present and voting (whether in person or by proxy) the Member shall be expelled.

- 4.3 ANY person who ceases to be a Member of the School shall thereupon forfeit all and any rights and privileges of membership and he shall have no rights in or claim upon the School or the property or funds of the School except as a creditor thereof.

5. ASSOCIATES

THE Directors may from time to time admit persons to be Associates of the School or such other name or names as the Directors consider appropriate. In particular the Directors may provide for a number of different categories of Associates. Such persons shall have a connection with the School which, in the opinion of the Directors, warrants the title given. They shall not be Members of the School and the conditions and extent of their involvement with the School shall be as determined by the Directors.

6. GENERAL MEETINGS

- 6.1 ANNUAL General Meetings of the School shall be held in accordance with the provisions of the Code. All General Meetings other than the Annual General Meeting shall be called Extraordinary General Meetings.
- 6.2 THE Board may whenever it thinks fit convene an Extraordinary General Meeting and Extraordinary General Meetings may also be convened by such requisitions as provided by the Code.
- 6.3 SUBJECT to the provisions of the Code relating to special resolutions and agreements for shorter notice, fourteen (14) days notice at the least (exclusive of the day on which the notice is served or deemed to be served and exclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and in the case of special business the general nature of that business shall be given to such persons as are entitled to receive such notices from the School.
- 6.4 FOR the purposes of Sub-Article 6.3 all business shall be special that is transacted at an Extraordinary General Meeting and also all that is transacted at an Annual General Meeting with the exception of the consideration of the accounts, balance sheets, and the reports of the Board and Auditors.
- 6.5 THE accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any Member shall not invalidate proceedings at a meeting.

7. PROCEEDINGS AT GENERAL MEETINGS

- 7.1 NO business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Save as herein otherwise provided four (4) Members present in person or by proxy shall be a quorum at any General Meeting. For the purpose of this clause "Member" includes a person attending as a proxy or as representing a corporation which is a Member.
- 7.2 AT each Annual General Meeting the Directors shall submit to the Members a report which in addition to any other particulars which the Directors may deem desirable shall contain a summary of the activities of the School for the period from the commencement of the School's activities in the case of the first report and in any other case for the period from the previous report. Such report shall before presentation at the Annual General Meeting be formally approved at a meeting of the Directors.
- 7.3 IF within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved, in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the Members present (being not less than two) shall be a quorum.
- 7.4 THE Chairman of Directors shall preside as Chairman at every General Meeting of the School, or if there is no Chairman, or if he is not present within fifteen minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the Deputy Chairman of Directors shall act as the Chairman or if the Deputy Chairman is not present or is unable or unwilling to act then the Members present shall elect one of their number to be Chairman of the meeting.
- 7.5 THE Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or the business to be transacted at an adjourned meeting.
- 7.6 AT any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a Poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the Chairman; or

(b) by at least three Members present in person or by proxy.

Unless a poll is so demanded a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the Minutes of the proceedings of the School shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

7.7 IF a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.

7.8 IN the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

7.9 A Member may vote in person or by proxy or by attorney and on a show of hands every person present who is a Member or a representative of a Member shall have one vote and on a poll:

7.9.1 every Donor Member present in person or by proxy or by attorney or other duly authorised representative shall have one vote for every complete aliquot of \$1,000 which has been donated by the Donor Member to the School for use in the furtherance of its objects, or to Melbourne Business School and acknowledged by the Board in writing not less than seven days prior to the meeting in question as conferring voting power in accordance with this Clause PROVIDED THAT no such Donor Member may cast a number of votes which exceeds one quarter of the total number of votes which may be cast at a General Meeting of the School by the Donor Members; and

7.9.2 whether on a show of hands or on a poll, The University of Melbourne shall have 45% of the possible votes and all the Donor Members 55% of the possible votes which may be cast at a General Meeting of the School.

7.10 At every General Meeting the Secretary shall make available to all Members a register in which all donations made by Donor Members and acknowledged by the Board for the purposes of paragraph 7.9.1 are recorded and the register shall be conclusive evidence of such contributions for the purposes of this Clause.

7.11 A Member whose estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a poll, by his

Committee or by his trustee or by such other person as properly has the management of his estate, and any such Committee, trustee or other person may vote by proxy or attorney.

- 7.12 THE instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be deemed to confer authority to demand or Joint in demanding a poll. A Member shall be entitled to instruct his proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as he thinks fit.
- 7.13 THE instrument appointing a proxy may be in a common or usual form.
- 7.14 THE instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the office of the School, or at such other place within the State as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four hours before the time appointed for the taking of the poll and in default the instrument of proxy shall not be treated as valid.
- 7.15 A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, if no intimation in writing of such death, unsoundness of mind or revocation as aforesaid has been received by the School at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.
- 7.16 ANY corporation or other body corporate which is a Member of the School may authorise such person as it thinks fit to act as its representative at any meeting of the School and the person so authorised shall in accordance with his authority until his authority is revoked by the corporation or other body corporate be entitled to exercise the same powers on behalf of the appointer which he represents as the appointer could exercise if it were an individual Member of the School.

8. DIRECTORS AND MANAGEMENT OF THE SCHOOL

- 8.1 SUBJECT to the Code and to these Articles, the School and the business affairs and property thereof shall be managed by a Board of Directors consisting of 17 Directors.
- 8.2 A Director need not be a Member of the School.
- 8.3 THE Directors of the School shall be appointed or elected in accordance with the following procedure:
- 8.3.1 The University of Melbourne may by notice in writing given to the School appoint three persons as Directors of the School from time to time. Such persons may be removed as Directors by The University of Melbourne by notice in writing given to the School. Such appointment or removal shall take effect from the delivery to the registered office of the School of the notice of appointment or removal.
- 8.3.2 Ten persons shall be elected to the office of Director of the School by resolution of the Donor Members of the School passed in accordance with Paragraph 8.4. All Directors appointed in accordance with the Memorandum of Understanding entered into between Mt Eliza Graduate School of Business and Government and the School in respect of the merger of that entity and the School shall be deemed to have been appointed under this Clause. Any person so elected may be removed by resolution of such meeting in accordance with Paragraph 8.4.
- 8.3.3 The School Director, appointed pursuant to Clause 11 shall become a Director of the School upon his appointment, having consented in writing to becoming a Director of the School. He shall cease to be a Director upon retirement or resignation from office or removal from office in accordance with Clause 11.
- 8.3.4 The Vice-Chancellor of the University of Melbourne shall become a Director of the School on his/her appointment as Vice-Chancellor, having consented in writing to become a Director of the School. He/she shall cease to be a Director upon ceasing to hold the office of Vice-Chancellor.
- 8.3.5 The President of the association currently known as The Melbourne University Business School Association, or its successor organisation, shall become a Director of the School on his/her election as President, having consented in writing to become a Director of the School and having been approved as a person suitable for the office of Director by the Board. Such a person shall cease to be a Director upon ceasing to hold the office of

President. The certificate of the Secretary of the Association for the time being shall be prima facie evidence of the identity of the President of the Association for the time being.

8.3.6 One person may be elected to the office of Director of the School by resolution of the Academic Staff passed in accordance with Clause 8.5. The office of such person as Director shall become vacant upon the person resigning as a Director or ceasing to be a Member of the Academic Staff.

8.4 8.4.1 Until the first Annual General Meeting of the School, to be held prior to 30th November, 1989, the following persons shall be deemed as at the first meeting of the Board to have been duly appointed as Directors in accordance with paragraph 8.3.2: David Charles, Neil Rex Clark, John Christian Dahlsen, John Bernard Gough, John Theodore Ralph.

8.4.2 At the first Annual General Meeting of the School, all of the Directors in office pursuant to paragraph 8.3.2 shall retire from office, and at the Annual General Meeting in every subsequent year, two of the Directors in office pursuant to paragraph 8.3.2 shall retire from office. A retiring Director shall be eligible for re-election.

8.4.3 The Directors to retire at an Annual General Meeting other than the first Annual General Meeting are those appointed pursuant to paragraph 8.3.2 who have been longest in office since their last election, but, as between persons who became directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.

8.4.4 The School may, at the meeting at which a Director so retires, by resolution in respect of which only Donor Members may vote, fill the vacated office by electing a person to that office. If the vacated office is not so filled, the retiring Director shall, if offering him or herself for re-election and not having been disqualified from holding office as a Director, be deemed to have been re-elected unless at that meeting:

(a) it is expressly resolved not to fill the vacated office;

(b) a resolution for the re-election of that Director is put and lost.

8.4.5 The School may by resolution at any General Meeting upon which only Donor Members may vote, remove any Director appointed pursuant to paragraph 8.3.2 before the expiration of his/her period of office, and may by resolution upon which only Donor Members may vote, appoint another

person in his/her stead. The person so appointed is subject to retirement at the same time as if he/she had become a Director on the day on which the Director in whose place he/she is appointed was last elected a Director.

8.4.6 The Board may at any time appoint a person to be a Director to fill a casual vacancy caused by resignation of a Director appointed under paragraph 8.3.2 or if the maximum number of Directors' positions under that paragraph have not been filled provided that the total number of Directors may not exceed the number fixed under Clause 8.1

8.4.7 A Director appointed under paragraph 8.4.6:

- (a) holds office only until the next Annual General Meeting after the appointment and is then eligible for re-election; and
- (b) must not be taken into account in determining the Directors who are to retire under paragraph 8.4.3 at that Annual Meeting.

8.5 8.5.1 Until a Director is elected by resolution of the Academic Staff, a Member of such staff shall be appointed by the Directors who hold their office pursuant to paragraphs 8.3.1 and 8.3.2.

8.5.2 The Board shall at least once in every three calendar years convene a meeting of the Academic Staff by not less than 14 days notice given to such staff through the School's internal mail system, such meeting to be held at a place and time determined by the Board. The Chairman of the meeting shall be the School Director for the time being or such other person as appointed by the Board. The quorum for the meeting shall be not less than five Members of the Academic Staff. The Members of the Academic Staff present at such meeting in person or by proxy may elect a person to the office of Director of the School by a simple majority of the persons so present and entitled to vote. Each Member of the Academic Staff at the time when the meeting is convened and who is present at the meeting in person or by proxy shall be entitled to one vote. The certificate of the Secretary of the School as to the persons who are, at the time when the notice of meeting was despatched, Members of the Academic Staff shall be conclusive evidence of the matter. The provisions of Clauses 7.11 to 7.15 inclusive shall apply, mutatis mutandis to the appointment of proxies by Members of the Academic Staff.

8.5.3 A person elected to the office of Director pursuant to paragraph 8.5.2 shall remain in office until such time as:

- 8.5.3.1 a further meeting of the Academic Staff is convened in accordance with paragraph 8.5.2;
 - 8.5.3.2 he/she retires from the office of Director; or
 - 8.5.3.3 he/she ceases to be a Member of the Academic Staff, in which event the Board shall within two months convene a meeting of the Academic Staff to elect a person to replace such person as a Director of the School.
- 8.6 THE office of a Director shall become vacant if the Director:
- 8.6.1 becomes bankrupt or makes any arrangement or composition with his/her creditors generally;
 - 8.6.2 becomes prohibited from being a Director of a company by reason of any order made under the Code;
 - 8.6.3 ceases to be a Board Member by operation of Section 226 of the Code;
 - 8.6.4 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - 8.6.5 resigns his/her office by notice in writing to the School;
 - 8.6.6 for more than six months is absent without permission of the Board from meetings of the Board held during that period; or
 - 8.6.7 holds any office of profit under the School other than remuneration properly payable in accordance with the School's Constitution.
- 8.7 EVERY Director shall be entitled to be paid out of the funds of the School all reasonable travelling accommodation and other expenses incurred in attending meetings of the School or of the Directors or any Committees thereof or while engaged on the activities of the School and if any Director performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director he/she may be paid such additional fixed sum by way of special remuneration as the Directors determine.
- 8.8 8.8.1 Directors (other than Directors appointed by Members pursuant to paragraph 8.3.2) shall in addition to the provisions of Clause 8.7 be entitled to be paid such remuneration for their services as is from time to time determined by the School in General Meeting.

- 8.8.2 In making a determination in relation to the payment of remuneration, the School in General Meeting shall be required to determine the specific remuneration payable to each Director.
- 8.8.3 The remuneration payable to Directors under this Clause 8.8 shall be deemed to accrue from day to day.
- 8.8.4 The School need not make a determination of the Directors remuneration in each year but a determination made for one year shall be deemed to apply for each succeeding year unless and until a further determination is made or unless that determination is limited to a particular period.
- 8.9 The Directors may by resolution appoint any person to the office of Honorary Director of the School whom they consider to have made a substantial contribution to the success of the School or to management of business or government enterprises in Australia. Persons appointed pursuant to this Clause shall not bear any responsibilities or have any authority as a Director of the School. They shall have no right to vote at meetings of the Directors or to attend such meetings other than upon the invitation of the Directors.

9. POWERS AND DUTIES OF THE DIRECTORS

- 9.1 THE business of the School shall be managed by the Board who may pay all expenses incurred in promoting and registering the School, and may exercise all such powers and do all such acts and things as may be exercised or done by the School as are not by the Code or by this Constitution, required to be exercised by the School in General Meeting, subject, nevertheless, to any of these Clauses, to the provisions of the Code, and to such regulations being not inconsistent with the aforesaid Constitution or provisions, as may be prescribed by the School in General Meeting PROVIDED THAT:
- 9.1.1 any rule regulation or by-law of the School made by the Board may be disallowed by the School in General Meeting; and
- 9.1.2 no resolution of or regulation made by the School in General Meeting shall invalidate any prior act of the Board which would have been valid if that resolution or regulation had not been passed or made. Any such rule regulation or by-law made by the Board shall be circulated among Members within one month of its coming into being.

- 9.2 THE Board may exercise all the powers of the School to borrow money and to mortgage or charge its property, or any part thereof, and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the School.
- 9.3 ALL cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the School shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board may from time to time determine.
- 9.4 THE Board shall cause Minutes to be made:
- 9.4.1 of all appointments of officers and servants;
 - 9.4.2 of names of Board Members present at all meetings of the School and of the Board; and
 - 9.4.3 of all resolutions and proceedings at all meetings of the School and of the Board.

Such Minutes shall upon their confirmation be signed by the Chairman of the meeting at which the proceedings are held or by the Chairman of the next succeeding meeting.

10. PROCEEDINGS OF THE DIRECTORS

- 10.1 THE Board may meet together for the despatch of business adjourn and otherwise regulate its meetings as it thinks fit. A Board Member may at any time and the Secretary shall on the requisition of a Board Member summon a meeting of the Board.
- 10.2 SUBJECT to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the Board Members shall for all purposes be deemed a determination of the Board. In case of an equality of votes the Chairman of the meeting shall have a second or casting vote on all issues other than the matter referred to in paragraph 8.5.1. Directors appointed pursuant to paragraphs 8.3.3, 8.3.4, or 8.3.5 shall not vote on any resolution to effect the acquisition or disposition by the School of an asset having a value exceeding \$100,000 or in relation to the admission of Members pursuant to Clause 3.1.

- 10.3 SUBJECT to this Constitution, at a meeting of the Board of Directors, the number of Directors necessary for a quorum shall be two comprising one Director appointed by The University of Melbourne pursuant to paragraph 8.3.1 and one Director elected by the Donor Members pursuant to paragraph 8.3.2.
- 10.4 THE continuing Directors may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board, the continuing Director or Directors may act for the purpose of increasing the number of Directors to that number or of summoning a General Meeting of the School, but for no other purpose.
- 10.5 AT its first meeting, and thereafter at its first meeting following the Annual General Meeting in each year the Board shall appoint from amongst its Members a Chairman to hold office until the next Annual General Meeting, but he/she may be re-appointed. Only Directors elected pursuant to paragraph 8.3.2 may vote on the appointment of a Chairman. If there is no Chairman or if he/she is not present within ten minutes after the time appointed for holding the meeting, then the Board Members elected pursuant to paragraph 8.3.2 may choose a Board Member to be Chairman of the meeting.
- 10.6 THE Board may delegate any of its powers and/or functions (not being duties imposed on the Board or the Directors of the School by the Code or the general law) to one or more sub-committees consisting of such Member or Members of the School as the Board thinks fit. Any sub-committee so formed shall conform to any regulation that may be imposed by the Board and subject thereto shall have power to co-opt any person or persons provided that any person so co-opted shall not have a vote on such sub-committee. In particular, the Board may establish a sub-committee to hear appeals by any aggrieved person against decisions made by the School Director in relation to the affairs of the School. Such a sub-committee shall adopt procedures that will ensure the School is preserved. Such procedures shall reflect the obligations and authorities set out in the Melbourne University Act.
- 10.7 A sub-committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the sub-committee present, and in the case of an equality of votes the Chairman of the sub-committee shall not have a second or casting vote.
- 10.8 ALL acts done by any meeting of the Board Members or of a sub-committee or by any person acting as a Board Member shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Board Member or person acting as aforesaid, or that the Board Member or any of them

were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Board Member.

- 10.9 A resolution in writing signed by all the Board Members in Australia for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effectual as if it has been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Board Members.
- 10.10 A Board Member shall not vote in respect of any contract or proposed contract with the School in which he/she is interested, or any matter arising thereout, and if he/she does so vote his/her vote shall not be counted.
- 10.11 ANY Director with the approval of the Directors may appoint any person to be an alternate or substitute Director in his/her place during such period as he/she thinks fit. Any person while he/she so holds office as an alternate or substitute Director shall be entitled to notice of meetings of Directors and to attend and vote thereat and to exercise all the powers of the appointer in his place. An alternate or substitute Director shall ipso facto vacate office if the appointer vacates or is removed from office. Any appointment or removal under this Clause shall be effected by notice in writing under the hand of the Director making the same and be delivered to the registered office of the School.

11. SCHOOL DIRECTOR

- 11.1 THE Board may appoint at any time or times a person to be the School Director on such conditions and at such remuneration as the Board determines PROVIDED THAT The University of Melbourne may veto such appointment but solely upon academic grounds. The School Director shall, subject to the directions of the Board, be primarily responsible for the operations of the School and shall report to the Board. He/she shall be responsible to the Academic Board of The University of Melbourne, or its successor (or, in either case, its delegate) for academic standards of and student progress in all award courses of the University. He/she should be appointed for a period of up to five years, subject to removal in the circumstances set out in Clause 8.6 and in such other circumstances as may be prescribed by the Board at the time of his appointment.
- 11.2 THE Board may from time to time delegate to the School Director such of the powers exercisable under this Constitution by the Board as they think fit (other than

the powers exercisable under Clause 3 and Clause 4.2) and may confer such powers for such objects and purposes and upon such terms and conditions and with such restrictions as the Board thinks expedient, but not to the exclusion of or in substitution for all or any of the powers of the Board. The Board may at any time or times alter revoke withdraw or vary all or any of such powers.

12. SECRETARY

THE Secretary shall in accordance with the Code be appointed by the Board for such term and upon such conditions as it thinks fit, and any Secretary so appointed may be removed by the Board PROVIDED THAT if the Secretary is at the same time a Director of the Company he/she shall not be entitled to receive any remuneration.

13. SEAL

THE Board shall provide for the safe custody of the seal which shall only be used by the authority of the Board or of a sub-committee of Board Members authorised by the Board in that behalf, and every instrument to which the seal is affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Board for the purpose.

14. ACCOUNTS

14.1 THE Board shall cause proper accounting and other records to be kept and shall distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditors Report thereon as required by the Code PROVIDED HOWEVER that the Board shall cause to be made out and laid out before each Annual General Meeting a balance sheet and profit and loss account made up to date not more than five months before the date of the Meeting.

14.2 THE Board shall from time to time determine in accordance with Clause 4.2 of the Constitution at what times and places and under what conditions or regulations the accounting and other records of the School shall be open to the inspection of Members. The accounting and other records of the School shall always be open to the inspection of the Directors.

14.3 THE first financial year of the School shall be the period from the date of incorporation to the 31st December 1989 and thereafter from 1st January in each year to the following 31st December.

15. **AUDIT**

15.1 A properly qualified Auditor or Auditors shall be appointed and his/her or their duties regulated in accordance with the Code. Each report of the Auditor or Auditors shall be submitted to all Members within three months of the end of the financial year of the School to which the report relates.

15.2 WHERE the total annual income of the School exceeds, or may reasonably be expected to exceed, \$100,000, the School shall cause a copy of the Annual Report of its Auditor or Auditors to be submitted to the Council of The University of Melbourne within three months after the end of the annual period to which the report relates.

16. **NOTICES**

16.1 ANY notice required by law or under this Constitution to be given to any Member shall be given by sending it by post to him/her at his/her registered address. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice and to have been effected two (2) days after the date of its posting.

16.2 NOTICE of every General Meeting shall be given in any manner hereinbefore authorised to:

16.2.1 every Member except those Members who have not supplied to the School an address for the giving of notices to them; and

16.2.2 the Auditor or Auditors for the time being of the School.

16.3 NO other person shall be entitled to receive notices of General Meetings.

17. **WINDING UP**

THE provisions of Clause 6 of this Constitution, Part A, relating to the winding-up or dissolution of the School shall have effect and be observed as if the same were repeated in this Constitution Part B.

18. INDEMNITY

EVERY Board Member, Auditor, Secretary and other officer for the time being of the School shall be indemnified out of the assets of the School against any liability arising out of the execution of the duties of his office which is incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under the Code in which relief is granted to him by the Court in respect of any negligence default breach of duty or breach of trust.

19 PUBLIC FUND

19.1 If the School is recognised as a deductible gift recipient by being named in Division 30 of the *Income Tax Assessment Act 1997*, it must comply with this rule 19.

19.2 In this rule:

- (a) **Commissioner** means the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of ITAA 97.
- (b) **Deductible Contribution** means a voluntary transfer of money or property in relation to a fundraising as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97.
- (c) **Eligible Charity** means a fund, authority or institution which is charitable at law.
- (d) **Gift** means a voluntary transfer of money or property (including financial assets such as shares) where the donor receives no material benefit or advantage.
- (e) **ITAA 97** means the *Income Tax Assessment Act 1997* (Cth), including all delegated legislation made under it and amendments, consolidations, replacements or re-enactments.
- (f) **Public Fund** means the public fund established and maintained under this rule.

19.3 The School must maintain a Public Fund for the objectives of the School in rule 2 of Part A of this constitution, being to:

- (a) undertake the education of university graduates, undergraduates and others in management studies;
- (b) conduct post-experience courses for practicing managers;
- (c) conduct postgraduate research programs into management and related areas, and to promote, licence, develop and apply the results of research activities;
- (d) offer consulting services in management and related areas;
- (e) conduct seminars and conferences on issues and problems of management;
- (f) prepare, publish, distribute or license ideas and material on management;
- (g) establish such physical facilities as are necessary to carry out the above; and
- (h) undertake research, development, consultancy or other services for commercial organizations, public bodies or individual.

- 19.4 The name of the public fund is the Melbourne Business School Public Fund.
- 19.5 The Public Fund must receive all Gifts and Deductible Contributions made to the School, and any money received because of those Gifts and Deductible Contributions (such as interest, dividends and the proceeds of the sale of property). The Public Fund must not receive any other money or property.
- 19.6 The public must be invited to make donations to the Public Fund.
- 19.7 The School must use the following only for the objectives set out in rule 19.3:
(a) Gifts and Deductible Contributions made to the Public Fund; and
(b) any money received because of those Gifts and Deductible Contributions.
- 19.8 No portion of the Public Fund may be distributed directly or indirectly to any member or director of the School, except as reasonable compensation for services rendered, or expenses incurred, on behalf of the Public Fund.
- 19.9 The directors or a delegated sub-committee may administer the Public Fund provided the majority of the members of the committee administering the Public Fund are Responsible Persons.
- 19.10 A Responsible Person is an individual 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 Securities Exchange;
(e) has received formal recognition from government for services to the community; or
(f) is approved as a Responsible Person by the Commissioner.
- 19.11 Receipts for Gifts and Deductible Contributions to the Public Fund must state the:
(a) the name and ABN of the School;
(b) name of the Public Fund;
(c) date and amount (or value, if property) of the Gift or Deductible Contribution;
(d) name of the donor or contributors; and
(e) the fact that it is a receipt of a Gift or Deductible Contribution of the specified amount to the Public Fund.
- 19.12 Gifts to the fund must be kept separate from other funds of the School and clear accounting procedures established for this purpose. If required by law or policy, the School must maintain a separate bank account for the Public Fund.
- 19.13 At the first occurrence of:
(a) the winding up of the Public Fund; or
(b) the School ceasing to be a deductible gift recipient mentioned by name in Division 30 of the ITAA 97;
any surplus assets of the Public Fund must be transferred to one or more Eligible Charities, gifts to which can be deducted under Division 30-B of ITAA 97, as the Members of the School decide. Where gifts to an Eligible Charity are deductible only if, among other things, the conditions set out in the relevant table item in Subdivision 30-B of the ITAA 97 are satisfied, a transfer must be made in accordance with those conditions.
- 19.14 If required by law or policy, the School must notify the Commissioner of any amendments made to these rules or to the constitution of the School.

19.15 Unless the Commissioner consents to the amendments, such amendments will only take effect if they do not impact upon the School's ability to remain a deductible gift recipient mentioned by name in Division 30 of the ITAA 1997.