

THE MELBOURNE UNIVERSITY SPORT FOUNDATION
Explanatory note and University trust record approved by the Provost and
the Director of Melbourne University Sport
To the General Counsel for certification - 16 March 2012

Making of a University trust record certified by the General Counsel on the advice of the Provost and the Director of Melbourne University Sport and with the approval of the board of Melbourne University Sport – *To govern The Melbourne University Sport Foundation.*

Explanatory Note

Sport and related facilities and infrastructure are essential features of The University of Melbourne and the general advancement of education by such means.

Melbourne University Sport ('MUS') is a department of the University operating as a semi-autonomous body with a board, pursuant to Statute 8.1, the objectives of which are set out in Regulation 8.1.R7.

MUS has decided to establish a trust with a broad focus, with the University as trustee, with the intention that the trust, to be called The Melbourne University Sport Foundation ('Foundation'), will receive donations and bequests and other funds for the advancement of sport at the University.

Recent fundraising initiatives conducted by MUS indicate that many donors prefer to donate to an appeal by specifying the sport or sporting club within the University that is to benefit from their donation.

MUS will be responsible for the proper administration of the Foundation, along with all other University trusts which are associated with the advancement of sport at the University.

The trust known as The Melbourne University Sport Foundation will be established and maintained from a variety of sources, comprising primarily:

- *MUS or any University sporting club reserves applied for that purpose;*
- *specific bequests or gifts which can be administered within the parameters of the Foundation;*
and
- *money raised through appeals conducted by or for MUS and which allow such funds to be used for the purposes of the Foundation, whether to support sport in general as determined by MUS, or any specified sport or sporting club featured as part of the relevant appeal.*

In order to establish the trust representing the Foundation, an amount of \$50,000 from the University Hockey Club has with the approval of the board of MUS, been allocated to establish the initial capital of the Foundation under the Hockey Chapter of the Foundation, and in order to facilitate the completion of a University trust record which then evidences the trust terms and related administrative arrangements for the Foundation.

Apart from any allocation of MUS or any University sporting club reserves for the purposes of the Foundation, MUS will be conducting on behalf of the University a public appeal for donations and bequests to support sport at the University through the Foundation.

MUS intends to conduct appeals on an ongoing basis, working closely with the various University sporting clubs, and with the general sports alumni of the University, so as to facilitate the development and long term strength of sport at the University.

The University, through MUS, will invite donations or bequests from within and outside the University by way of appeal forms which will state that donations and bequests are to support sport at the University, or are otherwise to be applied for the purposes of the Foundation.

MUS anticipates giving potential donors the opportunity to nominate certain sports or sporting clubs as the purpose of their gift or bequest, as the case may be, or for more general purposes as stated above, and will ensure that all funds so received are recorded in a way that will enable them, and appropriate investment returns, to be applied for the stated purposes.

MUS will on each occasion that the appeal form is disseminated to potential donors, need to determine the appropriate mix between specific and more general purposes associated with sport at the University, or otherwise for the purposes of the Foundation itself.

The University through MUS will need to ensure that in accepting any donations or bequests for the purposes of the Foundation:

- *where a donor marked on the appeal form or other applicable instrument that a specified sport or sporting club within the University was to benefit from the donation or bequest ('specific donation'), the University had accounted separately for the donation or bequest that is to be for the purposes of the specified sport or sporting club; and*
- *where a donor marked on the appeal form or other applicable instrument that sport in general at the University, or as applied by the Foundation, was to benefit from the donation or bequest ('general donation'), the University had accounted for the general donation or bequest separately from any specific donations or bequests.*

The University is, and will continue to be, obliged by the trusts upon which the University accepted the initial donations or bequests or funds otherwise applied for the purpose ('trust terms'):

- *to apply all donations, bequests and other funds (whether to an appeal or otherwise) to support the advancement of sport at the University;*
- *to apply specific donations or bequests, or reserves from any University sporting club, for the purposes of the relevant specified sport or sporting club; and*
- *to apply general donations or bequests to support sport in general at the University, whether or not in any specific sport.*

In implementing these trust terms, Council has decided that:

- *the capital and income of the Foundation is to be expended as determined by the Director of Sport at MUS, after endorsement from the board of MUS;*
- *any unexpended income from the Foundation in any year may be applied to the capital of the Foundation or accumulated as income for expenditure in a subsequent year;*
- *the Director of Sport at MUS, after endorsement from the board of MUS, is to determine each year for the above purpose what is to be done with unspent net annual income of the Foundation, if any;*
- *in exercising any powers under the University trust record, the Director of Sport at MUS needs to have acted in accordance with:*
 - *any guidelines approved by the board of MUS from time to time;*
 - *any recommendations from the duly constituted body or group representing the interests of a specified sporting club within the University if applicable in accordance with guidelines approved by the board of MUS from time to time; and*
 - *the terms of any specific donations;*
- *any costs incurred in fundraising for the purposes of the Foundation are not payable from the Foundation without the prior approval of the board of MUS;*
- *MUS will be the responsible department for the trust;*
- *the Director of Sport at MUS and the Provost have each:*
 - *confirmed that they have respectively provided all details required to prepare this University trust record; and*
 - *approved this explanatory note and the University trust record.*

They have also confirmed that the board of MUS has approved the said documents and accepted its responsibilities as set out in the University trust record.

At 29 February 2012, moneys held for the purposes of the trust were \$50,393.07. This amount will be capitalised in University records in the next month.

Of such amounts of capital and accumulated income coming within the trust known as The Melbourne University Sport Foundation, it has been separately allocated in general or to designated sports or sporting clubs as reflected in any appeal form or other applicable instrument, or as otherwise determined by the Director of Sport at MUS, after endorsement from the board of MUS, in a manner which is consistent with the terms of the relevant gift, bequest or other applicable instrument.

Council has, on the recommendation of its Legislation and Trusts Committee, approved the certification of the University trust record as attached to this explanatory note at its Meeting No 14 on 5 December 2011.

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Recitals-

- A. Sport and related facilities and infrastructure are essential features of The University of Melbourne and the general advancement of education by such means.
- B. Melbourne University Sport ('MUS') is a department of the University, operating as a semi-autonomous body with a board pursuant to Statute 8.1, the objectives of which are set out in Regulation 8.1.R7.
- C. MUS, with the approval of Council, has decided to establish a trust with a broad focus, with the University as trustee, with the intention that the trust, to be called 'The Melbourne University Sport Foundation' ('Foundation'), will receive donations, bequests and other funds for the advancement of sport at the University, either in general ('general donations') or in relation to individual sports or sporting clubs within the University identified for that purpose in the terms of any memorandum of gift, bequest, appeal form, or other applicable instrument ('specific donations').
- D. Without limiting the sources from which funds can be received for the purposes of the Foundation, MUS has determined that it will be established from three primary sources being:
- (1) University reserves referable to MUS, or reserves of University sporting clubs;
 - (2) specific gifts or bequests which can be administered within the parameters of the Foundation; and
 - (3) money raised through appeals conducted by or for MUS which allow funds to be used for the purposes of the Foundation whether to support sport in general as determined by MUS, or any specified sport or sporting club within the University featured as part of the appeal.
- E. The general advancement of education at the University will be reflected in the use of money standing to the credit of the Foundation for:
- (1) sporting scholarships;
 - (2) sports facility development;
 - (3) general sport or club-related development; and
 - (4) fundraising activities,
- for sport in general at the University, or in relation to individual sports or sporting clubs within the University as reflected in specific donations ('purposes of the Foundation').

- F. An amount of \$50,000 from the University Hockey Club has been received by MUS and allocated to establish the initial capital of the Foundation ('capital sum') under the Hockey Chapter of the Foundation, subject to the trusts establishing the Foundation.
- G. This University trust record is the means by which the University records:
- (1) trust obligations pursuant to which the University holds the capital sum, including all income arising from the capital sum and any accumulations and additions thereto;
 - (2) trust obligations referable to the advancement of sport in general at the University or for the purposes of individual sports or sporting clubs within the University as identified in any memorandum of gift, bequest, appeal form or other applicable instrument; and
 - (3) the administrative arrangements for the implementation of those trust obligations, as determined by the University from time to time.

It is provided as follows-

Name of the fund

1. The capital sum, all income arising from the capital sum, and any accumulations and additions thereto together form a fund called 'The Melbourne University Sport Foundation' ('fund').

Investment of the fund

2. The fund is to be paid into one or more investment common funds and remain there until Council directs otherwise.

Trust terms

3. As trustee of the fund, the University is obliged by the trusts specified by the University or as otherwise stated in any memorandum of gift, bequest, appeal form or other applicable instrument ('trust terms') -
 - (1) to apply the capital and income of the fund in advancing education through the support of sport at the University, as reflected in the purposes of the Foundation;
 - (2) to account separately for:
 - (a) the capital of the fund representing general donations, together with the income and capital movements arising therefrom; and
 - (b) the capital of the fund representing specific donations in each of the specified sports and sporting clubs within the University, together with the income and capital movements arising therefrom;

- (3) to apply the general donations to support sport at the University, as reflected in the purposes of the Foundation, whether or not in any specified sport or sporting club within the University; and
- (4) to apply the specific donations in the relevant specified sport or sporting club within the University, as reflected in the purposes of the Foundation.

Administrative arrangements

4. Until its further determination, but in order to implement and subject to the trust terms, the University has determined-
 - (1) to call the fund ‘The Melbourne University Sport Foundation’;
 - (2) to expend the capital and income of the fund as determined by the Director of Sport at MUS, after endorsement from the board of MUS;
 - (3) that any unexpended income from the fund in any year may be added to the capital of the fund or accumulated as income for expenditure in a subsequent year; and
 - (4) that the Director of Sport at MUS, after endorsement from the board of MUS, is to determine each year for the purpose of section 4(3) what is to be done with unspent annual net income of the fund, if any.
5. In exercising any powers under this University trust record, the Director of Sport at MUS must act in accordance with:
 - (1) any guidelines approved by the board of MUS from time to time;
 - (2) any recommendations from the duly constituted body or group representing the interests of a specified sporting club within the University if applicable, in accordance with guidelines approved by the board of MUS from time to time; and
 - (3) the terms of any specific donations.
6. MUS is authorised to apply, and otherwise account for, the capital and income of the fund on behalf of the University, in accordance with this trust record, and the board of MUS is responsible to Council for performance of the trust in accordance with the terms of this trust record.
7. Any costs incurred in fundraising for the purposes of the Foundation are not payable from the Foundation without the prior approval of the board of MUS.
8. MUS is to submit an annual report to Council on the activities of the fund together with audited accounts.