

UTR7.242 –THE JOHN HOLLAND ENGINEERING MANAGEMENT FUND

Recitals –

- A. Between 1988 and 2000, the Melbourne University Engineering Foundation raised \$515,000 as a result of a limited appeal to the civil engineering industry to establish 'The John Holland Chair in Engineering Construction Management Fund' ('fund'). The original purpose of the fund was to support a Chair in Engineering Construction Management in the faculty of Engineering, now Melbourne School of Engineering ('MSE'). This purpose was prompted by industry needs, a key element being that industry would be consulted from time to time as to the subject matter of programs to be conducted in conjunction with the Chair.
- B. In January 1992, David Young was appointed as the John Holland Professorial Fellow in Engineering Construction Management. He was regarded as the best candidate for the position; however, he was appointed a Fellow rather than to a Chair since he lacked the University background required to hold a Chair position.
- C. With Professor Young's retirement due in December 2007, the University determined that it would not be practical or possible to maintain the position of Fellow or support a Chair in Engineering Construction Management. Amongst other reasons, the subject of Engineering Construction Management had become an intrinsic part of a number of subjects taught across MSE in keeping with changes in industry needs. As a result, the University applied to the Supreme Court of Victoria for approval of a cy près scheme and incidental orders.
- D. On 3 August 2007, The Honourable Justice Bongiorno of the Supreme Court of Victoria, made orders as follows:
- (1) 'Declare that –
 - (a) the charitable trust known until now as the John Holland Chair in Engineering Construction Management Fund ("the Fund") has been performed according to the directions given and the spirit of the gift; but
 - (b) the original purposes of the Fund have ceased to provide a suitable and effective means of using the Fund.
 - (c) The Fund is to be applied cy près in accordance with the cy près scheme annexed as Schedule A to this order.
 - (2) The costs and expenses of the Plaintiff (the University) out of and incidental to this application be paid out of the Fund.'
- E. Schedule A to the order provided:
- 'the Fund be renamed The John Holland Engineering Management Fund;
 - the University is to reinvest the capital of the Fund and apply the net annual income to promote teaching and research in the field of Engineering Management;
 - the University will invite members of the civil engineering industry practising in Engineering Management, including all donors to the Fund which remain active in the industry, to provide input as to the subject matter of the programmes to be supported by the Fund.'

F. At 27 August 2007, the amount of the fund was \$1,319,232.00.

It is provided as follows-

1. The sum of \$1,319,232.00, and any accumulations and additions to the sum, forms the fund and it is to be paid into one or more investment common funds and remain there until Council directs otherwise.
2. On the recommendation of the dean of MSE ('dean'), the net annual income of the fund is to be applied by Council each year to promote teaching and research in the field of Engineering Management
3. To facilitate the making of recommendations to Council, the dean is to invite members of the civil engineering industry practising in Engineering Management, including all donors to the fund which remain active in the industry, to provide input as to the subject matter of the programs to be supported by the fund.

[Made 10/9/07; revoked as a Regulation and certified as a University trust record 26/5/10; Recitals A and C am; ss 1 and 2 18/01/12;]