

# Monash University Student Union Peninsula Incorporated

Reg. No. A0044807M, ABN 93 002 915 529

## CONSTITUTION

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## PART 2 – THE ASSOCIATION

### 2. Name

- 2.1 The name of the incorporated association is “Monash University Student Union Peninsula Incorporated” (in this constitution, “MONSU Peninsula”).
- 2.2 The name and registration number of MONSU Peninsula must appear in legible characters in all notices, advertisements and other official publications of MONSU Peninsula, and in all its business documents.  
See section 23 of the Act\*.

### 3. Purpose

The purpose of MONSU Peninsula is to advance the education of students\* by:

- (1) representing students\* within and outside the University\*;
- (2) promoting the interests and welfare of students\*;
- (3) fostering the personal, intellectual, cultural and social development of students\*;
- (4) encouraging equality and diversity within the University\* community;
- (5) supporting student\* clubs and societies;
- (6) providing a democratic and transparent forum for students\* to govern student\* affairs in an accountable manner;
- (7) enhancing the experience of students\* while at the University\*;
- (8) offering a safe and common meeting ground for students\*; and

- (9) providing amenities and services for students\* and other members of the University\* community.

### 4. Legal Capacity and Powers

- 4.1 MONSU Peninsula has the legal capacity of an incorporated body.  
See section 29(2) of the Act\*.
- 4.2 MONSU Peninsula has power to do anything incidental or conducive to the attainment of its purpose.  
See section 30(d) of the Act\*.
- 4.3 MONSU Peninsula may only:
  - (a) exercise its powers; and
  - (b) use its income and assets (including any surplus);for its purpose.

### 5. Not For Profit Organisation

- 5.1 MONSU Peninsula must not distribute any surplus, income or assets directly or indirectly to its members.  
See section 33 of the Act\*.
- 5.2 Clause 5.1 does not prevent MONSU Peninsula from paying its members:
  - (a) reimbursement for expenses properly incurred by them, and
  - (b) for goods supplied and services provided by them,if this is done in good faith on terms no more favourable than if the member were not a member.  
See section 4 of the Act\*.

### 6. Membership

- 6.1 The members of MONSU Peninsula are the members for the time being of the Student Council.
- 6.2 A student\* who ceases to be a member of the Student Council ceases to be a member of MONSU Peninsula.
- 6.3 There are no entrance fees, subscriptions or other amounts to be paid in respect of membership of MONSU Peninsula.
- 6.4 The rights of members include:
  - (a) to receive notice of general meetings of members under clause 64;

- (b) to participate in general meetings of members under clause 64; and
- (c) to have access to the records of MONSU Peninsula under clause 56.

See sections 53, 57, 60 and 61 of the Act\*.

6.5 Members must at all times comply with the constitution and regulations\*.

6.6 This constitution is an enforceable contract between MONSU Peninsula and each member.

See sections 46 and 67 of the Act\*.

6.7 Members are not liable to contribute to the debts and liabilities of MONSU Peninsula only because of their membership of MONSU Peninsula or of the Student Council.

See section 52(1) of the Act\*.

6.8 MONSU Peninsula may not discipline members in their capacity as members.

6.9 Students\* who are not members and who participate in MONSU Peninsula or its activities thereby agree to be bound by the constitution and regulations\* as if they were members.

## 7. Register of Members

7.1 The Student Council must ensure that a register is kept containing:

- (a) for current members:
  - (i) the name of the member,
  - (ii) the address of the member, and
  - (iii) the date of becoming a member; and
- (b) for former members:
  - (i) the name of the member, and
  - (ii) the date of ceasing to be a member.

See section 56 of the Act\*.

7.2 Members may inspect and obtain copies of the register in accordance with clause 56.

See section 57 of the Act\*.

## PART 3 – STUDENT GENERAL MEETINGS AND REFERENDUMS

### 8. Convening

8.1 The Student Council may by resolution passed by an absolute majority\* convene\* a student general meeting or referendum.

8.2 The Student Council must by resolution convene\* a student general meeting if requested in writing\* by at least 30 students\*.

8.3 The Student Council must by resolution convene\* a referendum if requested in writing\* by at least 150 students\*.

8.4 A request for a student general meeting must state the business to be considered at the meeting, including any resolution to be proposed.

8.5 A request for a referendum must state the question to be put to the referendum, including any resolution to be proposed.

8.6 A request for a student general meeting or referendum:

- (a) may consist of multiple copies of the same document;
- (b) must include the names, student numbers and signatures of the students\* making the request; and
- (c) must be given to the President or another Executive member.

8.7 The student general meeting or referendum must be held within 20 academic days\* of the request being received.

### 9. Notice

9.1 At least 10 academic days\* notice of student general meetings and referendums must be given to students\*.

9.2 For student general meetings the notice must state:

- (a) the date, time and place of the meeting,
- (b) if the meeting is to be held online – the technology that will be used, and
- (c) the business to be considered.

9.3 For referendums the notice must state:

- (a) the dates, times and place or places of the referendum,

- (b) if the referendum is to be conducted online – the technology that will be used, and
- (c) the question to be put.

9.4 The Student Council may by resolution passed by an absolute majority\* reword for the purposes of clarification only the business to be considered or the question to be put.

## 10. Use of Technology

Student general meetings may be held and referendums may be conducted online, provided that the technology used enables all students\* who wish to participate in accordance with clause 13 to do so.

## 11. Quorum

The quorum for student general meetings is the presence in person (including online) of at least 30 students\*.

## 12. Chairing

- 12.1 The President is entitled to chair student general meetings.
- 12.2 If the President is not present, or does not wish to chair the meeting (or part of the meeting), the Vice-President is entitled to chair.
- 12.3 If neither the President nor the Vice-President is present, or if neither wishes to chair the meeting, the Student Council must appoint another member to chair.
- 12.4 The chair has a deliberative vote, but does not have a casting vote.

## 13. Participation

- 13.1 All students\* are entitled to attend and speak and vote at student general meetings.
- 13.2 All students\* are entitled to vote in referendums.

## 14. Voting

- 14.1 Each student\* has 1 vote at a student general meeting or in a referendum.
- 14.2 Students\* may only vote in person (including online). There is no voting by proxy.

14.3 For student general meetings:

- (a) Voting is by show of hands, unless a count is demanded.
- (b) Any 5 students\* may demand a count before or immediately after the declaration of the result on a show of hands.
- (c) If a count is demanded, the votes of each student\* must be counted, as directed by the chair of the meeting.
- (d) If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.
- (e) The declaration by the chair of the meeting of the result of the vote is conclusive evidence of that result.

14.4 For referendums, voting must be conducted:

- (a) on at least 3 consecutive academic days\*,
- (b) over no more than 2 weeks,
- (c) for in person voting – for at least 4 hours each day between 10.00 am and 3.00 pm, and
- (d) for online voting – for at least 72 consecutive hours.

## 15. Binding Decisions

15.1 Decisions of student general meetings and referendums are binding on all officers and members of MONSU Peninsula bodies if:

- (a) for student general meetings:
  - (i) there was a quorum under clause 11; and
  - (ii) the resolution was passed by a majority of students\* present and voting; and
- (b) for referendums:
  - (i) at least 150 students\* voted; and
  - (ii) a majority of those students\* voting voted in favour.

15.2 Binding decisions of referendums override binding decisions of student general meetings.

15.3 Binding decisions remain in force until rescinded or amended.

## **PART 4 – OFFICERS**

### **16. Positions**

- 16.1 The officers of MONSU Peninsula are:
- (a) the President,
  - (b) the Vice-President,
  - (c) the Education Officer,
  - (d) the Welfare Officer,
  - (e) the International Officer,
  - (f) the Social Officer,
  - (g) the Volunteer Officer,
  - (h) the Women’s Officer,
  - (i) the Queer Officer,
  - (j) the First Year Officer, and
  - (k) any other officer positions established by regulation\*.
- 16.2 2 students\* may stand for and hold any officer position, except President and Vice-President.
- 16.3 The Student Council may make regulations\* specifying the conditions under which positions may be shared.
- 16.4 All officers must be directly elected at the annual elections in accordance with clauses 32 and 33.
- 16.5 The Student Council may by regulation\* pay an honorarium to some or all officers.
- 16.6 Officers are not employees of MONSU Peninsula, even if paid an honorarium under clause 16.5.
- 16.7 The Student Council may:
- (a) grant leave of absence to any officer for a period of not more than 3 months;
  - (b) appoint a student\* who would be eligible to stand for the position under clause 33 to hold the position for that period; and
  - (c) pay an honorarium to the officer so appointed.

### **17. Responsibilities and Direction**

- 17.1 The Student Council must by regulation\* specify the responsibilities of each officer.
- 17.2 All officers are subject to direction by the Student Council.

### **18. Notification to ACNC**

If a person becomes or ceases to be an officer, MONSU Peninsula must notify the Australian Charities and Not-for-profits Commission in the approved form:

- (a) if the revenue of MONSU Peninsula for the financial year is \$250,000 or more – within 28 days; or
- (b) if the revenue of MONSU Peninsula for the financial year is less than \$250,000 – within 60 days.

See section 65-5 of the Commonwealth *Australian Charities and Not-for-profits Commission Act 2012*.

## **PART 5 – THE STUDENT COUNCIL**

### **19. Membership**

- 19.1 The members of the Student Council are the officers for the time being of MONSU Peninsula.
- 19.2 An officer who ceases to be an officer ceases to be a member of the Student Council.

### **20. Status, Responsibility and Powers**

- 20.1 The Student Council is the governing body of MONSU Peninsula.
- 20.2 The Student Council is responsible for both the governance and management of MONSU Peninsula.
- 20.3 The Student Council may exercise all powers of MONSU Peninsula on its behalf.
- 20.4 The Student Council is subject to binding decisions of student general meetings and referendums under clause 15.

### **21. Meetings**

- 21.1 The Student Council must meet at least once each month from March to October.
- 21.2 The President is entitled to chair Student Council meetings.
- 21.3 If the President is not present, or does not wish to chair the meeting (or part of the meeting), the Vice-President is entitled to chair.
- 21.4 If neither the President nor the Vice-President is present, or if neither wishes to chair the meeting, the Student Council must elect another officer to chair.

## **22. Regulations**

- 22.1 The Student Council may by resolution passed by an absolute majority\* make regulations to give effect to this constitution.
- 22.2 At least 7 days notice in writing\* of the proposed making of regulations must be given to each Student Council member.
- 22.3 The notice must state the proposed regulations or change to the regulations.
- 22.4 Members must at all times comply with the regulations as if they formed part of this constitution.

## **PART 6 – THE EXECUTIVE**

### **23. Membership**

The members of the Executive are:

- (a) the President,
- (b) the Vice-President, and
- (c) 3 other officers appointed by resolution of the Student Council passed by an absolute majority\*.

### **24. Status, Responsibilities and Powers**

- 24.1 The Executive is a committee of the Student Council, exercising delegated powers from the Student Council under clause 24.2.
- 24.2 The Executive is responsible on behalf of the Student Council for:
- (a) the employment of staff by MONSU Peninsula,
  - (b) monitoring the finances of MONSU Peninsula, and
  - (c) any other matters delegated by the Student Council.

### **25. Meetings**

- 25.1 The Executive must meet at least once each month.
- 25.2 Executive meetings must be chaired in the same way as Student Council meetings under clause 21.

### **26. Summer Executive**

- 26.1 This clause applies for December each year.
- 26.2 In clause 26.3:
- (a) “outgoing” means holding office before 1 December that year; and

- (b) “incoming” means holding office from 1 December that year.

26.3 Despite clause 23, the members of the Summer Executive are

- (a) the outgoing President,
- (b) the incoming President, and
- (c) 3 other outgoing or incoming officers appointed by resolution of the Student Council passed by an absolute majority\* at its last meeting before the end of the semester two teaching period.

26.4 Despite clause 24, the Summer Executive must exercise all powers of the Student Council on its behalf.

## **PART 7 – COMMITTEES AND BODIES GENERALLY**

### **27. Committees**

- 27.1 The Student Council may by regulation\* or resolution establish standing and *ad hoc* committees with such membership and terms of reference as it considers appropriate.
- 27.2 The members of the committee may be:
- (a) directly elected at the annual elections under clause 32; and/or
  - (b) elected or appointed by the Student Council.
- 27.3 Before electing or appointing members of committees the Student Council must give at least 10 academic days\* notice to students\* of the positions and invite nominations.
- 27.4 The committees may by resolution establish subcommittees with such membership and terms of reference as they consider appropriate.
- 27.5 By becoming and remaining members of committees and subcommittees, members of committees and subcommittee agree to be bound by the constitution and regulations\* as if they were members.

### **28. Delegation**

The Student Council and each committee may delegate their responsibilities and powers as they consider appropriate.

## **29. Duties**

29.1 Members of MONSU Peninsula bodies\* must exercise their powers and discharge their duties:

- (a) in good faith in the best interests of MONSU Peninsula; and
- (b) for a proper purpose.

Compare section 85 of the Act\*.

29.2 Members of MONSU Peninsula bodies\* must exercise their powers and discharge their duties with reasonable care and diligence.

Compare section 84 of the Act\*.

29.3 Members and former members of MONSU Peninsula bodies\* must not make improper use of:

- (a) their position, or
- (b) information acquired by virtue of holding their position,

so as:

- (c) to gain an advantage for themselves or any other person; or
- (d) to cause detriment to MONSU Peninsula.

Compare section 83 of the Act\*.

## **30. Indemnity**

MONSU Peninsula indemnifies members of MONSU Peninsula bodies\* against any liability incurred in good faith by them in the course of performing their duties.

Compare section 87 of the Act\*.

## **PART 8 – ELECTIONS**

### **31. Conduct**

31.1 The Student Council must make regulations\* for the conduct of elections.

31.2 All elections must be by secret ballot.

31.3 All elections for a single position must use the optional preferential method of election.

31.4 All elections for multiple positions must use the quota-preferential proportional representation method of election, with optional preferencing.

31.5 Voting may be conducted:

- (a) in person at the Peninsula campus\*, and/or
- (b) online.

### **32. Annual Elections**

32.1 The officers under clause 16.1 and any other members of MONSU Peninsula bodies\* who are required to be directly elected must be elected each year at the annual elections.

32.2 Voting in the annual elections must be held in the second half of the semester two teaching period.

32.3 The Student Council must appoint a returning officer to conduct the annual elections.

32.4 The returning officer must not be a student\* or an employee of MONSU Peninsula.

32.5 Voting must be conducted:

- (a) on at least 3 consecutive academic days\*,
- (b) over no more than 2 weeks,
- (c) for in person voting – for at least 4 hours each day between 10.00 am and 3.00 pm, and
- (d) for online voting – for at least 72 consecutive hours.

32.6 At least 10 academic days\* notice of:

- (a) the close of nominations, and
- (b) the dates, times and places of voting, must be given to students\*.

### **33. Eligibility to Stand and Vote**

33.1 At the annual elections:

- (a) all students\* are eligible to stand for positions:
  - (i) except for full-time employees of MONSU Peninsula or the University\*; and
  - (ii) subject to clauses 33.2–33.6.

33.2 Only international students\* are eligible to stand for International Officer.

33.3 Only women students\* are eligible to stand for Women's Officer.

33.4 Only queer students\* are eligible to stand for Queer Officer.

33.5 Only students\* who are first year students\* at the close of nominations are eligible to stand for First Year Officer.

33.6 Clause 33.1 does not prevent the regulations\* from limiting the eligibility to stand for particular committees to specified categories of students\*.

33.7 All students\* are eligible to vote at the annual elections.

#### **34. Eligibility to Hold Positions**

At the annual elections a student\* may stand for, but not hold:

- (a) more than 1 officer position, or
- (b) an officer position and a directly elected committee position.

#### **35. Term of Office**

35.1 Officers and committee members elected at the annual elections hold office from 1 December until their successors take office.

35.2 Members of MONSU Peninsula bodies\* not elected at the annual elections hold office from the time of their election or appointment until their successors take office.

35.3 Officers and members of MONSU Peninsula bodies\* filling vacancies hold office for the remainder of the term of office of the position being filled.

35.4 Clauses 35.1–35.3 are all subject to clause 36 and the regulations\*.

#### **36. Vacancies**

36.1 The position of an officer or committee member elected at the annual elections becomes vacant if the officer or committee member:

- (a) resigns in writing\* given to the President (or, for the President, to the Vice-President);
- (b) ceases to be a student\*;
- (c) becomes an employee of MONSU Peninsula or the University\*;
- (d) is removed by a binding decision of a student general meeting or referendum under clause 15;

(e) is removed by resolution of the Student Council passed by an absolute majority\* on the ground that the officer or member has been certified by a registered medical practitioner to be incapable of carrying out the responsibilities of the position by reason of injury, illness or other incapacity;

(f) is removed by a resolution passed by a four-fifths majority of those members of the Student Council present and voting on the ground that they have breached their duties to MONSU Peninsula under clause 29, provided that the officer or committee member has been given:

- (i) particulars in writing of what it is alleged they have done or failed to do in breach of their duties under clause 29 at least 7 days before the meeting at which the motion to remove them is to be considered; and
- (ii) a reasonable opportunity to make written submissions to, attend and be heard at that meeting; or

(g) in the case of officers – does not vote in favour of a special resolution as required by clause 64.4(d).

36.2 The position of a member of a MONSU Peninsula body\* becomes vacant if the member fails on 3 consecutive occasions to attend within 30 minutes of the time of which notice has been given of a meeting of the body without leave of absence under clause 47, provided at least 7 days notice in writing\* of each meeting has been given to the member.

36.3 Clause 36.2 applies to members of the Student Council, in which case their position as an officer becomes vacant.

36.4 The position of an officer also becomes vacant if they:

- (a) become insolvent under administration;  
See section 38 of the Victorian *Interpretation of Legislation Act 1984*.
- (b) become a represented person under the Victorian *Guardianship and Administration Act 2019*; or



- (c) are disqualified under the Commonwealth *Corporations Act 2001*, the Commonwealth *Corporations (Aboriginal and Torres Strait Islander) Act 2006* or the *Co-operatives National Law (Victoria)*.

See section 78(2) of the Act\*.

36.5 The position of a person elected by a MONSU Peninsula body\* becomes vacant if the person:

- (a) resigns in writing\* given to the President; or
- (b) is removed by resolution of the body passed by an absolute majority\*.

36.6 The position of a person appointed to a MONSU Peninsula body\* becomes vacant if:

- (a) the person appointed resigns in writing\* given to the President; or
- (b) the person or body making the appointment withdraws it.

36.7 For vacancies in the positions of officers and committee members elected at the annual elections:

- (a) For officer positions – the Student Council may fill the vacancy at its first meeting after the vacancy arises by appointing a current officer to fill the vacant position (in which case the officer’s previous position in turn becomes vacant).
- (b) Otherwise – the Student Council must:
  - (i) give at least 10 academic days\* notice to students\* of the vacancy and invite nominations; and
  - (ii) fill the position within 20 academic days\*.
- (c) In either case the student\* filling the vacancy must be eligible to stand for the position at the annual elections under clause 33, subject to clause 36.7(d).
- (d) A vacancy in First Year Officer may only be filled by a student\* who was a first year student\* at the time of the last annual elections.

36.8 Vacancies in other committee and subcommittee positions must be filled within 20 academic days\* by the body or person responsible for electing or appointing the position after giving at least 10 academic days\* notice to students\* of the vacancy and inviting nominations.

36.9 MONSU Peninsula bodies\* may continue to act despite vacancies in their membership.

### 37. Validation

Even if it is subsequently found that a person who has acted as an officer or member of a MONSU Peninsula body\* was not properly elected or appointed, the validity of:

- (a) the acts of that person in that capacity, and
- (b) decisions of meetings of MONSU Peninsula bodies\* in which that person has participated,

is not affected.

## PART 9 – MEETINGS

### 38. Applicability

38.1 This Part applies to the meetings of all MONSU Peninsula bodies\*, except as otherwise provided by this constitution, or the regulation\* or resolution establishing the body.

38.2 This Part does not apply to student general meetings under Part 3.

### 39. Convening

Meetings may be convened\* by:

- (a) the chair of the body,
- (b) one-third or more of the voting members of the body at the time, or
- (c) the President or the Vice-President.

### 40. Notice

40.1 Each member of the body must be given at least 7 days notice in writing\* of meetings, subject to clause 40.2.

40.2 In cases of urgency a meeting may be held without the notice required by clause 40.1, provided that:

- (a) as much notice as practicable is given to each member by the quickest practicable means; and

- (b) resolutions may only be passed by an absolute majority\*.

40.3 The notice must state:

- (a) the date, time and place (or places) of the meeting, and
- (b) if the meeting is to be held at more than 1 place – the technology that will be used.

40.4 The notice need not include the business to be considered.

40.5 Notice may be given of more than 1 meeting at the same time.

40.6 All members of MONSU Peninsula bodies\* must give MONSU Peninsula their email address for notices, and any change in that address.

40.7 Notice may be given to a member by sending it to the email address last given by the member.

40.8 Notices sent by email are taken to have been given on the first day after sending that is not a Saturday, Sunday or University\* holiday.

40.9 Despite clauses 40.1 and 40.2, the accidental omission to give notice of a meeting to a member, or the non-receipt of notice of the meeting by a member does not invalidate the meeting.

#### **41. Use of Technology**

41.1 Meetings may be held at more than 1 place, provided that the technology used enables each member present at all places the meeting is held to communicate clearly and simultaneously with every other such member.

Compare sections 79(1) and 62(1) of the Act\*.

41.2 Without limiting clauses 41.1 and 40.2(a), meetings may be:

- (a) held by videoconference; and
- (b) convened\* and held by telephone.

41.3 A member participating in a meeting using technology is taken to be present in person at the meeting.

Compare sections 79(2) and 62(2) of the Act\*.

#### **42. Quorum**

42.1 Quorum is the presence in person of a majority of the voting members of the body at the time.

42.2 If a quorum is not present within 30 minutes of the time of which notice has been given, the meeting must not proceed.

#### **43. Chairing**

43.1 The member of the body specified as the chair in this constitution, or the regulation\* or resolution establishing the committee is entitled to chair meetings of the body.

43.2 If that member is not present, or does not wish to chair, the meeting must elect another voting member of the body to chair.

43.3 The chair of the meeting does not have a casting vote.

#### **44. Attendance**

44.1 All students\* may attend meetings of MONSU Peninsula bodies\*, unless the body resolves to proceed in camera.

44.2 Meetings of MONSU Peninsula bodies\* may only proceed in camera to consider confidential personal, employment, contractual and legal matters.

#### **45. Voting**

45.1 Each voting member has 1 vote.

45.2 Voting members may appoint another voting member as their proxy by notifying the chair in writing\*.

45.3 A voting member may not hold more than 2 proxies.

45.4 Voting is by show of hands, unless a count is demanded.

Compare section 65(2) of the Act\*.

45.5 Any member entitled to vote (including the chair of the meeting) may demand a count before or immediately after the declaration of the result on a show of hands.

Compare section 65(3) of the Act\*.

45.6 If a count is demanded, the votes of each member must be counted, as directed by the chair of the meeting.

45.7 If an equal number of votes are cast for and against a motion or amendment, the chair of the meeting must declare the motion or amendment lost.

45.8 The declaration by the chair of the meeting of the result of a vote is conclusive evidence of that result.

Compare section 65(1) of the Act\*.

#### **46. Conflict of Interest**

46.1 Members of a body who have a material personal interest in a matter that is being considered at a meeting of the body must:

- (a) disclose the nature and extent of their interest:
  - (i) to the body as soon as they become aware of the interest; and
  - (ii) in the case of Student Council members – at the next general meeting of members;
- (b) not be present while the matter is being considered at the meeting; and
- (c) not vote on the matter.

Compare sections 80 and 81 of the Act\*.

46.2 Clause 46.1 does not apply to material personal interests that:

- (a) exist only because the member of the body is a student\*; or
- (b) the member of the body has in common with all or a substantial proportion of the members of MONSU Peninsula.

Compare sections 80 and 81 of the Act\*.

#### **47. Leave of Absence**

47.1 If a member of the body requests, the body must by resolution grant the member leave of absence from meetings of the body for up to 3 months.

47.2 If a member is temporarily unable to attend meetings, the body may by resolution grant the member leave of absence from meetings of the body for up to 3 months.

47.3 The body may not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the member concerned to request leave of absence in advance.

#### **48. Resolutions without Meeting**

48.1 A resolution agreed to in writing\* by all voting members of the body has the same effect as a resolution passed at a meeting of the body.

48.2 In clause 48.1 “all voting members of the body” does not include those members who:

- (a) would be prohibited by clause 46.1(c) from voting on the matter at a meeting of the body; or
- (b) have leave of absence from meetings of the body under clause 47.

### **PART 10 – FINANCIAL AND LEGAL**

#### **49. Sources of Funds**

The funds of MONSU Peninsula may be derived from:

- (a) the University\*; and
- (b) any other sources approved by the Student Council.

#### **50. Financial Year**

The financial year of MONSU Peninsula is from 1 January to 31 December.

#### **51. Management of Funds**

51.1 The Student Council is responsible for the management of the funds of MONSU Peninsula.

51.2 MONSU Peninsula must keep financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared in accordance with clause 53.

See section 89(1) of the Act\*.

51.3 All money received by or on behalf of MONSU Peninsula must be deposited without delay into a bank account in the name of MONSU Peninsula.

## **52. Payments**

- 52.1 All payments by MONSU Peninsula must be:
- (a) specifically authorised in writing\*, and
  - (b) in the case of cheques – signed,
- by:
- (c) 1 officer, and
  - (d) 1 employee of MONSU Peninsula, nominated by the Student Council by regulation\*.
- 52.2 The Student Council may nominate a list of individuals or positions for the purposes of clause 52.1.
- 52.3 This clause does not apply to credit card and petty cash payments where the amount is within limits set by the Student Council by regulation\*.

## **53. Financial Statements**

- 53.1 As soon as practicable after the end of the financial year of MONSU Peninsula under clause 50, the Student Council must cause financial statements of MONSU Peninsula for that year to be prepared in accordance with the Australian Accounting Standards.
- Compare section 98 of the Act\*.
- 53.2 The financial statements must contain particulars of:
- (a) the income and expenditure of MONSU Peninsula during and at the end of its last financial year,
  - (b) the assets and liabilities of MONSU Peninsula at the end of its last financial year,
  - (c) the mortgages, charges and securities of any description affecting any property of MONSU Peninsula at the end of its last financial year,
  - (d) the same particulars in respect of each trust of which MONSU Peninsula was trustee during any part of its last financial year, and
  - (e) any trust, held on behalf of MONSU Peninsula by a person or body other than MONSU Peninsula, in which funds or assets of MONSU Peninsula are placed.

See section 101(1) of the Act\*.

- 53.3 The financial statements must also deal with any matters prescribed by the regulations under the Act\*.

Compare section 98(2)(b) of the Act\*.

- 53.4 The financial statements must have a certificate attached in the form prescribed under the Act\* signed by 2 officers in accordance with a resolution of the Student Council certifying that the financial statements give a true and fair view of the financial position and performance of MONSU Peninsula during and at the end of its last financial year.

Compare section 100(2)(b) of the Act\*.

- 53.5 The Student Council must submit the financial statements (including the attached certificate) to the annual general meeting under clause 63.3.

Compare section 100 of the Act\*.

## **54. Audit**

- 54.1 The Student Council must:
- (a) have the financial statements audited in accordance with the Act\*; and
  - (b) submit the audit report to the annual general meeting under clause 63.3.

Compare sections 99 and 100(2)(c) of the Act\*.

- 54.2 Clause 54.1 applies whether MONSU Peninsula is required to be audited under the Act\* or not.

See section 99 of the Act\*.

- 54.3 An auditor may only be removed by a general meeting of members in accordance with the procedure set out in the Act\*.

See sections 106 and 107 of the Act\*.

## **55. Retention of Records**

- 55.1 The Student Council must provide for the safe keeping of the records of MONSU Peninsula.

- 55.2 MONSU Peninsula must keep its financial records for at least 7 years after the transactions covered by the records are completed.

See section 89(2) of the Act\*.

55.3 MONSU Peninsula must keep the financial statements submitted to the annual general meeting for at least 7 years after the annual general meeting.

See section 105(1) of the Act\*.

55.4 MONSU Peninsula must keep the certificate referred to in clause 63.5 for at least 7 years after the certificate was signed.

See section 105(2) of the Act\*.

55.5 MONSU Peninsula must keep all its other records for at least 7 years after the record was created.

55.6 A person who is no longer entitled to custody of records of MONSU Peninsula must return them to the Student Council within 28 days.

See section 88 of the Act\*.

## **56. Access to Records**

56.1 Members may on request inspect:

- (a) the register of members,
- (b) the minutes of student general meetings,
- (c) the minutes of general meetings of members,
- (d) a copy of any trust deed referred to in clause 53.2(e), and
- (e) subject to clause 56.2, the other records of MONSU Peninsula, including the minutes of Student Council meetings,

at any reasonable time.

Compare sections 53(1), 57 and 101(2) and items 13, 15 and 16 of Schedule 1 of the Act\*.

56.2 Members may not inspect the records of MONSU Peninsula that relate to confidential personal, employment, commercial and legal matters, except as permitted by the Student Council.

See items 13 and 16 of Schedule 1 of the Act\*.

56.3 MONSU Peninsula must give a copy the constitution and regulations\*:

- (a) to all new members, and
- (b) whenever requested by a member.

Compare section 53 of the Act\*.

56.4 MONSU Peninsula must within 7 days of request make copies of:

- (a) the register of members (subject to clause 56.6),

(b) the minutes of student general meetings,

(c) the minutes of general meetings of members, and

(d) any trust deed referred to in clause 53.2(e),

available to members without charge.

Compare section 53(2) and see items 13 and 15 of Schedule 1 of the Act\*.

56.5 Members may only have copies of records inspected under clause 56.1(e) if permitted by the Student Council.

56.6 A member may request that access to their personal information in the register of members be restricted in accordance with the Act\*, if there are special circumstances that justify doing so.

See section 59 of the Act\*.

## **57. Secretary**

57.1 The Student Council must appoint the senior employee of MONSU Peninsula as the secretary of MONSU Peninsula for the purposes of the Act\*.

57.2 The secretary must notify the Registrar\* of:

- (a) their appointment, and
- (b) any change of address,

within 14 days.

See sections 74 and 74A of the Act\*.

57.3 The Student Council must fill any vacancy in the position of secretary within 14 days.

See section 73 of the Act\*.

57.4 The secretary whose appointment was last notified to the Registrar\* remains the secretary of MONSU Peninsula in some circumstances under the Act\* until the appointment of a new secretary is notified.

See section 215 of the Act\*.

## **58. Registered Address**

58.1 The Student Council must nominate the address of the MONSU Peninsula office as the registered address for the service of documents on MONSU Peninsula.

See sections 28 and 217 of the Act\*.

58.2 MONSU Peninsula must notify the Registrar\* of any change of registered address within 14 days.

See section 28(3) of the Act\*.

## **59. Execution of Documents**

59.1 MONSU Peninsula may execute deeds and other documents either:

(a) by having the document signed by 2 officers; or

See section 38 of the Act\*.

(b) by using a common seal under clause 60.

59.2 A document may only be signed by 2 officers if authorised by resolution of the Student Council.

## **60. Common Seal**

60.1 MONSU Peninsula may have a common seal, in which case the remainder of this clause applies.

See section 29(2)(b) of the Act\*.

60.2 The name of MONSU Peninsula must appear in legible characters on the common seal.

See section 23(1)(a) of the Act\*.

60.3 A document may only be sealed with the common seal if authorised by resolution of the Student Council.

60.4 The sealing must be witnessed by the signatures of 2 officers.

60.5 The Student Council must provide for the safe keeping of the common seal.

## **61. Minutes**

61.1 The Student Council must ensure that minutes are taken and kept of all student general meetings, meetings of MONSU Peninsula bodies\*, general meetings of members and resolutions without meeting.

Compare item 14 of Schedule 1 of the Act\*.

61.2 The minutes of annual general meetings must include a copy of the financial statements and the accompanying audit report submitted at the meeting in accordance with clause 63.3.

Compare section 100(4) and item 15 of Schedule 1 of the Act\*.

61.3 Members may inspect and obtain copies of minutes in accordance with clause 56.

## **62. Publication of Material**

62.1 All persons producing material for MONSU Peninsula publications must ensure that the material is not defamatory or otherwise inappropriate.

62.2 The President or nominee:

(a) is entitled to have access to all material prior to publication; and

(b) may on legal advice stop publication of the material.

62.3 In any legal action against MONSU Peninsula, MONSU Peninsula reserves the right to join any officer or other person responsible for the production or publication of the material the subject of the action.

## **63. Annual General Meeting**

63.1 The Student Council must convene\* an annual general meeting of the members of MONSU Peninsula each year.

See section 63(1) of the Act\*.

63.2 The annual general meeting must be held within 5 months after the end of MONSU Peninsula's financial year under clause 50.

See section 63(4) of the Act\*.

63.3 The ordinary business of the annual general meeting is to consider the financial statements and accompanying audit report submitted to members by the Student Council in accordance with clauses 53.5 and 54.1(b).

Compare section 100 of the Act\*.

63.4 The only other business that may be considered at the annual general meeting is a special resolution or a motion to remove the auditor in accordance with clause 54.3.

63.5 At, or as soon as practicable after, the conclusion of the annual general meeting, an officer must certify in the form approved by the Registrar\* that:

(a) the officer attended the annual general meeting; and

(b) the financial statements were submitted to the members at the annual general meeting.

Compare section 100(3) of the Act\*.

- 63.6 The secretary must lodge with the Registrar\*:
- (a) an annual statement in the form approved by the Registrar\*,
  - (b) the financial statements and accompanying audit report, and
  - (c) a statement of the terms of any resolution passed at the annual general meeting concerning the financial statements,
- within 1 month after the annual general meeting.

See section 102 of the Act\*.

#### **64. General Meetings of Members**

- 64.1 Except for the annual general meeting, general meetings of the members of the MONSU Peninsula may only be held for the purpose of passing:
- (a) a special resolution, or
  - (b) a resolution to remove the auditor under clause 54.3.
- 64.2 Special resolutions may only be put to general meetings of members if authorised by a binding decision of a student general meeting or referendum under clause 15.
- 64.3 The Student Council must convene\* general meetings of members when required.
- 64.4 For special resolutions:
- (a) notice must be given in accordance with clause 68.1(j);
  - (b) quorum is the presence in person of at least 1 member;
  - (c) members are not entitled to vote by proxy; and
  - (d) all members present must vote in favour, as required by clause 15.1.
- 64.5 The procedure for general meetings of members is otherwise the same as for meetings of the Student Council.
- 64.6 If any member votes against a special resolution contrary to clauses 64.4(d) and 15.1, their position as an officer becomes vacant in accordance with clause 36.1(g).

#### **65. Grievance Procedure**

- 65.1 The grievance procedure in this clause applies to all internal disputes within MONSU Peninsula.
- 65.2 The parties to the dispute must first attempt to resolve the dispute themselves.
- 65.3 If the parties are unable to resolve the dispute, the Student Council must appoint a conciliator and arbitrator (in this clause, “conciliator”).
- 65.4 The conciliator:
- (a) must not have a personal interest in the dispute;
  - (b) must not be biased in favour of or against any party; and  
See section 55(3)(b) of the Act\*.
  - (c) if possible, must be appointed with the agreement of all parties.
- 65.5 The conciliator must conduct a conciliation at which each party is given a reasonable opportunity to be heard.  
See section 55(3)(a) of the Act\*.
- 65.6 The parties must in good faith attempt to resolve the dispute by conciliation.
- 65.7 The conciliator may during, and must at the end of, the conciliation attempt to resolve the dispute by agreement between the parties.
- 65.8 If the conciliator is unable to resolve the dispute by agreement between the parties, the conciliator must determine the respective rights and obligations under this constitution of the parties and any other members and students\*.
- 65.9 A determination of a conciliator under clause 65.8 is binding on the parties and all members and students\*.
- 65.10 A party may appoint another person to act on its behalf in the grievance procedure.  
See section 55(2) of the Act\*.
- 65.11 The State, Territory and Commonwealth Acts applying to commercial arbitrations do not apply to the grievance procedure in this clause.

#### **66. Amendment of Constitution**

- 66.1 This constitution may only be amended by special resolution\*.  
See section 50(1) of the Act\*.

66.2 An amendment to this constitution does not take effect until it has been approved by the Registrar\*.

See section 50(2) of the Act\*.

66.3 The secretary must apply to the Registrar\* for approval of the amendment within 28 days after the special resolution\* was passed.

See section 50(3) of the Act\*.

## 67. Winding Up

67.1 MONSU Peninsula may be wound up voluntarily by special resolution\*.

See section 125 of the Act\*.

67.2 If MONSU Peninsula is:

- (a) wound up voluntarily or otherwise; or
- (b) its incorporation is cancelled;

the surplus assets of MONSU Peninsula must not be distributed to any member.

See section 132(4) of the Act\*.

67.3 The surplus assets must be given to a body that:

- (a) has a similar purpose to MONSU Peninsula;
- (b) is also charitable; and
- (c) prohibits the distribution of any surplus, income and assets to its members to at least as great an extent as MONSU Peninsula;

subject to clause 67.5.

67.4 If MONSU Peninsula is wound up voluntarily, the body to which its surplus assets are to be given must be decided by special resolution\*.

67.5 The surplus assets of MONSU Peninsula do not include any property supplied by a government department, public authority or municipal council, including the unexpended portion of a grant. On winding up, that property must be returned to the body that supplied it or its nominee.

See section 132(3) of the Act\*.

## 68. Interpretation

68.1 In this constitution, unless the contrary intention appears:

- (a) “absolute majority” means a majority of the votes of all members of the body entitled to vote at the time, whether or not those members are present, and whether or not they vote;
- (b) “academic day” means a week day during a semester teaching period that is not a University holiday;
- (c) “the Act” means the Victorian *Associations Incorporation Reform Act 2012*;
- (d) “convene” means call and arrange to hold, and includes setting the date/s, time/s and place/s of the meeting or referendum;
- (e) “MONSU Peninsula” has the meaning given in clause 2.1;
- (f) “MONSU Peninsula body” means:
  - (i) the Student Council,
  - (ii) committees of the Student Council, and
  - (iii) subcommittees of committees,and “MONSU Peninsula bodies” has a corresponding meaning;
- (g) “Peninsula campus” means the Peninsula campus of the University\*;
- (h) “the Registrar” means the Registrar of Incorporated Associations under the Act\*;
- (i) “regulations” means regulations of MONSU Peninsula made under clause 22, and “regulation” has a corresponding meaning;
- (j) “special resolution” means a resolution at a general meeting of members under clause 64, where:
  - (i) at least 21 days notice stating the proposed resolution in full has been given to each member;
  - (ii) the notice specifies that it is intended that the resolution be proposed as a special resolution; and



- (iii) at least three-quarters of those members who vote at the meeting vote in favour;

See section 64 of the Act\*.

- (k) “student” means:
    - (i) a person who:
      - (A) is admitted to a course of study at the University\* delivered wholly or in part from the Peninsula campus\*; or
      - (B) was so admitted within the past 6 months; or
    - (ii) an officer who is paid an honorarium;
  - (l) “the University” means Monash University, and “University” has a corresponding meaning; and
  - (m) “writing” includes emails and other written communications in electronic form.
- 68.2 The headings form part of this constitution.
- 68.3 Where this constitution requires notice to be given to students\*, the notice must be:
- (a) published on the MONSU Peninsula website; and
  - (b) as far as possible, emailed to students\*.
- 68.4 In this constitution a period of notice of a meeting expressed in days:
- (a) does not include the day on which notice is given; but
  - (b) includes the day on which the meeting is held.
- 68.5 The explanatory notes inserted in a smaller font size after provisions of this constitution are for guidance only and do not form part of this constitution.
- 68.6 Unless the contrary intention appears:
- (a) expressions used in this constitution have the same meanings as in the legislation of the University\*; and
  - (b) this constitution is to be interpreted in accordance with the Victorian *Interpretation of Legislation Act 1984* as if this constitution were an Act of the State of Victoria.

68.7 The Student Council is responsible for the interpretation of the constitution and regulations\*.

68.8 The provisions of this constitution are the rules of MONSU Peninsula for the purposes of the Act\*.

68.9 This constitution is intended to make provision for all matters required by the Act\*, with the intention that none of the model rules prescribed under the Act\* apply to MONSU Peninsula.

See section 48(3) and Schedule 1 of the Act\*.

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