

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

CHARLES DARWIN UNIVERSITY FOUNDATION

INTERPRETATION

1. In these presents unless there be something in the subject or context inconsistent therewith the following words and expressions shall have the several meanings hereby assigned to them that is to say:

“The Act” means the *Corporations Act* as amended from time to time.

“The Foundation” means the Charles Darwin University Foundation.

“The University” means the Charles Darwin University established under and pursuant to the *Charles Darwin University Act* (and any successor to that University).

“The Annual General Meeting” means the General Meeting held each year as required by the Act and these Articles.

“Board” means the members for the time being of the Board of Directors as constituted in accordance with these Articles.

“The By -Laws means the By-Laws of the Foundation for the time being in force.

“The Chairperson” means the Chairperson appointed by the Directors pursuant to Article 12(f) or (in the case of Board Meetings) Article 15(b) or (in the case of General Meetings) by the members pursuant to Article 22.

“Corporate Member” means a corporation admitted to membership of the Foundation.

“Corporation” means any body corporate whether incorporated in the Commonwealth of Australia or elsewhere.

“The Council” means the Council of the University referred to in the *Charles Darwin University Act*.

“General Meeting” means any meeting of the members of the Foundation.

“Individual Member” means a natural person admitted to membership of the Foundation.

“Month” shall mean calendar month.

“Notice” shall include any communication in writing.

“In writing” and “written” shall include printing facsimile lithography and other modes of reproducing or representing words in a visible form.

“The Office” means the registered Office for the time being of the Foundation.

“The Register” means the register of members kept pursuant to the Act.

“Secretary” shall include acting Secretary.

“The Articles” shall mean these Articles of Association.

“Gift” means a gift of cash or a gift of an asset made or transferred or given during the Donor’s lifetime.

“Value” means the value determined by the Board of Directors.

“The Seal” shall mean the Common Seal of the Foundation.

“Chancellor” means the Chancellor appointed pursuant to the *Charles Darwin University Act*.

“Deputy Chancellor” means the Deputy Chancellor appointed pursuant to the *Charles Darwin University Act*.

“Vice-Chancellor” means the Vice Chancellor appointed pursuant to the *Charles Darwin University Act*.

Words importing the singular number only shall include the plural number and vice versa.

Words importing the masculine gender only shall include the feminine gender and vice versa.

Words importing persons shall include companies corporations and public bodies.

Unless the context otherwise requires expressions defined in the Act or any modification thereof made by any law in force at the date of these presents shall have the meanings so defined.

MEMBERS

2. The number of Members with which the Foundation is proposed to be registered is One Thousand (1,000) but the Board may from time to time resolve to increase the number of Members.
3. (a) The Members of the Foundation shall consist of:
 - (i) The subscribers to the Memorandum of Association;
 - (ii) The Chancellor (not being a subscriber) upon agreeing in writing to become a member of the Foundation and to be bound by the Articles;
 - (iii) The Deputy Chancellor (not being a subscriber) upon agreeing in writing to become a member of the Foundation and to be bound by the Articles;
 - (iv) The Vice-Chancellor (not being a subscriber) upon agreeing in writing to become a member of the Foundation and to be bound by the Articles;
 - (v) Such other persons (being either Corporate Members or Individual Members) as shall be admitted to membership in accordance with the Articles;

- (b) Any person wishing to become a Member of the Foundation (other than the Chancellor the Deputy Chancellor and the Vice Chancellor) shall make application for membership in writing in such form as shall be prescribed by the Board from time to time and shall in that application specify the classification of membership sought and the way in which qualifications therefore in accordance with these Articles shall be achieved.

An application from a Corporation shall include the nomination (which may be altered from time to time by giving written notice to the Foundation) of an individual natural person to represent such applicant and that person alone shall be able to represent act on behalf of and exercise membership rights of such member.

- (c) The Board shall accept or decline to accept such application or any gift without assigning any reason therefore.
- (d) When an applicant has been accepted for membership, the Secretary shall forthwith send to the applicant written notice of acceptance whereupon the applicant shall be deemed to be admitted to membership.
- (e) Membership of the Foundation, subject to these Articles, shall be for such period or periods of time as the Board shall determine.

4. The qualifications for membership shall be as follows:

- (a) Corporations who make a Gift to the University or the Foundation to such value or amount as the Board may determine from time to time (“Corporate Members”);
- (b) Individual natural persons who make a Gift to the University or the Foundation to such value or amount as the Board may determine from time to time (“Individual member”);

provided that persons who qualify for membership prior to the Thirty-First day of December 1993 shall be classified as Founding Members.

- 5. The Board in its discretion, and with the prior written approval of the Chancellor may admit any individual natural person or Corporation to membership notwithstanding the absence of any or sufficient qualification for membership under Article 4.
- 6. In the event that any of the provisions of these Articles specifying any amount of money shall be amended the provisions as amended shall apply only to the attainment of membership qualification thereafter and shall not affect the qualification of any person who is a member of the Foundation at the time of the amendment.
- 7. Any person may make a gift or give notification of an intention to make a gift in accordance with these Articles and make application to have some other person accepted as a member in the classification of membership for which the value of the gift is a qualifying amount subject however to the provisions of Article 3(c) hereof.

CESSATION OF MEMBERSHIP

8. Any member may resign from membership of the Foundation by giving notice in writing delivered to the Office and such member shall thereupon cease to be a member upon such notice being received by the Foundation.
9. Unless the Board shall otherwise determine a member of the Foundation shall cease to be a member if a Gift (or any part thereof) referred to in the notification as described in Article 4 hereof has not been made within six (6) months of the due date.
10. All Gifts made to the University or the Foundation or other fund approved by the Board having become the property of the relevant recipient when the Gift was made shall remain the absolute property of the relevant recipient after the cessation of membership by the relevant member.

BOARD OF DIRECTORS

11. The business and affairs of the Foundation shall be managed by the Board consisting of nine (9) Directors who shall be appointed as follows:
 - (a) The Chancellor of the University or the Chancellor's nominee shall ex officio be a Director of the Foundation.

The Vice-Chancellor of the University or the Vice-Chancellor's nominee shall ex officio be a Director of the Foundation.
 - (b) The Council shall from time to time, nominate and appoint five (5) Directors. It shall not be a precondition of nomination or appointment that such Directors be members of the Council.
 - (c) Two (2) Directors shall be elected by the Individual Members as hereinafter provided.
 - (d) Two (2) Directors shall be elected by the Corporate Members as hereinafter provided.
12.
 - (a) The Directors elected pursuant to Article 11 (c) and (d) shall be elected by the Individual Members and the Corporate Members respectively at the Annual General Meeting of the Foundation and thereafter at the Annual General Meeting of the Foundation in each year and (unless such office shall be previously vacated by reason of the death of any such representative or otherwise as prescribed by these Articles) shall hold office until the next ensuing Annual General Meeting when they shall retire from office but shall be eligible for re-election;
 - (b) The election of Directors by the Individual Members and the Corporate Members to the Board shall take place in the following manner:
 - (i) Any two (2) Individual Members shall be at liberty to nominate any other Individual Member to serve as a member of the Board;

- (ii) Any two (2) Corporate Members shall be at liberty to nominate any individual natural person representing any Corporate Member (as described in Article 3(b)) to serve as a member of the Board;
 - (iii) The nominations shall be in writing and signed by the member and the member's proposer and seconder and shall be lodged with the Secretary at least twenty one (21) days before the Annual General Meeting of the Foundation at which the election is to take place;
 - (iv) A list of candidates' names in alphabetical order (showing also the proposers' and seconders' names) shall be posted in a conspicuous place at the Office at least fourteen (14) days immediately preceding the Annual General Meeting;
 - (v) If the number of candidates standing for election exceeds the number of vacancies, balloting lists shall be prepared containing the names of the candidates only in alphabetical order and the classification of membership to which they belong and each member present at the Annual General Meeting shall be entitled to vote for the number of such candidates seeking to represent his or her classification of membership. The candidate receiving the most number of votes will be deemed to be elected to fill the vacancy and in the event of two (2) or more candidates receiving an equal number of votes for one vacancy the Chairperson of the meeting shall have a casting vote;
 - (vi) In case there shall be only one or two nominations received in the respective classification then the person or persons nominated shall be deemed to be elected as a Director of the Foundation;
 - (vii) In the event that there shall be no nominations for any classification of membership then the Chairperson of the Meeting may accept nominations from members of the relevant class of membership from the floor of the Annual General Meeting.
- (c) The Council shall be entitled to appoint and remove the Directors appointed by it pursuant to Article 12(b) by written notice to the Foundation and to fill casual vacancies amongst such Directors in the same manner;
 - (d) A member of the Board who has been elected thereto may be removed by an ordinary resolution of a Meeting of the members of the classification by which he or she was elected and in such event or in the event of any such Director ceasing to be a Director for any other reason such Director's place may be filled by an ordinary resolution of a meeting of the members of such classification. Any such meeting shall be called and conducted in a similar manner to a General Meeting of the Foundation;
 - (e) The subscribers to the Memorandum of Association shall constitute the first Board. The members of the first Board shall retire at the first General Meeting of the Foundation;
 - (f) The Chairperson of the Board shall be a Director (other than the Chancellor or Vice-Chancellor of the University) nominated in writing from time to time by the Council and failing such nomination appointed by the Board;

- (g) The Council shall be entitled to terminate the appointment of any Chairperson appointed pursuant to Article 12(f) by notice in writing to the Board.

ALTERNATIVE DIRECTORS

- 12A (a) A Director may, with the approval of the other Directors, appoint a person (whether a member of the Foundation or not) to be an Alternate Director in his place during such period as he thinks fit.
- (b) An Alternate Director is entitled to notice of meetings of the Directors and, if the Appointer is not present at such meeting, is entitled to attend and vote in his stead.
- (c) An Alternate Director may exercise any powers that the Appointor may exercise and the exercise of any such power by the Alternate Director shall be deemed to be the exercise of the power by the Appointor.
- (d) The appointment of an Alternate Director may be terminated at any time by the Appointor notwithstanding that the period of the appointment of the Alternate Director has not expired, and terminates in any event if the Appointor vacates office as a Director.
- (e) An appointment, or the termination of an appointment of an Alternate Director shall be effected by a notice in writing signed by the Director who makes or made the appointment and served on the Foundation.

DISQUALIFICATION OF MEMBERS OF THE BOARD

- 13. A member of the Board shall cease to be a member thereof.
 - (a) If the member shall become bankrupt or insolvent or make any general assignment of all his or her property for the benefit of or general composition with the member's creditors or shall execute a composition or scheme of arrangement or deed of assignment or a deed of arrangement under the *Bankruptcy Act* or being engaged in any profession shall on account of misconduct be prohibited by the governing body from continuing to practice under their regulations; or
 - (b) If the member shall become insane, of unsound mind or shall die; or
 - (c) If the member be found guilty of any crime upon indictment or other offence involving fraud; or
 - (d) If the member absents himself from the meetings of the Board for a continuous period of three months without special leave of absence from the Board and the Board resolves that his office be vacated; or
 - (e) If by notice in writing to the Foundation the member resigns his or her office; or
 - (f) If the member ceases to be a Director by virtue of, or becomes prohibited by law from being a Director of the Foundation by reason of any of the provisions of the Act; or
 - (g) If the member holds any office of profit under the Foundation.

POWERS OF DIRECTORS

14. The management of the affairs of the Foundation is vested in the Directors and they may exercise all such powers and do all such acts and things as the Foundation is by its Memorandum or otherwise authorised to exercise and do and are not by these Articles or by statute directed or required to be exercised or done by the Foundation in General Meeting but subject nevertheless to the provisions of the Act and of these Articles and to any regulations not being inconsistent with these Articles made by the Foundation in General Meeting but a regulation made by the Foundation in General Meeting may not invalidate a prior act of the Directors.

MEETINGS OF THE BOARD

15. (a) The Board shall meet at least once in every six (6) months for the transaction of its business. Minutes of all resolutions or proceedings of the Board shall be entered in a book provided for the purpose. The Chairperson may at any time and the Secretary shall upon the request in writing of two Directors convene a Meeting of the Board;
- (b) The Chairperson if present shall be entitled to preside at all meetings of the Board. In his or her absence the meeting shall elect another Director to be Chairperson of the meeting, the Secretary taking the chair for the purpose only of the election but without the right to vote. Any person except the Secretary acting as Chairperson of a Meeting of the Board shall have the same voting powers as are provided in Article 15(d) of these Articles;
- (c) Five (5) Directors shall constitute a quorum. If a quorum be not present within fifteen (15) minutes of the time fixed for the meeting, it shall stand adjourned to the same day in the next week at the same time and place and if at the adjourned meeting a quorum is not present within fifteen (15) minutes from the time appointed for the meeting, the Directors present shall be a quorum;
- (d) Questions arising at any meeting of the Board shall be decided by a majority of votes and in case of an equality of votes the Chairperson shall have a second or casting vote;
- (e) The Directors may meet by telephone or other instantaneous audio or audio and visual means of communication provided that all persons participating are able to hear each other;
- (f) Subject to Article 15(j), a director may vote in respect of a contract in which he or she has directly or indirectly a personal material interest;
- (g) Subject to Article 15(j), an interested Director may attest the affixing of the common seal, duplicate common seal or official seal of the Foundation to a contract or any other document;
- (h) A contract entered into by or on behalf of the Foundation is not void or voidable by reason only that a Director is in any way directly or indirectly interested therein;
- (i) In this Article, where the context admits, "contract" includes an arrangement and a proposed contract or arrangement;

- (j) A Director shall comply with Divisions 1 & 2 of Part 2D.1 of the Act and the Secretary shall record in the minutes of Board meetings any declarations made and notices given by a Director;
- (k) Subject to the Act, a resolution in writing signed either by all the Directors of the Company or by all the Directors who are for the time being in Australia and in either case not being less than the quorum prescribed for meetings of the Directors is as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted and may consist of several documents in like form each signed by one or more of the Directors. Such a resolution is passed when the last director signs and may be circulated to Directors by such means (including but not limited to personal delivery, post, facsimile or email) as the Directors from time to time determine.

COMMITTEES

- 15A (1) The Board may:
- (a) establish one or more committees (by whatever name or description the Board may determine) to assist and advise it in relation to the affairs of the Foundation;
 - (b) appoint members (who may or may not be Members or Directors of the Foundation) to and remove members from those committees;
 - (c) determine the functions of the committees and establish the rules for the conduct of their affairs including, but not limited to the appointment of a Chairman and the conduct of their meetings; and
 - (d) if it so determines, delegate such of its powers and functions as it thinks fit to the members constituting a committee.
- (2) subject to article 15A(3), meetings of the committees shall be held at such times as may be determined by the committee;
- (3) the chairman, or any 2 members of a committee, may summon a meeting of the committee at any time there is committee business to transact.
- (4) A decision of a committee, other than a decision in relation to a matter delegated by the Board to the committee, shall have no effect until approved by the Board.

GENERAL MEETINGS

16. (a) The first General Meeting shall be held at such time not being less than one week nor more than eighteen months after the incorporation of the Foundation and at such place as the Board may determine.
- (b) The Annual General Meeting of the Foundation shall be held if practicable in the month of April in each year at such time and place as may be prescribed by the Foundation in General Meeting or in default at such time and place as may be determined by the Board provided always that an Annual General Meeting shall be held at least once in every calendar year.

17. The abovementioned Annual General Meeting shall be called the Annual General Meeting. All other General Meetings shall be called Extraordinary General Meetings.
18. An Extraordinary General Meeting may be called on any date by the Chairperson or the Board and shall be called by the Secretary upon receipt by the Chairperson of a requisition which need not be in one document signed by not less than thirty (30) members stating the business to be considered. The date of such Meeting shall be within forty (40) days of receipt of such requisition. Provided that if such meeting is not called within fourteen (14) days of receipt of the requisition, the requisitionists or a majority of them may themselves call the meeting and for that purpose shall have access to the Register and any other records necessary for the purpose of calling any such Meeting of Members.

NOTICE OF GENERAL MEETINGS

19. (a) Every notice convening a General Meeting shall specify the place and the day and the hour of the meeting and such information concerning the business proposed to be transacted as is required to be given by these Articles or the Act;
- (b) Every notice convening a General Meeting shall be given in the manner prescribed by Article 36 to those members who are entitled to attend and vote at General Meetings under the provisions of Article 29 of these Articles;
- (c) The period of notice with respect to General Meetings shall be as follows:
 - (i) Fourteen (14) days in respect of Annual General Meetings and Extraordinary General Meetings as are convened for purposes other than those requiring the passage of a Special Resolution;
 - (ii) Twenty-one (21) clear days in respect of Annual General Meetings of Extraordinary General Meetings convened for the purpose of passing a Special Resolution;
- (d) Neither the accidental omission to give notice of a member to nor the non-receipt of a notice of a meeting by any Member shall invalidate the proceedings at any meeting.

QUORUM FOR GENERAL MEETINGS

20. At any Annual General Meeting or Extraordinary General Meeting called by the Chairperson or the Board fifteen (15) members entitled to vote under Article 29 and present in person or by proxy shall be a quorum and at any Extraordinary General Meeting called on or by the requisition of members, thirty-five (35) members entitled to vote under Article 29 and present in person or by proxy shall constitute a quorum. If a quorum be not present within fifteen minutes of the time fixed for an Annual or Extraordinary General Meeting the meeting if convened on or by the requisition of Members shall be dissolved. If convened by the Chairperson or by the authority of the Board it shall be adjourned to the same day in the next week at the same time and place and if at the adjourned Meeting a quorum is not present within fifteen minutes from the time appointed for the Meeting the Members present shall be a quorum.

PROCEEDINGS AT GENERAL MEETINGS

21. The business of an Annual General Meeting shall be to receive and consider:-

- (a) The Report of the Board;
- (b) The Income and Expenditure Account, the Balance Sheet and the Report of the Auditors;
- (c) To elect Directors and an Auditor or Auditors and to fix the remuneration payable to such Auditor or Auditors;
- (d) To transact any other business which, under these Articles, is to be transacted at an Annual General Meeting.

All other business transacted at the Annual General Meeting and all business transacted at an Extraordinary General Meeting shall be deemed special.

- 22. The Chairperson shall if present be entitled to preside at all General Meetings of the Foundation. In his or her absence the meeting shall elect another member or representative of a member (and as described in Article 3(b)) to be the Chairperson of the meeting, the Secretary taking the Chair for the purpose only of the election but without the right to vote.
- 23. Every question submitted to a General Meeting of the Foundation shall be decided in the first instance by a show of hands and in the case of equality of votes, the Chairperson shall, both on a show of hands and on a poll, have a casting vote in addition to the vote to which he is entitled as a Member.
- 24. At any General Meeting unless a poll is demanded by the Chairperson or by at least five members present and entitled to a vote at the meeting, a declaration by the Chairperson that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the book of proceedings of the Foundation shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 25. If a poll is demanded as aforesaid, it shall be taken in such manner and at such time and place as the Chairperson of the meeting directs and either at once or after an interval or adjournment or otherwise and the result of the poll shall be deemed to be the resolution of the Meeting at which the poll was demanded. The demand of a poll may be withdrawn. In case of any dispute as to the admission or rejection of a vote, the Chairperson shall determine the same and such determination made in good faith shall be final and conclusive.
- 26. The Chairperson of a General Meeting may, with the consent of the meeting adjourn the same 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.
- 27. The demand of a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded. No poll shall be demanded for the election of a Chairperson of a meeting and a poll demanded on a question of adjournment shall be taken at the Meeting without adjournment.
- 28. Any General Meeting at which a quorum is present may be adjourned by resolution as the Meeting may determine and no notice of such adjournment need be given.

VOTES OF MEMBERS

- 29. Every Member shall vote either in person or by proxy and on a show of hands, every person present who is a Member or proxy of a Member shall have one vote and in a secret ballot, every Member present in person or by proxy shall have one vote.
- 30. No Member shall be entitled to be present or vote at any Meeting of the Foundation or to be elected to any office unless he or she shall have been admitted in membership of the Foundation in accordance with these Articles at the time of such Meeting.
- 31. (a) Votes may be given by proxy provided that each proxy holder (including the Chairperson) shall hold no more than six (6) proxies;
- (b) The instrument appointing a proxy shall be in writing and in the common or usual form:
 - (i) If the Appointor is an Individual Member under the hand of the Appointor or of his or her attorney duly authorised in writing;
 - (ii) If the Appointor is a Corporate Member, either under seal, or under the hand of an Officer or Attorney duly authorised;
- (c) A proxy must be a Member of the Foundation or a nominated representative as referred to in Article 3(b);
- (d) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a secret ballot;
- (e) The proxy shall be in the following form or as near thereto as circumstances permit:

CHARLES DARWIN UNIVERSITY FOUNDATION

I, _____ of _____ being a Member of the abovenamed Foundation HEREBY APPOINT _____ of _____

or failing him/her _____ of _____ as my proxy to vote for me on my behalf at the Annual/Extraordinary General Meeting of the Foundation to be held on the _____ day of _____

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and at any adjournment thereof.

SIGNED this _____ day of _____ 20

(Signature of Member)

This Form is to be used *in favour of/* against the resolution (Delete which one does not apply).

MINUTES

32. The Board shall cause Minutes to be kept by the Secretary and to be duly entered in books provided for the purpose:-
- (a) Of all appointments of Officers made by the Foundation in General Meeting or by the Board;
 - (b) Of the names of the Directors present and voting at each Meeting of the Board;
 - (c) Of the names of the Members present at each Meeting of any Sub-Committee;
 - (d) Of all orders made by the Board and any Sub-Committee;
 - (e) Of the number of Members present and voting at General Meetings of the Foundation;
 - (f) Of all resolutions and proceedings of all Meetings either of the Foundation or of the Board.

And any such Minutes of any Meetings of the Board or of any Sub-Committee or of the Foundation shall be signed by the Chairperson of such Meeting or by the Chairperson of such Meeting or by the Chairperson of the next succeeding Meeting and if purporting to be so signed shall be receivable as prima facie evidence of the matters stated in such Minutes.

FINANCIAL YEAR

33. The financial year of the Foundation shall commence on the First day of January and end on the Thirty first day of December in each year.

ACCOUNTS AND AUDIT

34. The Board shall ensure that the Foundation observes the requirements of the Act as to accounts and audit.

THE SEAL

35. The Directors shall provide for the safe custody of the Seal and the Seal shall never be used except by the authority of the Board previously given and in the presence of two Directors at the least who shall sign every instrument to which such seal is affixed and every such instrument to which the Seal is affixed shall be countersigned by the Secretary or some other person appointed by the Board.

NOTICES

36. In every or any case in which a notice is by these Articles directed or authorised to be given the same may be served by the Foundation upon any member either:
- (a) personally;

- (b) by sending it through the post in a prepaid envelope or wrapper addressed to such member at his registered place of address;
 - (c) by sending it to the fax number or electronic address (if any) nominated by the member;
 - (d) by notifying the member in accordance with sub-section 249J(3A) of the Act. .
37. A Notice to the Foundation shall be deemed duly served if duly posted to and received by the Secretary or delivered to the Secretary.
38. Each registered Member shall notify to the Foundation in writing an address in the Commonwealth of Australia which shall unless and until a fresh notification is given be deemed the member's registered place of address within the meaning of Article 36. If a fresh address is notified that shall be the registered address.
39. Any notice sent by post shall be deemed to have been served on the day following that on which the letter envelope or wrapper containing same is posted and in proving such service it shall be sufficient to prove that the letter envelope or wrapper containing the notice was properly addressed and put into the post office. A certificate in writing signed by the secretary or other officer of the Foundation that the letter envelope or wrapper containing the notice was so addressed and posted shall be prima facie evidence thereof.
- 39A. A notice of meeting:
- (a) sent to a member by fax or electronic means is taken to be given on the business day after it is sent;
 - (b) given to a member under Article 36(d) is taken to have been given on the business day after the day on which the member is notified that the notice of meeting is available.
40. Any notice or document sent by post to or left at the registered address of any member in pursuance of these presents shall notwithstanding such member be then deceased and whether or not the Foundation has notice of his or her decease be deemed to have been duly served and such service shall for all purposes of these presents be deemed a sufficient service of such notice or document on such member's executors or administrators.
41. The signature to any notice to be given by the Foundation may be written typewritten or printed.
42. Where a given number of days notice or notice extending over any period is required to be given the day of service shall not be counted in such number of days or other period unless it is otherwise provided by these presents or by statute.

RESERVE FUND

43. The Board may set aside out of the profits of the Foundation such sums as it thinks proper as a Reserve Fund to meet contingencies or for repairing improving or maintaining any of the property of the Foundation or for such other purposes as the Board shall in its absolute discretion think conducive to the interests of the Foundation and may invest the several sums so set aside upon such investments as it may think fit and from time to time deal with and vary such investments and dispose of all or any part thereof for the benefit of the

foundation and may divide the Reserve Fund into special funds as it thinks fit and employ the Reserve Fund or any part thereof in the business of the foundation and that without being bound to keep the same separate from the other assets.

BY-LAWS

44. Without in any way limiting the generality of Article 14 the Board shall have power from time to time to make alter and repeal all such By-Laws as it may deem necessary or expedient or convenient for the proper conduct of the management of the Foundation.
45. The Board shall adopt such means as it deems sufficient to bring to the notice of Members of the Foundation all such By-Laws amendments and repeals and all such By-Laws so long as they shall be in force shall be binding upon all Members of the Foundation PROVIDED NEVERTHELESS that no By-Laws shall be inconsistent with or shall affect or repeal anything contained in the Memorandum or Articles of Association of the Foundation AND THAT any By-Law may be set aside by a Special Resolution of a General Meeting of the Foundation.

AUTHENTICATION OF DEEDS AND DOCUMENTS

46. The following provisions shall have effect subject to the Act:-
 - (i) All deeds executed on behalf of the Foundation may so far as the same are within the powers and authorities of the Board be in such form and contain such powers provisos conditions covenants clauses and agreements as the Board shall think fit;
 - (ii) All bills of exchange promissory notes or other negotiable instruments shall be accepted made drawn or endorsed for and on behalf of the Foundation and all cheques or orders for payment shall be signed on behalf of the Foundation in such manner and by such person or persons as the Board may from time to time determine;
 - (iii) Cheques or other negotiable instruments paid to the Foundation's Bankers for collection and requiring the endorsement of the Foundation may be endorsed on its behalf in such manner and by such person or persons as the Board may from time to time direct. All moneys belonging to the Foundation shall be paid to such bankers or others as the Board shall from time to time in writing or by Resolution of the Board appoint and all receipts for money paid to the Board may appoint for that purpose and any such receipt shall be an effectual discharge for the money therein stated to be received.
47. Any instrument bearing the Common Seal of the Foundation and issued for valuable consideration shall be binding on the Foundation notwithstanding any irregularity touching the authority of the Foundation to issue the same.

INDEMNITY

48. Every Member of the Board and of any Sub-Committee, the Secretary or other Officer of the Foundation or any person (whether an Officer of the Foundation or not) employed by the Foundation as Auditor shall be indemnified out of the funds of the Foundation against all liability incurred by him or her as such member of the Board Secretary Office or Auditor in defending any proceedings whether civil or criminal in which judgment is given in his

or her favour or in which he or she is acquitted or in connection with any application under The Act in which relief is granted to him or her by the Court.

49. No Member of the Board, Member of a Sub-Committee, the Secretary or other Officer of the Foundation shall be liable for the acts receipts neglects or defaults of any other member of the Board, Member of a Sub-Committee, the Secretary or other Officer or for joining in any receipt or other act for conformity or for any loss or expense happening to the Foundation through the insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the Foundation shall be invested or for any loss or damage arising from the bankruptcy insolvency or tortious act of any person with whom any moneys securities or effects shall be deposited or for any other loss damage or misfortune whatsoever which shall happen in the execution of the duties of his or her own negligence default breach of duty or breach of trust.

SECRETARY

50. The Secretary or Secretaries shall in accordance with the Act be appointed by the Board of Directors for such term at such remuneration and upon such conditions as they may think fit and any Secretary or Secretaries so appointed may be removed by the Board.

ALTERATION

51. In addition to the requirements stipulated from time to time in the Act no addition, alteration or amendment shall be made to or in these Articles for the time being in force, unless the same shall have been previously submitted to and approved by the Council and should a licence be granted in accordance with section 151 of the *Corporations Act* with such notification, consent or approval as may be required from time to time under the Act.

WINDING UP

52. If upon winding up or dissolution of the Foundation there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the Members of the Foundation but shall be given or transferred to the University or some other institution or institutions having objects similar to those of the Foundation and which shall prohibit the distribution of its or their income and property amongst its or their Members to an extent at least as great as is imposed on the Foundation under or by virtue of Clause 3 of the Memorandum of Association such institution or institutions to be determined by the Members at or before the time of the dissolution or in default thereof by the Chief Justice of the Supreme Court of the Northern Territory or such other Judge of that Court and if and so far as effect cannot be given to the aforesaid provision then to some charitable object, within the requirements of Section 78(1)(a) of the *Income Tax Assessment Act*.

MISCELLANEOUS

53. Any heading attached to any of these Articles shall not affect the construction.

CHARLES DARWIN UNIVERSITY FOUNDATION

Memorandum and Articles of Association

COMPANY LIMITED BY GUARANTEE AND NOT HAVING A
SHARE CAPITAL

MEMORANDUM OF ASSOCIATION
OF
CHARLES DARWIN UNIVERSITY FOUNDATION

NAME

1. The name of the company is the "CHARLES DARWIN UNIVERSITY FOUNDATION " (hereinafter referred to as "the Foundation").

OBJECTS

2. The objects for which the Foundation is established are:-
 - (a) To act as Trustee of a trust to be established for the purposes set out in clause 2(b) hereof and such other trusts and funds which may be established for the benefit of the University;
 - (b) To support and assist the University and the Council of the University to encourage and foster the interest and financial support of those persons and organisations interested in assisting and promoting the University and in particular and without limiting the generality of the foregoing:
 - (i) To extend invitations to those persons and organisations interested in assisting and promoting the Charles Darwin University to become Members of the Foundation and through such Membership to participate and enjoy more actively and effectively in supporting and assisting the Council to promote and carry out the activities of the University;
 - (ii) To encourage the makings of gifts and testamentary dispositions to the Foundation or generally for the benefit of the University or any of its funds or accounts or any trusts or funds established to benefit the University;
 - (iii) To enlist the support including the financial support of those persons and organisations interested in assisting and promoting the University to improve the education provided by the University including the employment of teaching staff with special skills, carrying out of research, the provisions of funds for scholarships, bursaries and educational allowances, visits from distinguished scholars and others with qualifications which enable them to contribute to the education of the students and teaching staff of the University, the acquisition of books, works of art, plant and equipment, land and buildings and the construction and maintenance of buildings and facilities;
 - (iv) To raise money for the purposes aforesaid by any method that's seems desirable.

POWERS

3. The Foundation has, both within and outside the Northern Territory of Australia, the legacy capacity of a natural person with the exception of those powers referred to in S124(1)(a),(c), (d) and (e) of the Corporations Act.

INCOME AND PROPERTY

4. The Foundation shall not be carried on for the purposes of profitable gain to its individual members and the whole of the income and property of the Foundation whencesoever derived shall be applied solely towards the promotion of the object of the Foundation as set forth in this Memorandum of

Association, and no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the members of the Foundation, provided that nothing herein shall prevent the payment in good faith of reasonably and proper remuneration to any officer or servant of the Foundation or to any Member of the Foundation in return for any services actually rendered to the Foundation nor prevent the payment of interest at a rate not exceeding interest at the rate for the time being charged by Bankers in Darwin for overdrawn Accounts on money lent, or reasonable and proper rent for premises demised or let by any Member of the Foundation but so that no Member of the Management Committee or governing body of the Foundation shall be appointed to any salaried Office of the Foundation or any Office of the Foundation paid by fees and that no remuneration or other benefit in money or money's worth shall be given by the Foundation to any Member of such Management Committee or governing body except repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Foundation.

ALTERATION

5. In addition to the requirements stipulated from time to time in the Corporations Act no addition, alteration or amendment shall be made to or in the Memorandum of Association for the time being in force, unless the same shall have been previously submitted to and approved by the Council and should a licence be granted in accordance with section 151 of the Corporations Act with such notification, consent or approval as may be required from time to time under the *Corporations Act*..

LIABILITY

6. The liability of the Members is limited.

CONTRIBUTION

7. Every Member of the Foundation undertakes to contribute to the assets of the Foundation in the event of the same being wound up while he is a Member, or within one(1) year after he ceases to be a Member, for payment of the debts and liabilities of the Foundation contracted before he ceased to be a Member, and of the costs, charges and expenses of winding-up and for the adjustment of the rights of contributories among themselves, such amount as may be required, not exceeding twenty dollars (\$20.00).

WINDING UP

8. If upon the winding-up or dissolution of the Foundation there remains, after satisfaction of all its debts and liabilities any money or property whatsoever, the same shall not be paid to or distributed among the Members of the Foundation, but shall be given or transferred to the University or to some other organisation or institution having objects similar to the objects of the Foundation and which 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 Foundation under or by virtue of Clause 4 hereof, such institution or institutions to be determined by the Members of the Foundation at or before the time or before ore the time of dissolution, and in default thereof by the Chief Justice of the Supreme Court of the Northern Territory or such other Judge of this Court, and if and so far as effect cannot be given to the aforesaid provision, then to some charitable object.

ACCOUNT

9. True Accounts shall be kept of the sums of money received and expended by the Foundation and the manner in respect of which the receipt and expenditure of such sums of money takes place, and of the property, credits and liabilities of the Foundation, and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the

Articles of the Foundation for the time being in force, shall be open to the inspecting of the Members. Once, at least in every year, the Accounts of the Foundation shall be examined and the correctness thereof ascertained by one or more properly qualified Auditor or Auditors in accordance with the auditing standards as accepted by the Institute of Chartered Accountants.

10. The word "University" when used in this Memorandum means the Charles Darwin University established under and pursuant to the Charles Darwin University Act (and any successor to that University) and the word "Council" when used in this Memorandum means the Council of the Charles Darwin University as referred to in the Charles Darwin University Act.
11. We, the several persons whose names and address are subscribed are desirous of being formed into a Foundation in pursuance of this Memorandum of Association.