

# CURTIN UNIVERSITY OF TECHNOLOGY

## STATUTE NO. 14 – CURTIN UNIVERSITY OF TECHNOLOGY FOUNDATION

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# CURTIN UNIVERSITY OF TECHNOLOGY

## STATUTE NO. 14 – CURTIN UNIVERSITY OF TECHNOLOGY FOUNDATION

This Statute is made by the Council of the University under the powers conferred on it by section 34 of the *Curtin University of Technology Act 1966*.

### PART 1 - INTRODUCTORY MATTERS

#### 1.1 Citation

This Statute may be cited as *Statute No. 14 – Curtin University of Technology Foundation*.

#### 1.2 Commencement

This Statute takes effect from the date that it is published in the Government Gazette.

#### 1.3 Purposes

The main purposes of this Statute are:

- (a) to establish the Foundation and provide for its effective and efficient management;
- (b) to consolidate existing University foundations under the Foundation;
- (c) to ensure that the Foundation is managed in accordance with:
  - (i) the highest standards of transparency, accountability and professionalism;
  - (ii) the wishes of the donors and the Objects and Purposes; and
  - (iii) the Relevant Laws and Policies; and
- (d) to promote public confidence in the administration of the Foundation and to encourage continuing Donations to the Foundation.

#### 1.4 Interpretation

In this Statute, unless the contrary intention appears:

‘**Account**’ means an account, other than a Former Account, that is:

- (a) operated and managed, from time to time, by the Foundation; and
- (b) a 'gift fund' for the purposes of section 30–130 of the *Income Tax Assessment Act 1997 (C'th)*.

**'Board'** means the Board of the Foundation established under section 2.1.

**'Business and Administration Foundation Account'** means the account comprising the balance of the Business and Administration Foundation funds immediately before the Commencement Date.

**'Commencement Date'** means the date that this Statute takes effect under section 1.2.

**'Continued Objects and Purposes'** means:

- (a) the Objects and Purposes of the Business and Administration Foundation;
- (b) the Objects and Purposes of the Health Sciences Foundation;
- (c) the Objects and Purposes of the Muresk Foundation;
- (d) the Objects and Purposes of the WASM Education Fund; and
- (e) the Objects and Purposes of the Wescone Research Foundation.

**'Donation'** means:

- (a) any gift of money or property to the University;
- (b) any money received by the University because of a gift under paragraph (a), such as interest payments or bonus shares; and
- (c) the amounts comprising a portion of any surplus derived from the income earning activities of the Curtin Business School, as determined by the Divisional Resources Board from time to time before the Commencement Date.

**'Former Account'** means each of:

- (a) the Business and Administration Foundation Account;
- (b) the Health Sciences Foundation Account;
- (c) the Muresk Foundation Account; and
- (d) the WASM Education Fund Account.

**'Former Foundation'** means a foundation or fund described in Division 1 of the Schedule.

**‘Former Statute’** means each of:

- (a) *Statute No.14 – WASM Education Fund;*
- (b) *Statute No.15 – Health Sciences Foundation;*
- (c) *Statute No.17 – Muresk Foundation;*
- (d) *Statute No.19 –Business and Administration Foundation;* and
- (e) *Statute No.20 – The Wescone Research Foundation.*

**‘Foundation’** means the Curtin University of Technology Foundation established under section 2.1.

**‘funds’** means money and any other form of property capable of being given by way of a gift.

**‘Grant Condition’** means, in relation to a Donation, a written condition subject to which the Donation was given by the donor and accepted by the University.

**‘Health Sciences Foundation Account’** means the account comprising the balance of the Health Sciences Foundation funds immediately before the Commencement Date.

**‘Muresk Foundation Account’** means the account, that formed part of the Foundation comprising the balance of the Muresk Foundation funds immediately before the Commencement Date.

**‘Objects and Purposes’** means the objects and purposes described in section 2.3.

**‘Objects and Purposes of the Business and Administration Foundation’** means the objects and purposes of the Business and Administration Foundation set out in Division 2 of the Schedule.

**‘Objects and Purposes of the Health Sciences Foundation’** means the objects and purposes of the Health Sciences Foundation set out in Division 2 of the Schedule.

**‘Objects and Purposes of the Muresk Foundation’** means the objects and purposes of the Muresk Foundation set out in Division 2 of the Schedule.

**‘Objects and Purposes of the WASM Education Fund’** means the objects and purposes of the WASM Education Fund set out in Division 2 of the Schedule.

**‘Objects and Purposes of the Wescone Research Foundation’** means the objects and purposes of the Wescone Research Foundation set out in Division 2 of the Schedule.

**‘Relevant Laws and Policies’** means:

- (a) the Written Laws and other requirements of the Commonwealth and the State necessary to maintain, for taxation purposes, the status of the University and the Foundation as deductible gift recipients and to enable donors to make tax deductible Donations to the University or the Foundation; and
- (b) other Written Laws and University policies applying to, or in respect of, the Foundation or its operation.

**‘WASM Education Fund Account’** means the account comprising the balance of the WASM Education Fund funds immediately before the Commencement Date.

**Written Laws** mean all Acts for the time being in force, and all subsidiary legislation for the time being in force, of the State Parliament and the Commonwealth Parliament.

[**Note: ‘subsidiary legislation’ is defined in section 5 of the *Interpretation Act 1984*.**]

## **PART 2 - THE FOUNDATION**

### **2.1 Establishment**

The Foundation, to be known as the ‘Curtin University of Technology Foundation’, is established.

### **2.2 Donations**

- (1) The Vice-Chancellor is to ensure that:
  - (a) as soon as practicable after the Commencement Date, Donations to the University before the Commencement Date are in, or are transferred to, an Account; and
  - (b) a Donation to the University after the Commencement Date is made to an Account.
- (2) The Foundation comprises the funds in each Account and each Former Account.
- (3) Donations are owned by the University and are held by the University on trust to be maintained and applied by the Board, under and in accordance with this Statute.
- (4) Subject to a direction from the Council, any funds in an Account or a Former Account that are not, for the time being, required by the Board for any other purpose, may be invested by the Board in accordance with the Relevant Laws and Policies, including the University’s investment policies.

### **2.3 Objects and Purposes**

The objects and purposes for which Donations may be applied, subject to section 2.4, are:

- (a) the Continued Objects and Purposes; and
- (b) any object or purpose that is consistent with the teaching, research or other function of the University.

### **2.4 Application of funds**

- (1) The Board must apply the Funds in a Former Account consistently with:
  - (a) any relevant Grant Condition;
  - (b) the relevant Objects and Purposes relating to that Former Account;
  - (c) the Relevant Laws and Policies; and
  - (d) any direction by the Board under this section.
- (2) The Board must apply the Funds in an Account consistently with:
  - (a) any relevant Grant Condition;
  - (b) the relevant Objects and Purposes relating to that Account;
  - (c) the Relevant Laws and Policies; and
  - (d) any direction by the Board under this section.
- (3) The Council may give a direction to the Board about the application of the Funds in a Former Account or in an Account.
- (4) A direction by the Council may be in general terms or may relate specifically to the application of all or part of a particular Donation.

## **PART 3 - THE BOARD**

### **3.1 Establishment**

There is to be a Board of the Foundation.

### **3.2 Functions**

Subject to any direction from the Council, the functions of the Board are, on behalf of the University:

- (a) to manage and apply the Foundation;

- (b) to ensure that the purposes of this Statute (set out in section 1.3) are achieved;
- (c) to ensure that other provisions of this Statute are complied with; and
- (d) to exercise any other function that may be delegated to it by the Council.

### **3.3 Membership**

- (1) The Board is to consist of 7 members, appointed by the Council, who are:
  - (a) the Chancellor, who is to be the Chair;
  - (b) the Vice-Chancellor;
  - (c) 2 members of the Council who are not members of the staff or students of the University; and
  - (d) 3 other persons, no more than one of whom is a member of the staff or a student of the University.
- (2) One of the members of the Board must have financial expertise (as demonstrated by relevant qualifications and by experience in financial management at a senior level in the public or private sector).

### **3.4 Deputies**

- (1) The Council may appoint a deputy for any member appointed under section 3.3.
- (2) A person is not eligible to be appointed as a deputy for a member unless that person is eligible to be appointed to the office of that member.
- (3) The deputy for a member is:
  - (a) in the absence of the member from a meeting of the Board, entitled to attend the meeting in the place of the member;
  - (b) where the member disqualifies himself or herself from acting as a member on a matter arising at a meeting of the Board, entitled to act in the place of the member; and
  - (c) if the member vacates office before the term of office expires, entitled to attend meetings and otherwise act in place of the member,

and a deputy attending the meeting or acting in place of the member under this subsection has all the functions and protections of a member.

### **3.5 Term of office**

- (1) The term of office of a member is the period specified in the instrument of appointment and, except in the case of an ex-officio member, is not to exceed 3 years.
- (2) Except in the case of an ex-officio member, a person cannot hold office as a member for more than 2 consecutive terms. .

### **3.6 Vacation of office**

- (1) The office of a member becomes vacant if the term for which the member is appointed expires or the member:
  - (a) dies;
  - (b) by notice in writing to the Council, resigns; or
  - (c) is removed from office under subsection (2).
- (2) The Council may remove a person from office as a member on the grounds of:
  - (a) incapacity to carry out satisfactorily the duties of the office;
  - (b) neglect of duty;
  - (c) misconduct; or
  - (d) any other cause for which it appears to the Council that the person should be removed from office.

### **3.7 Meetings**

- (1) The Chair is to preside at all meetings of the Board at which he or she is present.
- (2) If the Chair is not present at a meeting, the members who are present are to elect one of their number to preside.
- (3) The quorum at a meeting is 4.
- (4) Subject to subsection (6), each member present at a meeting of the Board is entitled to one vote.
- (5) Unless a question arising at a meeting is one that is required to be decided by an absolute majority, the question is to be decided by a majority of the votes of the members present and voting.
- (6) Subject to any determination under subsection (7), a member is disqualified from voting on a matter, or from participating in or being present at the deliberations on any matter, in which he or she has a material personal interest.



- (7) The Council may determine that subclause (6) does not apply to a matter or class of matters specified in the determination, and that determination has effect according to its terms.
- (8) A determination cannot be made under subsection (7) unless the Council considers the determination to be necessary to enable the Board to perform its functions properly.
- (9) The *Council Standing Orders 2007* apply to a meeting of the Board except that, if there is any inconsistency between a provision of this Statute and a provision of the *Council Standing Orders 2007*, this Statute prevails.

## **PART 4 - OTHER MATTERS**

### **4.1 Advisory committees**

The Board may establish one or more advisory committees to assist it in carrying out any of its functions under this Statute.

### **4.2 Annual audit**

The Chair is to ensure that:

- (a) there is an annual audit of the Foundation's financial statements;
- (b) the annual audit is conducted by a suitably qualified independent auditor; and
- (c) the report of the annual audit is to be completed in time to be considered by the Board and given to the Council in accordance with section 4.3(a).

### **4.3 Reporting**

The Board is to give the Council:

- (a) within 3 months of the end of each of the University's financial years – an annual report of its activities for the preceding financial year.
- (b) as, when, and in the form, required by the Council – any other report.

### **4.4 Transfer of assets**

At the first occurrence of either:

- (a) the winding up of the Foundation; or
- (b) the revocation of the University's endorsement under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth),

the Vice-Chancellor must transfer to a fund, authority or institution Donations to which can be deducted under Division 30 of the *Income Tax Assessment Act 1997* (Cth) any surplus assets of each Account and each Former Account.

#### **4.5 Rules**

The Council may make rules, not inconsistent with the Act or any Statute:

- (a) to regulate, or provide for the regulation of, the management and application of Donations including the Foundation; and
- (b) to carry out or give effect to this Statute.

#### **4.6 Revocation**

Each Former Statute is revoked.

#### **REVISION HISTORY**

<b>Revision Ref. No.</b>	<b>Approved/ Rescinded</b>	<b>Date</b>	<b>Committee/ Board</b>	<b>Resolution Number</b>	<b>Document Reference</b>
NEW	Approved	18/03/2009	Council	C 40/09	Attachment A to Document No 00254/09

**SCHEDULE**  
**FORMER FOUNDATIONS**

*Division 1 – Description*

**1. Business and Administration Foundation**

The Business and Administration Foundation was established under *Statute No. 19 – Business and Administration Foundation*.

**2. Health Sciences Foundation**

The Curtin University Foundation was established under *Statute No. 15 – Health Sciences Foundation*.

**3. Muresk Foundation**

The Muresk Foundation was established under *Statute No. 17 – Muresk Foundation*.

**4. WASM Education Fund**

The WASM Education Fund was established under *Statute No. 14 – WASM Education Fund*.

**5. Wescone Research Foundation**

Wescone Research Foundation was established under *Statute No. 20 – the Wescone Research Foundation*.

*Division 2 – Objects and Purposes*

**6. Objects and Purposes of the Business and Administration Foundation**

6.1 The objects of the Business and Administration Foundation are to –

- (a) provide supplementary funds for the Curtin Business School with the aim of furthering and enhancing the activities of the Curtin Business School as a centre of excellence in business education;
- (b) preserve, improve and develop the Curtin Business School's standards, services, staffing property and facilities;
- (c) provide a link between the Curtin Business School, the community, commerce and industry;
- (d) support the advancement of knowledge in business and administration.

- 6.2 For the purpose of carrying out the objects of the Business and Administration Foundation, the Board of Management may from time to time authorise grants or the expenditure of monies being part of the Business and Administration Foundation for –
- (a) the acquisition by construction, purchase or lease of suitable premises for the Curtin Business School’s activities, and the improvement of existing facilities and premises;
  - (b) the improvement of staffing levels in the Curtin Business School including visiting staff;
  - (c) the provision of consultancy, research and extension activities in connection with the activities of the School;
  - (d) the acquisition and enhancement of specialised equipment for use in the activities of the Curtin Business School;
  - (e) any other purpose which is consistent with the object of furthering and enhancing the Curtin Business School as a centre of excellence in business education.

## **7. Objects and Purposes of the Health Sciences Foundation**

- 7.1 The objects of the Health Sciences Foundation are to provide funds to support the advancement of knowledge in the health sciences through research, demonstration and evaluation.
- 7.2 The Board of Management of the Health Sciences Foundation may apply the Health Sciences Foundation funds to–
- (a) bring together practitioners, researchers, and educators in the health sciences for the sharing of knowledge and experience in health related endeavours;
  - (b) provide financial support to enable persons involved in health sciences education and research to share and extend their knowledge;
  - (c) support activities directed towards improving the health of the community;
  - (d) support cooperative activities related to health issues between education, the community, government, and industry;
  - (e) provide or arrange for all necessary facilities, equipment, staff, and other resources necessary to support the attainment of these objects;
  - (f) engage in such other activities as may be consistent with the objects of the Health Sciences Foundation.

## **8. Objects and Purposes of the Muresk Foundation**

8.1 The objects of the Muresk Foundation are to:

- (a) provide supplementary funds for the Muresk Institute of Agriculture (**Institute**) with the aim of furthering and enhancing the activities of the Institute as a centre of excellence in agribusiness education;
- (b) preserve, improve and develop the Institute's standards, services, property and facilities;
- (c) provide a link between the Institute, the community, commerce and industry.

8.2 For the purpose of carrying out the objects of the Muresk Foundation, the Board of Management of the Muresk Foundation may from time to time authorise grants or the expenditure of monies being part of the Muresk Foundation for –

- (a) the enhancement of rural educational opportunities for members of the rural community through the provision of scholarships, exhibitions, bursaries, prizes and research grants;
- (b) the provision of consultancy, research and extension activities in connection with the activities of the Institute;
- (c) the acquisition of specialised equipment for use in the activities of the Institute;
- (d) any other purpose which is consistent with the object of furthering and enhancing the Institute as a centre of excellence in agribusiness education.

## **9. Objects and Purposes of the WASM Education Fund**

9.1 The object of the Western Australian School of Mines (**WASM**) Education Fund is to provide supplementary funds for the WASM with the aim of furthering and enhancing the activities of the WASM as a mining education centre of excellence.

9.2 The Management Committee of the WASM Education Fund may apply the WASM Education Fund for –

- (a) the provision of scholarships, exhibitions, bursaries, prizes and research grants to students attending the WASM;
- (b) the provision of consultancy and test work in connection with the activities of the WASM;
- (c) the acquisition of specialised equipment for use in the activities of the WASM;

- (d) the provision of staff for the WASM and salary support for such staff; and
- (e) any other purpose which is consistent with the object of furthering and enhancing the WASM as a mining education centre of excellence.

**10. Objects and Purposes of the Wescone Research Foundation**

10.1 The objects of the Wescone Research Foundation are to provide funds to give technological support of the highest calibre to projects and inventions created in Western Australia with a view to further enhancing their level of excellence and preparing such projects to a position where investment capital may be successfully sought.

10.2 For the purpose of carrying out the objectives of the Wescone Research Foundation, the Board of Management of the Wescone Research Foundation may from time to time authorise expenditure of monies being part of the Wescone Research Foundation for –

- (a) the salary support of the University staff in the supply of their time and expertise for the purposes of evaluating projects, developing projects or supplying reports on projects;
- (b) the acquisition of specialised equipment for the University for the purpose of enabling specialised work to be carried out on particular projects;
- (c) the provision of other consultancy and testwork in connection with participant projects;
- (d) the provision of research grants, prizes, bursaries and scholarships to students attending the Department of Mechanical Engineering at the University in connection with participant projects;
- (e) any other purpose which, in the view of the Board of Management is consistent with the objects of the Wescone Research Foundation.

The Common Seal of **CURTIN UNIVERSITY** )  
**OF TECHNOLOGY** was hereto affixed on the )  
day of 2009 )  
by the authority of the Vice-Chancellor )

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Jeanette Hacket, Vice-Chancellor

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Josephine DiFava, Administrative Secretary