

## **FOUNDATION FOR THE CONSERVATION OF BIODIVERSITY - BIOFUND**

I hereby certify for the effects of publications, that by the deed of March twenty first of 2016, inscribed on pages one hundred to one hundred and twenty of the deed book for diverse acts number three hundred and fifty-five hyphen D, of the Second Notary Office of Maputo, in front of me, Arlindo Fernando Matavele, Curator and High Notary of the aforementioned Notary Office, that the articles of incorporation of the Foundation for the Conservation of Biodiversity – BIOFUND have been altered in their entirety, and henceforth take the following form:

# **ARTICLES OF INCORPORATION**

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Article 1**

#### **Definitions**

In the present Articles of Incorporation, the terms and expressions mentioned below have the following meaning:

- a. **Director*** – any individual member of the Board of Directors;
- b. **Committees*** – forms of organisation set up internally by the Board of Directors;
- c. **Executive Committee*** – a Committee of the Board of Directors, which is empowered to decide on immediate and urgent operational questions which do not justify convening an extraordinary meeting of the board;
- d. **Advisory Council*** – a permanent Consultative Body;
- e. **Recurrent Management Costs*** – those basic annual costs required to finance the management actions set out in an approved conservation area management plan, exclusive of the permanent payment of staff salaries. The definition of “Recurrent Management Costs” includes the acquisition and/or replacement of installations and equipment identified as necessary in the approved management plan for the management activities to be carried out on a regular basis;
- f. **Foundation*** – the body set up on the basis of these Articles of Incorporation;
- g. **Endowment Fund*** – a sum of money invested over a long-term horizon, so that part of it considered capital be always preserved and the investment income could be used to finance conservation activities;

- h. **Community Livelihood Activities*** – traditional activities upon which communities obtain all or part of their livelihood from conservation areas and/or buffer zones;
- i. **Consultative Body*** – an advisory body that the Board of Directors is empowered to create;
- j. **Governing Bodies*** – the General Assembly, Board of Directors and Oversight Committee of the Foundation;
- k. **Strategic Plan*** – the planning document that sets out the goals to be attained by the Foundation in a five-year period, and the specific actions and resources required to achieve those goals;
- l. **Investment Policy*** – a policy approved by the Board of Directors that clearly and comprehensively sets out the objectives for investing the Foundation’s assets;
- m. **Fair Market Value*** - means, with respect to any property or services, the value that would be negotiated between interested parties, informed and independent of each other, in the absence of factors which would characterize compulsion or otherwise induced pressure to conduct the transaction;

## **Article 2**

### **Name**

The Foundation’s name is “Foundation for the Conservation of Biodiversity”, abbreviated as “BIOFUND” or “BIOFUND MOZAMBIQUE”, and hereafter referred to as “the Foundation”.

## **Article 3**

### **Nature**

1. The Foundation is a private not-for-profit entity, endowed with legal and financial autonomy, and the right to own and manage its assets.
2. The Foundation is governed by the legislation applicable in Mozambique, by these Articles of Incorporation, and related regulations, rules or procedures that will be adopted by its Governing Bodies.

## **Article 4**

### **Duration**

The Foundation is established for an unlimited period of time.

**Article 5**  
**Domicile and Scope of Action**

1. The head office of the Foundation is in Maputo, Mozambique. It may be transferred to any other location following a decision by the General Assembly.
2. The Foundation has national scope and may extend beyond, in the case of formally established trans-boundary conservation areas.
3. The Foundation may also decide to open delegations, agencies or any other form of representation in any other part of the country or abroad, as deemed necessary to carry out the Foundation's Mission, through a prior decision of the Board of Directors.

**CHAPTER II**

**MISSION - POWERS – ASSETS**

**Article 6**

**Mission and Objectives**

1. The Mission of the Foundation is to support the conservation of aquatic and terrestrial biodiversity and the sustainable use of natural resources, including the consolidation of the national system of conservation areas.
2. The Foundation may contribute to financing conservation activities outside of conservation areas, based on priorities defined and identified in its Strategic Plan.
3. To achieve its Mission, and with a focus on support to public benefit and sustainable management of natural resources, the Foundation provides financing primarily for recurrent costs and for the following activities:
  - a. Conservation and sustainable management of natural resources and aquatic and terrestrial biodiversity;
  - b. Management and development of conservation areas, with priority given to financing the Recurrent Management Costs of conservation areas;
  - c. Support to community livelihood activities for residents in conservation areas and buffer zones when such activities are carried out in harmony with conservation objectives and do concur to lessen activities that degrade the environment;
  - d. Research on biodiversity and ecological monitoring;
  - e. Capacity building for staff of the national system of conservation areas and other conservation stakeholders;
  - f. Promotion of tourism and other activities within the limits of the carrying capacity of the environment for the benefit of the local economy; and

- g. Enhancement of stakeholders' awareness and participation in the protection and conservation of national conservation areas through education and raising awareness of conservation and the value of conservation areas.
1. The financing of the Foundation shall not be made available to construct buildings, roads, dams, large-scale irrigation schemes or similar forms of physical infrastructure.

**Article 7**  
**Powers**

In order to achieve its Mission, the Foundation may exercise the following powers in compliance with any applicable statutory regulations and these Articles:

- a. To engage in any acts and activities that may be necessary, useful or appropriate for the furtherance or accomplishment of the Mission, including soliciting, raising and investing funds from public and private sources wherever located. In doing so, the Foundation must not undertake any substantial permanent trading activity;
- b. To buy, take on lease or in exchange, hire or otherwise acquire property, and to maintain and equip it, for use in the Foundation's activities;
- c. To sell, lease or otherwise dispose of all or any part of the assets belonging to the Foundation;
- d. To collaborate with institutions, civil society organizations and public and private entities that possess similar objectives and with them exchange information and advice/counsel;
- e. To establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Foundation mission;
- f. To deposit or invest funds, hire a professional funds manager, and allow investments or other goods/assets belonging to the Foundation to be applied in its name or in the name of third parties;
- g. To set aside a reserve against future expenditures but only in accordance with a written policy about reserves; and,
- h. To do all such other lawful things as are necessary or convenient for the achievement of the Foundation mission.

**Article 8**  
**Assets**

1. The Foundation's assets shall consist of all goods and rights that, for the purpose, are bestowed on it by governments or by other entities, be these public or private, national or

foreign, granted free of charge or in return for payment, as well as reserves provided for by Law as well as those that within the terms of the Articles of Incorporation herein or by decision of the Board, become an additional complement to the assets.

2. The Foundation's assets shall be used exclusively to promote the Foundation's Mission as stated in Article 6.
3. The initial assets of the Foundation amount to one hundred and eighty million Meticaís (180,000,000 MZM).
4. Assets of the Foundation, which may be managed as Endowment Funds or non-endowment funds, may be earmarked for specific purposes and subject to specific restrictions on investment and distribution, pursuant to an agreement between a donor and the Foundation; provided, however, that the terms of any such agreement shall be consistent with all other provisions of these Articles, and any applicable laws and regulations.
5. Investments of the Foundation's assets shall be carried out in accordance with an approved Investment Policy approved by the Board of Directors and by a professional asset manager, obeying the principles of prudence, in line with internationally recognized fiduciary management practices applicable to similar organizations.

### **CHAPTER III**

#### **MEMBERS**

##### **Article 9**

##### **Categories**

1. Members of the Foundation may be either natural persons or legal entities.
2. The Foundation has the following categories of Members:
  - a. **Founder Members** - who set up the Foundation.
  - b. **Ordinary Members** - who are, natural or legal persons, who undertake to develop activities for the Foundation on a regular basis , invited by the Founder Members or by the Board of Directors at the General Assembly. Ordinary members are also natural or legal persons who participated in the first General Assembly of the Foundation;
  - c. **Honorary Members** - entities or persons, who have received this distinction from the General Assembly for services provided or by virtue of belonging to the Patrons' council.
3. More than one of the categories of members typified in this statuses can be combined in the same person.

4. At least 51 per cent of the Members shall come from non-governmental sectors.
5. Each of the Members of the Foundation shall possess broadly recognized skills and experience which can contribute to effective management of the Foundation, in the areas of finance, law, conservation, community development, fund-raising, non-profit management, and business, etc.
6. Membership is not transferable to anyone else.

## **Article 10**

### **Termination of Membership**

1. Membership will terminate by:
  - a. Death;
  - b. Through a written notice of resignation;
  - c. Unjustified non-attendance of three consecutive regularly scheduled meetings of the General Assembly;
  - d. Court sentence for a crime where the penalty is a major prison term and particularly for crimes resulting from appropriation of the Foundation's property or for the administration or practice of acts that damage the Foundation;
  - e. Declaration of bankruptcy or culpable insolvency; and
  - f. Removal from office by the General Assembly for violation of the present Articles of Incorporation; internal regulations; or deliberations of the Governing Bodies.

## **Article 11**

### **Rights of Members**

1. The rights of founder and ordinary members are:
  - a. Participate in initiatives promoted by the Foundation;
  - b. Collaborate in achieving the objectives of the Foundation;
  - c. Suggest actions aimed at improving the social objectives of the Foundation;
  - d. Participate and vote in meetings of the General Assembly;
  - e. Elect and be elected to the governing bodies;
  - f. To apply for exoneration;
  - g. Receive information about implementation of activities of the Foundation;
  - h. Submit, in writing, to the Board of Directors any clarification, information or suggestion that is deemed to be necessary to the objectives of the Foundation;

2. Honorary Members have the following rights:
  - a. Collaborate in achieving the objectives of the Foundation;
  - b. Take part in sessions of the General Assembly, in the quality of observer, to give opinions on any of the agenda items, but not participate in a vote.
  - c. Observe the principles of the Foundation and comply with the statutes, regulations and decisions of its governing bodies;
  - d. Submit in writing to the Board any clarification, information or suggestions they deem useful to the objectives of the Foundation.

## **Article 12**

### **Members Duties**

The duties of the members:

- a. Collaborate in the activities of the Foundation;
- b. Exercise with dedication and zeal the duties for which they were elected;
- c. Observe compliance with the statutes and decisions of the governing bodies of the Foundation;
- d. Comply with and enforce regulations;
- e. Do not use the means made available to them or acquired for purposes contrary to those laid down in the statutes;
- f. Provide effective collaboration initiatives that contribute to the development, prestige and achievement of the objectives of the Foundation;
- g. Behave decently and correction within the Foundation's offices, and before other members;
- h. Attend General Assembly meetings and other convened meetings.

## **CHAPTER IV**

### **GOVERNING BODIES**

#### **Article 13**

##### **Bodies**

1. The oversight and administration of the Foundation are entrusted to the following bodies:
  - a. The General Assembly;
  - b. The Board of Directors; and
  - c. The Oversight Committee.
2. The Foundation may create Consultative Bodies, namely the Advisory Council and the Patrons' Council.

#### **Section 1**

##### **General Assembly**

#### **Article 14**

##### **Nature**

The General Assembly is constituted of all Members and is responsible for the oversight of the Foundation.

#### **Article 15**

##### **Internal Organization**

1. The General Assembly is chaired by its Chairperson, assisted by the Deputy Chairperson and the Secretary.
2. The term of office of the Chairperson, Deputy Chairperson and Secretary of the General Assembly is four years, renewable once.

#### **Article 16**

##### **Powers**

The General Assembly has the following powers:



- a. To ratify, in accordance with the Foundation's Mission and these Articles, the Foundation's strategic direction;
- b. To validate the annual financial statements of the Foundation presented by the Board of Directors, with the report of the Oversight Committee;
- c. To approve the annual reports presented by the Board of Directors;
- d. To elect the new Members of the Foundation;
- e. To elect the Chairperson, Deputy Chairperson and Secretary of the General Assembly;
- f. To elect and remove the Board of Directors;
- g. To elect the Oversight Committee or decide if the functions of this body can be undertaken by a supervisor who shall be either an auditor or an audit company chosen by the Board of Directors;
- h. To resolve any issues related to the Members of the General Assembly;
- i. To amend these Articles of Incorporation;
- j. To decide on the merger or dissolution of the Foundation;
- k. To decide to name as an honorary member any individual or legal entity which has provided a relevant service to the Foundation or which has made a contribution in areas which are the mission of the Foundation.

## **Article 17**

### **Meetings**

1. The General Assembly shall meet once a year, preferably by the fourth month following the end of the financial year.
2. The meeting notifications shall be made to each Assembly Member at least 30 days in advance by means of a letter, fax or other means of written or virtual communication provided receipt can be proven.
3. Documents related to issues to be discussed at a meeting should be distributed 15 days prior to the meeting.
4. The letters of notification should indicate the agenda of the meeting of the General Assembly and the day, time and place of the meeting.
5. Meetings are called and the agenda is established by the Chairperson of the General Assembly.
6. Special meetings of the General Assembly may be requested by a minimum of ten Members, with the Chairperson responsible for calling the meeting. If the Chairperson does not call a meeting as per point 5 above within 5 days of such request, the special meeting may be called by a group of at least ten Full Members with a 10 days prior notice stating the time, place and specific purpose of such meeting.

7. The General Assembly may deliberate on first call only on issues included in the meeting agenda or in the notification of a special meeting, unless all Members of the General Assembly are present and agree to deliberate on other matters.
8. The meetings of the General Assembly are chaired by the Chairperson and in his/her absence by the Deputy Chairperson. In the event of the absence of both the Chairperson and the Deputy Chairperson, the Members shall appoint from among themselves a substitute chairperson for that meeting.
9. The minutes of the meetings of the General Assembly shall be prepared and signed by the Chairperson and the Secretary and adopted by the next meeting.

## **Article 18**

### **Quorum and Vote**

1. A meeting of the General Assembly may only deliberate validly if
  - a. A quorum of at least half of the Members is present; and
  - b. 51 per cent of those present represent the non-governmental sector.
2. A Member may grant a power of attorney to another Member provided that the representative is not a member of the Board of Directors.
3. In the absence of a quorum the General Assembly may meet in a second meeting 30 minutes later and deliberate validly on all matters Independently of the number of members present, except in the following cases:
  - a. Amendment of the Articles
  - b. Election and dismissal of members of the Board of Directors
  - c. Merger and dissolution of the Foundation
  - d. Transfer of the headquarters.
4. Decisions on matters covered in Article 16, lines f) and i) will be adopted by a majority of three-quarters of the votes.
5. Decisions on matters covered in Article 5, paragraph 1, and in Article 16, line j) of the present Articles of Incorporation will be adopted by a vote in which all the Founder Members who have maintained Membership in the Foundation participate as well as by a majority of three-quarters of the votes.
6. Each Member has one vote.
7. To ensure the effective and transparent exercise of the supervisory function of the General Assembly, in the event that a Member of the General Assembly is also a Member of another of the Foundation's Governing Bodies, he/she shall not have the right to speak unless

requested to do so, nor voting rights when discussing or voting upon a matter referring to the body to which he/she belongs.

8. The provision of the previous paragraph applies to any matter where a Member of the General Assembly has held executive responsibilities.
9. All votes shall be expressed orally. The Chairperson is however entitled to require a vote by secret ballot and any Member is also able to request it.
10. All votes concerning the elections of persons, exclusion or loss of office shall be by secret ballot.
11. In the case of an equality of votes, the person who chairs the meeting shall have the casting vote.

## **Section II**

### **Board of Directors**

#### **Article 19**

#### **Election and Composition**

1. The Board of Directors is elected by the General Assembly from among its Members and is responsible for overall management of the Foundation.
2. The Board of Directors consists of a minimum of 7 (seven) and a maximum of 9 (nine) Members.
3. The Board of Directors elects from among its Members its Chairperson, Deputy Chairperson and Secretary.
4. Up to one-third of the Board of Directors may be non-nationals of the Republic of Mozambique.
5. At least seventy-five percent of the Board of Directors should consist of representatives from non-governmental sectors.
6. The Ministry responsible for managing the Conservation Areas is always invited to appoint one representative to the Board of Directors.

#### **Article 20**

#### **Term**

1. The term of each Director is four years.
2. Each Director will be eligible to serve up to a maximum of two consecutive terms.

## **Article 21**

### **Internal Organisation**

1. The Board of Directors creates an Executive Committee to support the chief executive officer and his/her team and which is empowered to decide on immediate and urgent operational questions requiring guidance from the Board of Directors, but which do not justify convening an extraordinary meeting of the Board.
2. The Executive Committee shall consist of the Chairperson and two Directors elected by the Board.
3. The decisions of the Executive Committee should be made known to and validated by the Board of Directors at the meeting following their adoption.

## **Article 22**

### **Powers**

As the body responsible for managing the Foundation, the Board of Directors shall have the following powers:

- a. To define the Foundation's strategic directions to be approved by the general assembly and approve its By-laws, policies, operations manuals and other regulations;
- b. To approve capital or other income of the Foundation and the conditions under which contributions to the Foundation are accepted;
- c. To approve annual work plans, budgets, and reports;
- d. To decide on signing agreements or contracts necessary for undertaking the work of the Foundation, in accordance with its purposes and with the work plans and budgets, and define the limits of authority to bind the Foundation;
- e. To recruit a chief executive officer in accordance with a fair and competitive process; approve the terms of his/her contract and annually evaluate his/her performance;
- f. To approve the grant selection policy and the projects, activities and other initiatives for which funds of the Foundation will be used, and their respective attributes;
- g. To approve the Investment Policy of the Foundation and the appointment of investment professionals;
- h. To appoint and remove the Investment Committee and other Committees or Consultative Bodies ;
- i. To nominate Ordinary Members of the Foundation for their consideration by the General Assembly;
- j. To select and invite the members of the Patrons' Council; and

- k. To appoint the external auditor and approve the Foundation's annual report and accounts.

## **Article 23**

### **Meetings**

1. The Board of Directors shall meet ordinarily at least 3 (three) times per year on regularly scheduled dates and in extraordinary session whenever convened.
2. The meeting notifications are made and the agenda is established by the Chairperson and sent to each Director at least 21 days in advance by means of a letter, fax or other means of written or virtual communication provided receipt can be proven.
3. The letters of notification should indicate the agenda of the meeting, the day, time and place of the meeting. Extraordinary meetings of the Board of Directors may be convened by the Chairperson on his/her own initiative or at the request of any Director.
4. If the Chairperson does not convene the meeting correctly requested of him within 5 days, the extraordinary meeting may be called by a group of at least three Directors with a 10 days' prior notice stating the time, place and specific purpose of such meeting.
5. The Board of Directors may deliberate only on issues included in the agenda of the meeting or in the notification of an extraordinary meeting, unless all the Directors are present and agree to deliberate on other matters.
6. Board meetings are chaired by the Chairperson and in his/her absence by the Deputy Chairperson. In the event of the absence of both the Chairperson and Deputy Chairperson, the Directors will appoint from among themselves a chairperson for the meeting.
7. The minutes of the meetings of the Board of Directors shall be prepared by the Secretary or, in his/her absence, by one of its Directors appointed for this purpose, and, following their adoption by the next meeting, shall be signed by all Directors present.

## **Article 24**

### **Quorum and vote**

1. The Board of Directors may only validly deliberate if at least two-thirds of the Directors are present.
2. A Director is not entitled to grant a power of attorney to another Director to represent him/her at Board Meetings.
3. Directors may participate in a meeting through the use of a conference call, or similar communications equipment as long as all participants in such meeting can communicate with one another. Such participation constitutes personal presence at the meeting.

4. Each Director has one vote which should be expressed orally.
5. The Chairman is however entitled to require a vote by secret ballot and any Director may request it.
6. All votes concerning the elections of persons shall be held by secret ballot.
7. All decisions by the Board of Directors will be adopted by a simple majority of votes.
8. In the case of an equality of votes, the person who chairs the meeting shall have the casting vote.
9. The decisions taken at a meeting shall take a written form and shall be regarded as valid when signed by each participating Director with the right to vote. The decision may comprise several copies each signed by one or more Directors.

## **Article 25**

### **Delegated Powers**

1. The Board of Directors may delegate day to day management of the Foundation to a chief executive officer in accordance with the following:
  - a. The delegated power shall be to manage the Foundation by implementing the strategy and policy adopted by and within a budget approved by the Board of Directors and, if applicable, to advise the Directors in relation to such strategy, policy and budget;
  - b. The chief executive officer shall act within the parameters laid down in the delegation of powers conferred upon him/her by the Board of Directors, as well as in strict compliance with the internal rules and regulations of the Foundation;
  - c. The chief executive officer will be supported by a unit of reasonable size, appropriate to the number and complexity of the programmes being managed by the Foundation, which he/she shall manage so as to perform efficiently and effectively.
2. The Board of Directors may delegate the management of investments to qualified investment professionals provided that:
  - a. An Investment Policy is set down in writing by the Board of Directors;
  - b. The Investment Policy and the delegation arrangements are reviewed regularly, and at least annually;
  - c. The Directors are entitled to cancel the delegation arrangement at any time.

**Article 26**  
**Committees**

1. The Board of Directors may create one or more Committees to advise it and support its work.
2. Each Committee will be composed of five (5) to seven (7) individuals of which at least three shall be chosen from among the Members of the General Assembly.
3. The term of appointment of the members and the responsibilities of each Committee shall be defined in a written document approved by the Board of Directors.
4. Unless the Board of Directors otherwise provides, each Committee designated by the Board may make, alter, and repeal rules for the conduct of its work.
5. No Committee member shall be paid any remuneration for any services he/she may perform for or on behalf of the Foundation during his/her term of appointment but may be reimbursed for reasonable expenses relating to his/her participation at meetings of the committee and for other expenses at levels to be determined by the internal regulations.
6. Committee members are also bound by the all the provisions in Article 33 of these Articles of Incorporation regarding conflict of interest.

**Article 27**  
**Legal Representation**

1. The Foundation is legally bound by the signature:
  - a. Jointly of two Directors, one of whom must be the Chairperson;
  - b. Of a Director within the limits established by the Board of Directors and delegated to that Director;
  - c. Of a nominee as stipulated by specific powers of attorney granted by the Board of Directors;
  - d. Of procurators/representative as stipulated in the respective powers of attorney issued by the Board of Directors.
2. Routine correspondence, and acts that do not involve special responsibility for the Foundation may be signed merely by the nominee who has been granted the necessary powers or by a duly authorised employee.

## **Section III**

### **Oversight Committee**

#### **Article 28**

##### **Composition**

1. The Oversight Committee is composed of 3 (three) to 5 (five) members, of whom at least two shall be chosen from among Members of the General Assembly. Members of the Oversight Committee cannot be members of the Board of Directors.
2. Other members of the Oversight Committee may be external experts, or qualified in financial matters, including representatives of the organisations, which fund the Foundation, and at least one of them shall have recognised financial competence.
3. The Oversight Committee may, by decision of the General Assembly, be replaced by a single supervisor which shall be an independent auditor or independent audit company.

#### **Article 29**

##### **Powers**

The Oversight Committee shall have the responsibility to:

- a. Inspect all of the legal matters, and the regularity of the administrative and financial activities of the Foundation, including its accounts and reports; and
- b. Produce an annual opinion on the Foundation's financial performance, and its compliance with the stipulated financial and administrative procedures, to be submitted to the General Assembly.

#### **Article 30**

##### **Term**

1. Each member of the Oversight Committee will be eligible to serve up to a maximum of two consecutive four-year terms.
2. The term is limited to a maximum of four years in the event that the Oversight Committee is replaced by a single supervisor.



## **Section IV**

### **CONSULTATIVE BODIES**

#### **Article 31**

##### **Composition and Designation**

1. The Advisory Council is comprised of national and foreign specialists who jointly have the skills and competencies to advise the Board of Directors on all matters concerning the management of the Foundation.
2. The Patrons Council is comprised of personalities and individuals, national and foreign, that can lend prestige to the Foundation and may help the fulfilment of its Mission.
3. The consultative bodies shall be created by the Board of Directors through recommendations from the Founding and other members.

#### **Article 32**

##### **Term**

1. The terms of reference and term of appointment of members of the Advisory Council shall be determined by the Board of Directors.
2. Members of the Advisory Council shall be invited to participate as observers at meetings of the General Assembly.
3. The term of appointment for members of the Patrons Council is for an indefinite period.
4. All members of the Patrons Council shall be invited to participate in the relevant activities in the life of the Foundation.

## **CHAPTER V**

### **PERMANENT DISPOSITIONS**

#### **Article 33**

##### **Conflict of Interest**

1. The members of the Foundation's Governing Bodies are prohibited from:
  - a. Voting or participating in meetings in which issues are discussed in which he or she is directly involved or in which his/her spouse (either civil or common law), parents, grandparents, descendants, and all family members, or anybody with which they

have relations of work, subordination, or any other type of relationship that is likely to influence in any form the voter's independent analysis or decision.

- b. Directly or indirectly, by means of the above specified family members or other third parties:
  - i. buying goods or services from the Foundation;
  - ii. selling goods, services, or rights to the Foundation;
  - iii. being employed by, or receiving any remuneration from the Foundation; or
  - iv. receiving any other financial benefit from the Foundation, unless the payment or transaction is previously and expressly authorized in writing by the Board of Directors.
2. Governing Body members must inform their respective Governing Body of any personal, professional, or financial interest which he/she or a family member may have in any business, corporation, society or financial institution which the Foundation has contracted or invested in or proposes to contract or invest in with any business or about any matter submitted for the Foundation's review/analysis/consideration that is about a member or pertains to someone in his/her family, submitted for consideration by the Foundation, in order to abstain from participating in debates or votes.
3. The Member in the circumstances referred to in point 2 above is not to be counted when calculating whether a quorum is present for the vote in question.
4. The authorization referred to in section (iv) of point 1.b above may only be given if all of the following conditions are satisfied:
  - c. The remuneration or other sums paid to the Member are conducted upon terms that are fair and reasonable to the Foundation with property or services purchased at Fair Market Value;
  - d. The Board of Directors considers that it is in the interests of the Foundation to contract with that Member rather than with someone else; and
  - e. The reason for the decision is recorded in the minutes of the meeting in which it was taken.
5. To express, record, and control the provisions of this article, all Members of the Foundation's Governing Bodies shall, before they start to exercise their duties, declare in writing any situations they believe may lead to a conflict of interest, so that these may be regulated. These declarations shall be listed in an internal register.

## **Article 34**

### **Exercise of position without remuneration**

1. Members of the Governing Bodies of the Foundation shall not be remunerated for the exercise of their duties during their term. They may be reimbursed for expenses considered reasonable incurred through their participation in meetings of the Governing Bodies and for other expenses to a sum determined by the internal regulations.
2. The function of the Oversight Committee may be remunerated when exercised by an auditor or independent audit company.

## **Article 35**

### **Incompatibilities**

A person who has committed serious irregularities in the exercise of public or private office and/or has been sentenced, in general, for a crime where the penalty is a prison term of two years or more and particularly for crimes resulting from appropriation of the Foundation's property or for the administration or practice of acts that damage the Foundation, cannot be appointed to any position within the Governing Bodies of the Foundation.

## **Article 36**

### **Acts Prohibited**

Members of Governing Bodies, employees and all others with powers to act in the name of the Foundation shall, inter alia, be barred from:

- a. Taking liberties with the Foundation's funds;
- b. Using their position for business opportunities or acting on behalf of the Foundation with the aim to obtain advantages for personal or somebody else's gain;
- c. Holding the Foundation bound by any contracts, acts, documents or obligations alien to its purpose, namely in letters of favour, guarantees, sureties and similar acts.

## **Article 37**

### **Removal from Office**

Removal from office of a Member of a Foundation Governing Body may only be approved by the General Assembly, convened with this intention at least 15 days in advance of the date when the

matter will be analysed and debated, giving the reasons why the subject was proposed, and the Member must be guaranteed the right of self-defence.

### **Article 38**

#### **Vacancies**

In the event of vacancies caused by death, incapacity, renunciation, removal or resignation of a member of a Governing Body, the new Member's mandate will start immediately following his/her election or appointment and will terminate on the same date as the initial mandate of the Member replaced.

### **Article 39**

#### **Criminal and Civil Liability**

1. The Members of the Foundation's Governing Bodies have civil liability, jointly and separately, without prejudice to criminal liability, for decisions taken in violation of these Articles of Incorporation, other rules and procedures adopted by the Foundation's Governing Bodies, and all applicable laws and regulations, except where the Member has voted against the decision taken.
2. Delegation of powers does not exempt the Members of the Foundation's Governing Bodies from their liability.

### **Article 40**

#### **Representation**

In cases where a legal entity is a Member or holds office in a Governing Body of the Foundation, it shall inform the Chairperson of the General Assembly or of the respective Governing Body of the name of its representative, within the maximum period of 30 days from the day on which it becomes a member or takes office.

## **CHAPTER VI**

### **FINAL PROVISIONS**

#### **Article 41**

##### **Financial Year**

The financial year of the Foundation starts on January 1<sup>st</sup> and ends on December 31<sup>st</sup>. As an exception, the first financial year shall cover the period from the date of the Foundation's creation until the end of that financial year.

#### **Article 42**

##### **Financial Statements and Audit**

1. The Board is obliged to prepare annual financial statements of the Foundation in accordance with the rules of the Republic of Mozambique and international accounting standards, within three months of the end of the financial year.
2. The audit of the financial statements is conducted by an audit firm accredited in Mozambique which is affiliated with an internationally recognized audit firm.

#### **Article 43**

##### **Merger**

Merger, either by absorption or creation of a new entity, is permissible only with an institution that pursues objectives similar to those of the Foundation.

#### **Article 44**

##### **Dissolution**

1. In the event of dissolution decided by the General Assembly, the Foundation's assets, after payment of all liabilities and any applicable refund to donors, shall be allocated to the creation of a new foundation with objectives similar to those of the Foundation.
2. In the event that a new foundation cannot be created, the assets, after payment of all liabilities and any applicable refund to donors, shall be allocated, under the same conditions as in the previous paragraph, to other foundations with objectives as close as possible to those of the Foundation.

## Article 45

### Cases not covered

1. In everything not covered by these Articles of Incorporation, the provisions in force in the Mozambican legal order, the approved regulations and the decisions of the General Assembly shall apply.
2. In case of any conflict or inconsistency between the Articles of Incorporation and any of the other organizational documents of the Foundation, prevalence will be determined according to the following order of precedence:
  - a. The Articles of Incorporation and By-laws;
  - b. The Foundation's Operations Manuals;
  - c. Any other organizational documents, including disbursement rules and procedures.

In order,  
Maputo, March 28, 2016.  
The Curator  
(*signature illegible*)

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