Draft Amended WESSA Memorandum of Incorporation for Approval

COMPANIES AND INTELLECTUAL PROPERTIES COMMISSION

REPUBLIC OF SOUTH AFRICA

In accordance with s 16(1)(c)

MEMORANDUM OF INCORPORATION OF

THE WILDLIFE AND ENVIRONMENT SOCIETY OF SOUTH AFRICA (RF) NPC
Shortened name: WESSA (RF) NPC
Registration No. 1933/004658/08
("WESSA")

WESSA is a non-profit company with members, with **the object of enabling citizen action for environmental stewardship and promoting public participation in caring for the Earth.**

Adoption of Memorandum of Incorporation

This amended Memorandum of Incorporation ("**MOI**") was adopted by the members of WESSA, in accordance with section 16(1)(c) of the Companies Act, 2008 ("**the Act**"), as evidenced by the special resolution to which this MOI is annexed which was taken at a meeting of members on 3 October 2026.

Confirmed as so adopted and amended ____________________

Chairperson

In this MOI:

a) A reference to a clause by number refers to the corresponding clause in this MOI;

b) A reference to a section by number refers to the corresponding section of the Act;

c) Words that are defined in the Act bear the same meaning in this MOI as in the Act; and

d) A reference to a ***"Policy"*** *shall include all Policies, Terms of Reference, Standard Operating Procedures or Guidelines and refers to the applicable version of such Policy adopted by WESSA from time to time.*

1. INCORPORATION AND GOVERNING LAW

1.1 WESSA was incorporated as an Association not for gain, under the Union Companies Act, 46 of 1926. In terms of the Act, it is now a non-profit Company, as defined in the Act.

1.2 WESSA is governed by:

1.2.1 the unalterable provisions of the Act that are applicable to non-profit companies;
1.2.2 the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this MOI; and
1.2.3 the provisions of this MOI.

2. OBJECTS AND POWERS OF WESSA

2.1 WESSA is subject to the special conditions contained in this clause 2, as contemplated in section 15(2)(b).

2.2 The objects of WESSA are as set out on the first page of this MOI and describe the ambit and types of the public benefit activities (as defined in the Ninth Schedule to the Income Tax Act 58 of 1962, as amended ["**the Income Tax Act**"]) which WESSA intends to carry out.

2.3 WESSA shall have all the legal powers and capacity of an individual, except to the extent necessarily implied by the stated objects, and except to the extent that a juristic person is incapable of exercising such a power or having such a capacity, and subject to the following restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii):

2.3.1 All of the powers may only be executed in accordance with the main object of WESSA;

2.3.2 WESSA may not:

2.3.2.1 amalgamate or merge with, or convert to, a profit company; or
2.3.2.2 dispose of any part of its assets, undertaking or business to a profit Company, other than for fair value, except to the extent that such a disposal of an asset occurs in the ordinary course of the activities of the Company;
2.3.2.3 knowingly become a party to, or knowingly permit itself to be used as part of any tax avoidance scheme, being any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax duty or levy which would have been or would have become payable by any person under the Income Tax Act or any other Act Administered by the Commissioner for the South African Revenue Services.

2.3.3 All of the public benefit activities of WESSA shall be carried out in a non-profit manner and with an altruistic or philanthropic intent and no activities shall be intended to directly or indirectly promote the economic self-interest of any Director, officer, member or employee of WESSA, otherwise than by way of reasonable remuneration payable to that Director, officer, member or employee.

2.3.4 WESSA shall not use its resources directly or indirectly to support, advance or oppose any political party.

3. OPTIONAL PROVISIONS OF THE ACT

3.1 WESSA elects, in terms of section 34 (2), to comply voluntarily with some of the provisions of Chapter 3 of the Companies Act, 2008, in that WESSA:

3.1.1 may appoint a Company secretary, and, in this circumstance, will comply with sections 86 to 89; and

3.1.2 will appoint an auditor, in terms of sections 90 to 93.

4. MEMBERS OF WESSA

4.1 As contemplated in item 4(1) of Schedule 1 to the Act, WESSA has Members who are in either of two classes, being voting and non-voting Members, respectively.

4.2 The Members of WESSA shall be such persons or bodies which support the objectives of WESSA as may be admitted from time to time in terms of this MOI.

4.3 Subject to the provisions of clause 4.5 hereof, the Board may fix the subscriptions or other charges payable to WESSA by the Members and, in fixing such subscriptions or other charges, may differentiate among the Members belonging to different categories of membership.

4.4 Members shall be made up of:

4.4.1 **Individual, natural persons**, each of whom shall have one vote (except for members under the age of 18 (eighteen), who shall be non-voting members);

4.4.2 **Legal entities** which are commercial or businesses entities, or which are non-profit legal entities, each legal entity having 1(one) member number and 1 (one) vote;

4.4.3 **Family Group** members, each family group having 1 (one) membership number and 1 (one) vote;

4.4.4 **Affiliated** or aligned **organisations** or groups, known as **Friends Groups** and **Conservancies** and other local biodiversity or environmental organisations, clubs or groups. Each Affiliated Organisation shall have one membership number and 1 (one) vote;

4.4.5 **Schools** which wish to become members, each school having 1 (one) membership number and one vote; and

4.4.6 All directors and permanent **employees** of WESSA, each of whom shall have 1 (one) vote;

4.5 Upon the recommendation of the Board, the Members at any general meeting may appoint as an Honorary Life Member of WESSA, any adult natural person who has rendered any long or conspicuous service to WESSA or who has in a conspicuous manner promoted the object of WESSA. An Honorary Life Member shall not be required to pay any subscriptions to WESSA.

4.6 Admission to any category of membership of WESSA shall be at the sole discretion of the Board or its nominee, which may either admit or refuse to admit any applicant, and in the event of its refusing to admit any applicant, it shall not be obliged to furnish reasons for its refusal.

4.7 The Board shall have the right to delegate to any Committee or any employee or office bearer of WESSA, the power to admit or to refuse to admit any applicant to membership and the provisions of 4.6 hereof shall *mutatis mutandis* apply to such Committee, employee or office bearer.

4.8 Membership of WESSA shall be valid for a period of 1 (one) year from the date upon which membership is granted and shall thereupon automatically cease and the Member's name shall be struck from the register of Members, unless the Member has made application for renewal of membership and paid the amount then determined for the respective category of membership for the ensuing year, provided that the provisions hereof may be waived in respect of any application for renewal received within a reasonable period after the expiry of the previous period of membership.

4.9 The provisions of clauses 4.6, 4.7 and 4.8 shall apply to any application for renewal of membership.

4.10 WESSA shall maintain at its National Office or at such other place as may from time to time be determined by the Board, a register of Members as provided in Section 24(4)(a) of the Act, which register shall be open for inspection as provided in Section 26 of the Act.

4.11 Matters concerning the discipline of the Members, the adherence of Members to the Rules and processes of WESSA, the non-payment of member fees, any action to be taken in these matters (including removal of Members) shall be dealt with in terms of the WESSA Policies, in place from time to time. These Policies shall:

4.11.1 Ensure that the appropriate structure deals with any particular matter, and that no structure of WESSA is the judge on its own case;
4.11.2 Respect the privacy, confidential information and reputation of all parties;
4.11.3 Be administratively fair, and allow the right to reply when appropriate;
4.11.4 Impose only sanctions which are necessary and appropriate.

4.12 No Member who has been expelled from WESSA shall be entitled to any refund of any portion of any subscription fees paid in connection with such Member's membership of WESSA.

4.13 A Member of WESSA shall cease to be a Member if:

4.13.1 such Member resigns in writing addressed to the Chairperson of WESSA or to its Secretary at its registered office;
4.13.2 the Member is suspended or expelled through an administrative process of the relevant WESSA structure, in accordance with the WESSA Policies
4.13.3 such Member's nomination by the body which such Member represents is revoked in writing addressed to the Chairperson of WESSA or its Secretary at its registered office;
4.13.4 such Member dies or is declared legally incapable of managing their affairs or is convicted of a criminal offence the nature of which is directly undermines or is opposed to the mission and work of WESSA; or
4.13.5 such Member, being a juristic person, is wound up or placed under judicial management, in any such case provisionally or finally.

5. RIGHTS OF MEMBERS

5.1 Members which are Legal Entities, Family Groups, Friends Groups, Conservancies or Schools, shall appoint a representative who shall speak and vote on behalf of that member in all meetings and other communications or processes of members. The name of the representative may be updated by notice in writing from time to time,

5.2 Members (or representatives of juristic members) may appoint proxies to act on their behalf at meetings of WESSA provided that:

5.2.1 Members may not appoint more than 1 (one) proxy at a time proxies;

5.2.2 a Member's proxy may not re-allocate their proxy to another person;

5.2.3 unless authorised by the Board in advance, no person may act as proxy for more than 3 (three) Members at any time;

5.2.4 a Member must deliver to WESSA a copy of the instrument appointing a proxy before that proxy may exercise the Member's rights at a Members meeting;

5.2.5 any Member intending to vote by proxy shall have the right to terminate such proxy at any time prior to the commencement of the meeting by lodging with the WESSA Secretary a written notice terminating such proxy and a proxy shall further be deemed to be *ipso facto* terminated in the event of the Member who granted such proxy being present at the meeting; and

5.2.6 a Member's proxy may not decide without direction from the Member whether to exercise, or abstain from exercising any voting right of the Member.

5.3 Any Member possessed of voting rights shall have the right to demand a poll upon any matter upon which any meeting at which they have the right to vote is required to decide.

5.4 Only Members or representatives of Members who are 18 (eighteen) years and older shall have a vote attaching to their membership or be entitled to hold any office in WESSA.

5.5 If, at any time, WESSA's Board of Directors fails to determine a record date (being the date upon which it is determined which persons are recorded as Members of WESSA), as contemplated in section 59, the record date for the relevant matter is:

5.5.1 in the case of a meeting, the latest date by which WESSA is required to give Members notice of that meeting; or

5.5.2 the date of the action or event, in any other case.

6. MEETINGS OF MEMBERS: CONVENING

6.1 WESSA shall convene an Annual General Meeting ("**AGM**") of its Members once in every calendar year, but no more than 15 (fifteen) months after the date of the previous AGM, or within an extended time allowed by the Members by unanimous vote.

6.2 Special General Members' meetings of all Members shall also be called:

6.2.1 at any time that the Board is required by the Act or this MOI to refer a matter to Members for decision and the Board determines that it is not appropriate to hold the matter over till the following annual general meeting; or

6.2.2 if the number of Directors drops below the minimum required by this MOI, and the next annual general meeting is more than 2 (two) months from the date upon which the relevant Director/s cease/s to act; or

6.2.3 if the Board resolves to call a meeting of the Members, and directs the WESSA Secretary to call such a meeting; or

6.2.4 in the event of at least one hundred Members in good standing requesting in writing a meeting, in which case the WESSA Secretary shall, within 28 (twenty-eight) days of such request, convene a general meeting of WESSA.

6.3 Meetings of all Members shall be held in South Africa or elsewhere, in a location determined by the Board, with due regard to the requests of Members.

6.4 Notice of any Annual General Meeting, or Special General Meeting, shall be given in writing not fewer than 21 (twenty-one) days before the date of such meeting and shall be distributed as provided for herein to each person entitled to attend such meeting.

6.5 Notice of any AGM or Special General Meeting shall be published on the WESSA website, and in addition may be given through any National or Regional publication of WESSA or by publication or by email or any other electronic means, the intention being to bring such notice to as many Members as possible who are entitled to attend such meeting.

6.6 WESSA may conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

6.7 The rules for the conduct of meetings set out in this clause and of clause 7 shall also apply to meetings of Members in Regions and Branches, except where they are expressly varied.

7. MEMBERS MEETINGS: QUORUM AND VOTING

7.1 The quorum requirement for an AGM or a Special General Meeting of all Members to begin, or for a matter to be considered is 50 (fifty) voting Members being present.

7.2 The quorum requirement for meetings of the Board and of all Committees of WESSA, be they Board, Region or Branch, or any subcommittees thereof, for a meeting to begin, or for a matter to be considered, shall be 50 (fifty)% plus one of voting Members serving on that body being present.

7.3 In the case of non-committee meetings of Regions or Branches, the quorum will be as decided by each Region or Branch, subject to the Board approving the quorum determined by the Region or Branch in advance of the meeting, and any decision on a substantive matter being referred to the Board for final decision.

7.4 If, within thirty minutes after the appointed time for a meeting to begin, the quorum requirements for that meeting to begin have not been satisfied, the meeting shall be automatically postponed without considering any business or item of the agenda for a date determined being not fewer than 7 (seven) days nor more than 21 (twenty one) days after the date of adjournment, subject to the proviso in 7.5. If the quorum requirements for consideration of a particular matter to begin have not been satisfied and:

7.4.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or

7.4.2 if there is no other business on the agenda of the meeting, the meeting is adjourned for 1 (one) week, without motion or vote.

7.5 The rules in 7.1 to 7.4 shall be subject to the proviso that the person intended to preside at a meeting that cannot begin may extend the 30 (thirty) minute limit allowed for in a reasonable period on the grounds that exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of Members to be present at the meeting or one or more particular Members, having been delayed, have communicated an intention to attend the meeting, and those Members, together with others in attendance, would satisfy the quorum requirements.

7.6 Subject to the provisions of clause 5.4 hereof and to any other provisions contained in this MOI the voting Members shall have the right to vote at all meetings of WESSA, and each voting Member shall have 1 (one) vote.

7.7 For a resolution to be adopted at a Members meeting, it must be supported by:

7.7.1 in the case of an ordinary resolution, 50 (fifty)% plus 1 (one) of the Members who voted on the resolution; and

7.7.2 in the case of a special resolution, at least 75 (seventy five)% of the Members who voted on the resolution, as provided in section 65(7).

7.8 The Members may consider a matter other than at a meeting, and the Members may, instead of voting to make a decision at a meeting, adopt a decision by written consent of the Members. Proposed written resolutions shall be electronically submitted to voting Members for consideration and electronic voting by Members and:

7.8.1 voting shall close when votes from all Members are received or 20 (twenty) business days after the call for votes, whichever occurs sooner, in accordance with section 60 of the Act; and

7.8.2 the number of votes received shall be at least the number required for a quorum at a meeting of voting Members; and

7.8.3 for a resolution to be adopted it must be supported by:

7.8.3.1 more than 50 (fifty)% of votes received in the case of an ordinary resolution; or

7.8.3.2 at least 75 (seventy five)% of votes received in the case of a special resolution.

7.8.4 the results of the voting shall be communicated to all Members within 10 (ten) business days of the close of the voting period.

7.9 A special resolution of the members is required for those matters set out in section 65(11), being the amending of the MOI, approving the voluntary winding up of WESSA, disposing of all or a greater part of the assets of WESSA, or amalgamation with another Company and for the approving of any board remuneration in terms of section 66(8) and 66(9).

8. REGIONS AND BRANCHES

8.1 The Board may at any time and from time to time determine the activities and groupings of Members by region ("**Regions**") and branches ("**Branches**") within such Regions, and in consultation with the affected Regions, increase or reduce the number of Regions and Branches and define the area of territorial jurisdiction of such number of Regions and Branches and may likewise alter the areas or territorial jurisdiction of existing Regions and Branches.

8.2 A Member residing in the area of jurisdiction of any Region and Branch shall be a Member of that Region and Branch, unless they request, in writing, to belong to another Region or Branch.

8.3 Regions and Branches are established within and are component parts of WESSA. They do not have separate or independent legal status, and are established and function as parts of the whole of WESSA. Regions and Branches shall be established and function in accordance with and abide by the applicable Policies of WESSA.

8.4 Members of Regions and Branches shall at meetings of such Regions and Branches have and enjoy *mutatis mutandis* the rights to which they are entitled at meetings of WESSA in terms of this MOI. Regions and Branches shall hold annual meetings for election of committees and for reflections and planning of the regional aspects of the work of WESSA. Minutes of all Region and Branch meetings shall be copied to the WESSA central person designated by the WESSA CEO.

8.5 Subject to any general or specific limitations on the authority delegated to any Region or Branch from time to time and to ongoing compliance with the fiscal and reporting systems, standards and requirements of WESSA and its auditors, management of WESSA's affairs at Region and Branch level shall vest in Committees elected for that purpose; provided that each of these Committees shall appoint suitably qualified persons to serve as chairperson and as treasurer and the Board shall at all times have the right to vary the composition of, to disband or to re-constitute any such Committees, and to vary the authority delegated to such Region or Branch.

8.6 In each Region, the committee elected or appointed to manage and administer WESSA's affairs at Region level shall elect or appoint a representative, normally but not necessarily the chairperson of that committee, to represent the Region within WESSA and to vote on behalf of the Region in the instances determined in this MOI where a vote of Regional Representatives is required.

8.7 The Regional Representatives will, prior to a meeting to elect Directors as contemplated by clause 9.3, elect from amongst their number by a simple majority, 2 (two) Regional Representatives to be appointed as Directors in accordance with clause 9.1.3.

9. COMPOSITION OF THE BOARD OF DIRECTORS

9.1 The Board shall consist of not fewer than 7 (seven) (of whom at least 3 (three) are not 'connected persons' (as defined in the Income Tax Act) in relation to one another), and not more than 14 (fourteen) Directors, including the following:

9.1.1 the Chief Executive Officer;
9.1.2 such Executive Directors as Board may deem fit;
9.1.3 2 (two) representatives elected by the Regional Representatives in the manner set out in clause 8.7; and
9.1.4 the balance of the Board being elected by the Members at the AGM provided that such other Directors shall each be elected in respect of a specific portfolio of duties, at least 1 (one) of which shall be the portfolio of National Treasurer.

9.2 No single person shall, directly or indirectly, control the decision-making powers of WESSA.

9.3 WESSA shall elect and appoint the Directors contemplated in clause 9.1.4 as follows:

9.3.1 Once a year, in good time before the expiry of terms of office of the relevant Directors, electronic notification shall be issued to Members indicating which Directors' terms will end, which may be elected for a further term of office and if any other of the Directors has ceased or will cease to serve. The notice shall include a call for nominations and specify the portfolios which need to be filled.
9.3.2 any Member may nominate any person, who must be a Member but who need not be a Member of any committee of WESSA, for election to the Board;

9.4 nominations for election to the Board must be supported by a written indication of the suitability of the nominee and an indication, in writing, of the willingness of the nominee to accept such appointment.

9.4.1 nominations for election to the Board must be submitted to the Nominations Committee at least 1 (one) month prior to the meeting to elect Directors;

9.4.2 the Nominations Committee shall consider and assess nominees for suitability and experience required, may reject unsuitable nominations and may themselves suggest or recruit other suitable nominees;

9.4.3 such Directors shall be elected by vote of Members at a duly constituted AGM.

9.5 Directors elected in terms of 9.1.3 and 9.1.4 shall hold office for a period of 3 (three) years from the date of their election; save as is provided for in clause 9.7 ,provided that at least one third of the elected Directors shall retire at each Annual General Meeting and provided that no person shall serve on the Board for more than 3 (three) full terms in succession . However, this period may be extended, should there be a super majority vote by at least 75 (seventy five) percent of the Members entitled to vote at an AGM in accordance with clause 9.3, (excluding from the vote the person involved.) The directors, in consultation with the nominations committee, shall manage the ends of their terms of office proactively, and, if necessary, step down before required, so that not too many directors step out of office in 1 (one) year.

9.6 If at any meeting at which an election of Directors ought to take place, the offices of the retiring Directors are not filled, then:

9.6.1 unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the provisions of clause 7.3 shall apply *mutatis mutandis* to such adjournment; and

9.6.2 if at such adjourned meeting the vacancies are not filled, the retiring Directors or such of them as have not had their offices filled shall be deemed to have been re-elected at such adjourned meeting unless a resolution for re-election of any such Director shall have been put to the meeting and defeated.

9.7 Any casual vacancy occurring on the Board may be filled by the Directors, but the Director so appointed shall be subject to retirement at the same time as if that Director had become a Director on the day on which the Director, in whose stead that Director is appointed, was elected a Director. The Directors shall have power at any time and from time to time to appoint a person as an additional Director and such Director shall retire from office at the next AGM but shall then be eligible for re-election.

9.8 The Directors shall, in terms of sections 24 and 73 of the Act, cause minutes to be kept of:

9.8.1 all appointments of officers;

9.8.2 names of Directors present at every meeting of WESSA and of the Directors;

9.8.3 all proceedings at all meetings of WESSA and of the Board;

9.8.4 any declaration given by notice or made by a Director as required by section 75 with reference to the personal financial interests of the Director, whether it be an advance declaration of interests, or a specific declaration with reference to a specific matter; and

9.8.5 every resolution adopted by the Board.

9.9 Such minutes shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting and copies of the minutes of every meeting shall be despatched by the person appointed by the Board from time to time, to all Directors within 30 (thirty) days of the holding of the meeting.

9.10 The office of Director shall be vacated if the Director:

9.10.1 ceases to be a Director or becomes prohibited from being a Director by virtue of any provisions of the Act; or
9.10.2 resigns their office by notice in writing to WESSA; or
9.10.3 for more than 6 (six) months is absent without permission of the Board from meetings of the Board held during that period; or
9.10.4 is directly or indirectly interested in any contract or proposed contract with WESSA and fails to declare that interest and the nature thereof in the manner required by the Act; or
9.10.5 is no longer a Member of WESSA.

10. AUTHORITY, VALUES AND DUTIES OF THE BOARD OF DIRECTORS

10.1 The authority of WESSA's Board of Directors to manage and direct the business and affairs of WESSA, as set out in section 66 (1) is limited or restricted to the extent that the powers of WESSA are limited in clause 2.

10.2 In accordance with legal requirements, each of the Directors shall exercise their powers:

10.2.1 in good faith and for the purpose for which they were conferred;
10.2.2 in the best interests of WESSA; and
10.2.3 with the degree of care, skill and diligence that may reasonably be expected of a person:

10.2.3.1 carrying out the functions of a Director; and
10.2.3.2 having the general knowledge, skill and experience of that Director.

10.3 The Directors shall exercise their powers in accordance with the following fundamental values:

10.3.1 **Integrity:** upholding the highest standards of honesty and ethics;
10.3.2 **Mutual Respect:** Maintaining a respectful and inclusive culture as essential for productive collaboration;
10.3.3 **Excellence:** making a meaningful difference driven by a culture of passion, consistency and professionalism;
10.3.4 **Innovation:** fostering a culture of creativity, empowerment, and forward-thinking; and
10.3.5 **Accountability:** taking ownership of actions, and responsibilities, being transparent and sharing responsibility.

10.4 The duties of the Directors shall include (but not be limited to) the following key areas:
10.4.1 the formulation of policy, and broad strategy, and keeping the planning, strategy and work of WESSA aligned with the objects of WESSA and being familiar with the fundamentals of the projects and programmes in which WESSA is engaged;
10.4.2 monitoring the organisational affairs, policies and compliance environment of the company;
10.4.3 interrogating the budget and financial reports and statements and assessing the financial sustainability of WESSA and its status as a going concern;
10.4.4 overseeing the implementation and ongoing monitoring of risk management;
10.4.5 responding to strategic challenges in a creative, proactive and constructive manner;
10.4.6 establishing and maintaining a delegation of authority framework which shall record and detail the extent and nature of the delegation of authority to management; and
10.4.7 interacting with fellow Directors, members and management in a manner that is beneficial to the work of WESSA.

11. BOARD OF DIRECTORS MEETINGS

11.1 The WESSA Board of Directors may determine the manner and form of providing notice of its meetings, as set out in section 73(4.

11.2 The WESSA Board of Directors may proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5).

11.3 The Directors shall at the first meeting after the annual general meeting appoint from amongst their number office bearers including a Chairperson and a Vice Chairperson, and Treasurer. Each of the office bearers shall serve 3 (three)-year terms of office, provided that no person may serve in one office for longer than 9 (nine) consecutive years without a break of at least 3 (three) years before being re-appointed to that same office.

11.4 The Directors may from time to time appoint an official, to be known as the WESSA Secretary, who shall perform the duties of the secretary of WESSA, as required by the Act.

11.5 A Director may, and the WESSA Secretary, on the requisition of a Director shall at any time convene a meeting of the Board.

11.6 The Board may meet for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

11.7 The WESSA Board of Directors may conduct a meeting entirely by electronic communication, or provide for participation in a meeting by electronic communication, as set out in section 73(3) so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

11.8 The quorum for Board meetings shall be at least 50 (fifty)% plus 1 (one) of the Directors.

11.9 Questions arising at any meeting shall preferably be resolved by consensus, and, if consensus cannot be achieved, be decided by a simple majority of votes, and in the event of an equality of votes the Chairperson shall have a second or casting vote.

11.10 The WESSA Directors may, instead of voting to make a decision at a meeting, adopt a decision by written consent of the majority of Directors, given in person or by electronic communication, provided that each Director has received notice of the matter to be decided. A decision so made shall have the same effect as if it had been approved at a meeting.

11.11 Subject to the provisions of Section 75 of the Act, a Director shall not vote in respect of any contract or proposed contract with WESSA in which that Director is interested or any matter arising therefrom and if that Director does so vote, that Director's vote shall not be counted.

11.12 The continuing Directors may act notwithstanding any vacancy in their body, but if and for so long as their number is reduced below the number fixed by or pursuant to this MOI as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number, but for no other purpose.

11.13 The Directors may delegate any of their powers to committees. Any committee so formed shall in the exercise of the powers so delegated conform to the rules that may be imposed upon it by the Directors.

11.14 All acts done by any meeting of the Board or a committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there were some defects in the appointment of any such Directors or persons acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and were qualified to be a Director or committee member.

12. OFFICERS AND COMMITTEES

12.1 The Board of Directors may appoint any officers it considers necessary to better achieve the objects of WESSA.

12.2 The WESSA Board of Directors may appoint committees of Directors, and delegate to any such committee any of the authority of the Board as set out in section 72(1), or include in any such committee persons who are not Directors, as set out in section 73(2)(a).

12.3 The authority of a committee appointed by WESSA's Board, as set out in section 72(2)(b) and (c) is limited and restricted to the extent that the powers of WESSA are limited by clause 2.

12.4 No Member shall be appointed to any office or capacity or to membership of any Committee in WESSA unless such Member has either prior to or at the meeting at which it is proposed to appoint such Member indicated their willingness, in writing, to accept such appointment.

12.5 Committee members shall hold office for a period of 3 (three) years from the date of their election; save as is provided for in clause 9.7 provided that:

12.5.1 a person co-opted to a Committee shall not be bound by this clause and shall be co-opted for a specific task, and for a specific period as determined by the Committee but not exceeding 3 (three) years; and

12.5.2 no person shall serve in any one capacity on any Committee of WESSA for more than 3 (three) full terms in succession. However, this period may be extended, should there be a super majority vote in favour of extension of the term by at least 75 (seventy five)% of the members of the applicable Committee, excluding the person involved.

12.6 The Chairperson of the relevant Committee, acting alone, shall determine the date, time and venue of all meetings of that Committee

12.7 Any Committee may convene meetings by teleconferencing or videoconferencing facilities, and electronic presence is equivalent to physical presence. A break in electronic communication facilities shall cause the meeting to automatically stand adjourned until the electronic communications are re-established.

12.8 Notice of any meeting of a Committee shall be given in writing not less than 21 (twenty-one) days before the date of such meeting and shall be distributed as provided for herein to each person entitled to attend such meeting.

12.9 In respect of a meeting of any Committee, written notice may be waived only if agreed to by not less than 3/4 (three-quarters) of all Committee members.

12.10 For the purposes of any Committee meeting the quorum shall be at least 50 (fifty)% plus 1 (one) of the members of such committee.

12.11 In the event of a quorum not being present within 30 (thirty) minutes of the notified time of any meeting, that meeting shall stand adjourned to a date determined being not less than 7 (seven) days nor more than 21 (twenty one) days after the date of adjournment, to the same time and place and in that event the number present at such adjourned meeting shall constitute a quorum; provided that if the general meeting is called as contemplated in terms of clause 6.2.4 hereof, and a quorum is not present within 30 (thirty) minutes of the notified time, the meeting shall be abandoned.

12.12 At all meetings of Committees, the Chairperson of such committee shall preside and, failing the Chairperson, the Vice Chairperson. Failing the Vice Chairperson, the committee members present shall elect from amongst their number a Chairperson for the duration of the meeting.

12.13 A Committee may meet and adjourn as it thinks fit. Matters arising at any meeting shall be determined by a majority of votes of the Members present, and in the event of an equality of votes the Chairperson shall have a second or casting vote.

12.14 Decisions may be taken either by round robin or written resolution of the members of that Committee. A "round robin" resolution signed by a majority of Committee members then holding office shall have the same force and effect as if it was passed at a duly convened Committee meeting and shall be entered into the minute book as a resolution of that Committee.

12.15 Every Committee of WESSA shall keep a summary of its deliberations and record its decisions, which record shall be retained by a person nominated by the Committee concerned and shall be available for inspection at all reasonable times by any Member or by any office bearer or employee of WESSA.

12.16 All material decisions of Committees or sub-committees shall be submitted to the next Board meeting for approval by the Board or for the Board to decline to approve or ask the Committee to reconsider any aspect and revert to the Board.

12.17 Subject to 12.16, any Committee duly constituted in terms of this MOI shall have all such powers as may be necessary to enable it to carry out the objects of WESSA; provided that such powers shall at all times be subject to the right of Board to prohibit, restrict or deduct from or to place any control or limitations on such powers.

12.18 In addition to the powers and duties delegated to them by the Board, the Committees of WESSA shall have all such powers as are necessary to enable them to operate, subject to the restrictions imposed in this MOI. In addition to and without derogating from the generality of the aforegoing, all Committees of WESSA shall have the right to:

12.18.1 establish such sub-committees as they may consider necessary from time to time, to define the functions, purposes and powers of such sub-committees and to disestablish same subject at all times to a member of the enabling Committee being ex-officio a member of all sub-committees; and

12.18.2 co-opt persons to the Committee or sub-committee provided that a person who is co-opted to a Committee or sub-committee shall have no vote on any matter falling for decision by that Committee or sub-committee, unless the Committee or sub-committee resolves otherwise.

12.19 No member of any Committee or sub-Committee of WESSA shall be entitled to any remuneration for any act, deed or thing done in that capacity as such provided that:

12.19.1 a Committee member shall at all times be entitled to be reimbursed any reasonable expenses including travelling, subsistence and other expenses incurred by them in the exercise of their duties; and

12.19.2 a Committee member may be engaged to act for or to assist or advise WESSA in their professional capacity as distinct from their capacity as a Director or Committee member and in that event such Committee member shall be entitled to such professional fees as may be agreed upon by them and WESSA.

13. EMPLOYEES

13.1 All employees of WESSA, whether their employment is at the request of and/or for service in a Region or a Branch, are and shall be employed by WESSA and the Chief Executive Officer or other duly appointed representative of the Board shall at all times have the right to dismiss any employee and to vary the terms and conditions of employment or areas where or fields in which the employee is employed, and:

13.1.1 the Chief Executive Officer shall make all employee appointments;

13.1.2 the Chief Executive Officer shall prepare the contract of employment in consultation with the Region or Branch if appropriate and thereafter sign the contract of employment on behalf of WESSA; and

13.1.3 where the employee is to be appointed at the request of a Region or Branch, the duly appointed representative of the Region or Branch shall be consulted prior to that employee being appointed or the terms and conditions of employment or areas where or fields in which the employee is employed being varied.

13.2 The request of a Region or Branch to the Chief Executive Officer that WESSA employ a person or persons, whether in a permanent, temporary or part-time capacity, shall be dealt with in terms of the relevant Policy of WESSA.

13.3 No remuneration (as defined in the Fourth Schedule to the Income Tax Act) shall be paid to any employee, office bearer, Member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered, and no person shall be economically benefitted in any way which is not consistent with the objects of WESSA;

13.4 Paid employees in any capacity, permanent or temporary, shall be entitled to vote upon any matter which may fall for the consideration of a Committee of WESSA provided that they shall not be entitled to participate in discussion of or vote on any matter which concerns their employment, their remuneration or performance, or any other matter in which they have a personal interest

14. ACCOUNTING RECORDS AND DONATIONS

14.1 The Directors shall cause such accounting records as are prescribed by Section 28 of the Act to be kept.

14.2 The accounting records shall be kept in the registered office of WESSA or at such other place or places as the Directors think fit and shall always be open to inspection by the Directors.

14.3 WESSA shall be entitled to accept donations including revocable and conditional donations provided that:

14.3.1 WESSA may only accept revocable donations where the reason for the revocation is:

14.3.1.1 a material failure to conform to the designated purposes and conditions of the donation; or

14.3.1.2 any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act;

14.3.2 a donor (other than a donor which is an approved public benefit organisation or an institution or body which is exempt from tax in terms of section 10(1)(*c*A)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable the donor or any connected person in relation to the donor to derive some direct or indirect benefit from the application of the donation.

14.4 No donations may be made by WESSA to the Members or the Directors of WESSA and donations will only be made in accordance with the main object of WESSA;

15. EXPENDITURE AND FINANCE

15.1 All membership fees and subscriptions in terms of this MOI and all other funds received, and assets held by WESSA, including funds received, and assets held, by the Regions and Branches, shall be the property of WESSA and shall be under the ultimate control of the Board. WESSA funds shall be dealt with in terms of the Policies of WESSA

15.2 Regions and Branches shall establish and maintain financial systems and banking practices which comply with WESSA Policies and South African legislation and best practice. All membership structures shall adhere to reporting requirements and schedules as required by WESSA Policies to allow the Board to oversee and report on all financial transactions.

15.3 The income and property of WESSA, however derived, shall be applied solely towards the promotion of its main object or invested and no funds will be distributed to any person other than in the course of undertaking any 'public benefit activity' (as defined in the Income Tax Act) and no portion of the income or assets of WESSA may be paid or transferred, directly or indirectly, to the Directors, members or persons appointing Directors of WESSA, provided that this shall not prevent:

15.3.1 the payment in good faith of reasonable remuneration to any officer or servant of WESSA, for any services rendered to WESSA;

15.3.2 payment of an amount due and payable by WESSA in terms of a *bona fide* agreement between WESSA and that person or another;

15.3.3 payment in respect of any rights of that person, to the extent that those rights are administered by WESSA in order to advance a stated object of WESSA; or

15.3.4 payment in respect of any legal obligation binding on WESSA.

15.4 No expenditure shall be incurred by or on behalf of WESSA except on authority of the Board or of the person or persons to whom the Board has generally or specifically delegated the power to authorise expenditure.

15.5 The financial transactions of WESSA shall be administered via one or more bank accounts which shall be opened in the name of WESSA.

15.6 All payments and transfers of any kind made on behalf of WESSA shall be signed by such person or persons as may from time to time be decided by Board, provided that Board shall have the right to delegate the authority to determine the signatory or signatories and that no transactions shall be enacted by one single person.

15.7 The National Office and each Region shall prepare a budget in the form set out in the WESSA Policies which budgets shall be presented to Board upon a date to be determined by the Board.

16. ANNUAL FINANCIAL STATEMENTS

16.1 The Directors shall from time to time, in accordance with sections 29 and 30 of the Act, cause to be prepared and laid before the Board such annual financial statements as are referred to in those sections.

16.2 A copy of the annual financial statement shall, at least 10 days prior to the relevant Board meeting, be sent to every Director of WESSA.

17. NONPROFIT ACT

17.1 The Directors may apply for WESSA to be registered as a NonProfit Organisation and shall, if so registered, ensure that WESSA complies with all the requirements of the Nonprofit Organisations Act No.71 of 1997.

18. REMUNERATION OF AND CONTRACTS WITH DIRECTORS

18.1 The Directors may not be remunerated for their service on the Board or any committee, but shall serve in a voluntary capacity unless otherwise determined by special resolution of members.

18.2 Directors who are also employees of WESSA or Executive Directors will not be paid for attending Board meetings or for any other Director duties, as they are already remunerated by WESSA in terms of their employment contracts.

18.3 Directors may be paid the reasonable travelling, hotel and other expenses properly incurred by them in or about the performance of their duties as Directors including those of attending and travelling to and from meetings of the Directors or of any committee of the Directors, as are approved and provided for in the budget.

18.4 If Directors, connected persons to Directors (of any legal entities in which Directors or their connected persons have an interest) are appointed to act in their professional capacity on behalf of WESSA or perform services for WESSA or may contract with WESSA or with any entity in which WESSA is interested, this appointment shall be subject to compliance with the procurement policy of WESSA, the fees or contractual amounts paid shall be reasonable, their appointment and the amounts paid to them shall be declared and they may not vote on the contract or on any other matter in which they are interested, directly or indirectly.

19. INDEMNIFICATION OF MEMBERS, DIRECTORS, COMMITTEE MEMBERS AND OFFICERS

19.1 Directors, Members, Committee Members and other officer of WESSA shall incur no personal liability for the debts or obligations of WESSA, by reason only of their service in that capacity. Members incur no liability for the debts or obligations of WESSA, by reason only of their participation in WESSA. Subject to the relevant provisions of this MOI and the Act, each Director, Committee Member and other officer of WESSA shall be indemnified by WESSA against all costs, expenses, and liabilities reasonably incurred by them on behalf and in the interests of WESSA and with the authority of the Board.

19.2 WESSA will indemnify Directors, Officers, Committee Members or employees of WESSA against personal liability for loss, expenses or damages incurred by WESSA:

19.2.1 through the insufficiency or deficiency of any security in or upon which any of the funds of WESSA are invested;
19.2.2 arising from the bankruptcy, insolvency or delictual acts of any persons with whom monies, securities or effects are deposited; or
19.2.3 occasioned by any error of judgment or oversight on their part; or
19.2.4 through other misfortunes which occur in the execution of the duties of their office,

or in relation thereto, unless the loss, damage or expense:

19.2.4.1 happened through their own gross negligence, gross default, gross breach of duty or wilful misconduct or wilful breach of trust; or
19.2.4.2 is a fine arising from conviction for an offence (provided that WESSA will indemnify against fines imposed in circumstances where there is no wrongful conduct by the Director, officer or employee, but the fine is imposed by law purely because of the officer's position in WESSA).

19.3 WESSA may, in the discretion of the Board and if funds are available:

19.3.1 advance expenses to a Director, Member or other officer of WESSA to defend litigation in any proceedings arising out of their service to WESSA; and/or
19.3.2 directly or indirectly indemnify a Director for expenses contemplated in 19.3.1, irrespective of whether it has advanced those expenses, if the proceedings—

19.3.2.1 are abandoned or exculpate the Director; or
19.3.2.2 arise in respect of any liability for which WESSA may legally indemnify the Director, Committee member or other officer.

20. AMENDING MEMORANDUM OF INCORPORATION

20.1 This MOI of WESSA may be altered or amended in the manner set out in sections 16 (by special resolution of Members in terms of clause proposed by the Board or Members holding not less than 10% of the voting rights, and adopted by 75 (seventy five)% of those Members present and voting), 17, 60 or 152(6)(b), subject to the following:

20.1.1 if WESSA is exempted from payment of normal tax a copy of any such amendment shall be sent to the Commissioner for the South African Revenue Service or their authorised representative;
20.1.2 if WESSA is registered as a Non-Profit Organisation then a copy of any amendments shall be sent to the Directorate of Non-Profit Organisations.

21. WINDING UP, DEREGISTRATION OR DISSOLUTION

21.1 Upon its winding up, deregistration or dissolution no past or present member or Director of WESSA, or person appointing a Director of WESSA, is entitled to any part of the net value of WESSA, but the assets of WESSA remaining after the satisfaction of all its liabilities shall be given or transferred to some other organisation or organisations to be determined by the Members of WESSA after advice from the Board, at or immediately before the time of its dissolution, or failing determination, by a court and which:

21.1.1 are non-profit;
21.1.2 have objects similar to WESSA's main object;
21.1.3 if WESSA is so registered, is/are registered in terms of the Nonprofit Organisations Act, 1997; and
21.1.4 if WESSA is exempt from income tax, donations tax and estate duty, under the relevant laws of the country is/are an entity as listed below, and which shall be required to use the assets solely for the purpose of carrying on public benefit activities similar to those of WESSA:

21.1.4.1 a public benefit organisation, approved in terms of section 30 of the Income Tax Act; or
21.1.4.2 an institution, board or body contemplated in section 10(1)(cA)(i), of the Income Tax Act.

Explanatory Memo from ngoLAW for the amendments to the WESSA's Memorandum of Incorporation

Amending and updating the WESSA MOI:

This is a brief overview of the proposed WESSA MOI amendments. It contains a tabulated summary of amended clauses and should be read along with the actual annotated and tracked changes amended draft MOI.

central role of the MOI

During 2025, the management team and Board of Directors embarked upon a process of updating the founding and governing document of WESSA- its Memorandum of Incorporation (MOI). This crucial document, which is registered with the Companies Office, is the fundamental and ruling document for the governance of WESSA. All systems, structures, policies and processes of WESSA must align with it, and the MOI both enables and constrains the work done by all of the people of WESSA.

It is therefore important that the MOI itself is in working order: that it upholds and enforces the values and governance and accountability principles of WESSA, so that those who come after the current members, Board and Team, are held to the same standards, and guided in the way that they should operate.

process and approach

ngoLAW was approached to work on the amendments with the input of Board members and the WESSA Team. Several drafts and many conversations later, we have arrived at the this draft, which the Board and Team have engaged with, and which is submitted to members of WESSA, to vote on and adopt the changes.

Please note that the draft amended MOI has the proposed changes tracked on it, with the exception of clauses which were re-ordered before the changes were made. It is also annotated with comments in the margins, giving the reasons for each change.

summary of main proposed changes with brief explanations

It is important to note that the amendments which have been drafted and proposed do not alter the mission of WESSA or the way that it operates. They are proposed as a governance update which align the MOI of WESSA with the practice of WESSA, and embed foundational principles for those who come after the current Members, Board and Team.

The proposed amendment fall into two main categories:

1. Those required to align the document with current legal, compliance and governance requirements, and
2. Practical amendments to update to reflect actual working structures in WESSA

1. legal corrections and compliance updates:

- Clarification of WESSA's legal history and incorporation.
- Embedding democratic processes and the legally-required powers of members over certain decisions (Director elections, director remuneration, MOI amendments, Winding-up decisions).

- Updating with provisions required by section 30 of the Income Tax Act for WESSA as a public benefit organisation, and moving these provisions into their natural place in the flow of the document, so they can be read together with like clauses.
- Updating meeting and voting clauses to reflect the legal requirements for the processes used by WESSA.
- Articulating director fiduciary duties, director functions and how conflicts of interest are dealt with.
- Correcting election and retirement provisions for directors to align with the mandatory provisions of the Companies Act.
- Deleting provisions which are out of date (Patrons) and not legally appropriate (Alternate Directors).
- Modernising indemnity and liability protections.
- Ensuring winding-up decisions ultimately rest with members rather than directors.

2. practical and organisational updates

- Recording current categories of members, and defining these and the associated voting rights clearly.
- Removing the detail of member processes to policies, but retaining a strong framework for member issues and proper processes;
- Confirming that Regions and Branches are not separate legal entities Clarifying relationships between National, Regional and Branch structures.
- Strengthening financial reporting relationships between Regions and National Office.
- Providing detail and clarity on the processes for nomination and appointment of directors.
- Providing for mandatory sabbatical for directors after 3 consecutive terms, to support board renewal and succession planning
- Updating committee structures, powers, and terms of office.
- Improving electronic meeting and voting mechanisms.
- Establishing clear rules regarding the voluntary nature of board service

conclusion

I hope that this summary and the table which follows is a useful guide to the changes proposed and the reasons for each of them.

These amendments are not a re-invention of WESSA, which continues in working toward its same mission, but are instead a governance modernisation upgrade. The main functions served by the amendments are the entrenching of member sovereignty, legal compliance, governance clarity, financial accountability, and alignment of the MOI with WESSA's actual operating structure.

PREPARED FOR WESSA on 7 August 2026

NICOLE COPLEY
Specialist consulting to the non-profit sector
BA LLB LLM (tax) Admitted Attorney (non-practising)
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Table of Main Amendments

Clause	2018 MOI	Proposed 2026 MOI	Category	Why It Matters
Definitions	No Policy definition	Broad Policy definition	Operational	Avoids repetition
1.1	Incorrect incorporation reference	Corrected to 1926 Act	Legal	Historical accuracy
4.4	General member classes	Detailed member categories	Operational	Structure and voting clarity
4.11	Detailed disciplinary procedures	Principles + policy framework	Governance	Flexibility with safeguards
5.1	Dealt only with proxies	Representatives of members added	Operational	Better administration
7.1	25-member quorum	50-member quorum	Governance	Protection against capture
7.8	Basic written members vote provision	Detailed electronic/written resolution procedure	Legal	Companies Act alignment
7.9	Standard special resolutions	Director remuneration added as member power	Governance	Member oversight
8.3	Lacked clarity on legal status of Regions and Branches	Regions and Branches are not separate entities	Structural	Removes uncertainty
9.1-9.4	Majority of Board elected by Board	Member-centred election model	Governance	Democratic accountability
9.5	2-year terms	3-year terms plus rotation. One third stands down each year as mandatory. Sabbaticals after extended service	Governance	Democratic functioning and board renewal
9.8	Alternate directors permitted	Removed	Governance	Better NPC practice
10	Directors given limited guidance on duties	Detailed values and duties	Governance	Better director guidance
11.3	No limits on terms in offices	Mandatory sabbaticals from Board office	Governance	Board succession and renewal
11.9	Voting model	Consensus-first model	Cultural	Alignment preferred
12	Committee terms	Aligned to Board terms	Operational	Consistency
13	Employee provisions	CEO and staff accountability	Legal	Clarifies accountability
14	Donations	Updated intelligible but SARS-compliant wording	Compliance	Required for PBO status
15	Finance	Stronger oversight provisions	Governance	Risk reduction
18	Director remuneration	Volunteer model entrenched	Governance	Protects culture
19	Indemnities	Modernised framework	Legal	Director protection
20	MOI amendment process	Clarified member process	Governance	Transparency
21	Winding up	Members decide	Legal	Compliance and democracy

Draft Amended WESSA Memorandum of Incorporation with Comments and Track Changes

COMPANIES AND INTELLECTUAL PROPERTIES COMMISSION

REPUBLIC OF SOUTH AFRICA

In accordance with s 16(1)(c)

MEMORANDUM OF INCORPORATION OF

THE WILDLIFE AND ENVIRONMENT SOCIETY OF SOUTH AFRICA (RF) NPC

Shortened name: WESSA (RF) NPC

Registration No. 1933/004658/08

('WESSA')

WESSA is a non-profit company with members, with **the object of enabling citizen action for environmental stewardship and promoting public participation in caring for the Earth.**

Adoption of Memorandum of Incorporation

This amended Memorandum of Incorporation ("**MOI**") was adopted by the members of WESSA, in accordance with section 16(1)(c) of the Companies Act, 2008 ("**the Act**"), as evidenced by the special resolution to which this MOI is annexed which was taken at a meeting of members on 3 October 2026.

Confirmed as so adopted and amended ____________________

Chairperson

In this MOI:

a) *A reference to a clause by number refers to the corresponding clause in this MOI;*

b) *A reference to a section by number refers to the corresponding section of the Act; and*

c) *Words that are defined in the Act bear the same meaning in this MOI as in the Act.*

d) *A reference to a "**Policy**" shall include all Policies, , Terms of Reference, Standard Operating Procedures or Guidelines and refers to the applicable version of such Policy adopted by WESSA from time to time.*

Commented [NC1]: The object clause is the most important in the document, as it both enables and constrains the work being done. They should be built to last a fair distance, but do sometimes have to be revisited and adjusted.

In various drafts we had considered something more aligned with latest vision, but it has been taken back to close to the 2018 version, with the idea that it should broadly enable the strategic direction at any time, without being limited by it.

Commented [NC2]: In this tracked-changes draft we have taken MOI adopted in 2018, and made edits to it, and provided explanations in the comments for all edits made.
We have moved some clauses around before making the edits, and have not tracked these moves, as it makes the document messy and harder to read. For instance the clause "Memorandum of Incorporation and Company Rules" has been moved from being clause 3, to being clause 20, as we think this a more natural place to deal with the matter.

Commented [CC3]: Do we need to put a date here?

Commented [NC4]: This definition added for clarity and use throughout the document

1. INCORPORATION AND GOVERNING LAW

1.1 WESSA was incorporated as an Association not for gain, under the Union Companies Act, 46 of 1926. In terms of the Act, it is now a non-profit Company, as defined in the Act.

1.2 WESSA is governed by:

1.2.1 the unalterable provisions of the Act that are applicable to non-profit companies;
1.2.2 the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this MOI; and
1.2.3 the provisions of this MOI.

2. OBJECTS AND POWERS OF WESSA

2.1 WESSA is subject to the special conditions contained in this clause 2, as contemplated in section 15(2)(*b*).

2.2 The objects of WESSA are as set out on the first page of this MOI~~cover sheet~~ and describe the ambit and types of the public benefit activities (as defined in the Ninth Schedule to the Income Tax Act 58 of 1962, as amended ["**the Income Tax Act**"]) which WESSA intends to carry out.

2.3 WESSA shall have all the legal powers and capacity of an individual, except to the extent necessarily implied by the stated objects, and except to the extent that a juristic person is incapable of exercising such a power or having such a capacity, and subject to the following restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii):

2.3.1 All of the powers may only be executed in accordance with the main object of WESSA;

2.3.2 WESSA may not:

2.3.2.1 amalgamate or merge with, or convert to, a profit company; or

2.3.2.2 dispose of any part of its assets, undertaking or business to a profit Company, other than for fair value, except to the extent that such a disposal of an asset occurs in the ordinary course of the activities of the Company;

2.3.2.3 knowingly become a party to, or knowingly permit itself to be used as part of any tax avoidance scheme, being any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax duty or levy which would have been or would have become payable by any person under the Income Tax Act or any other Act Administered by the Commissioner for the South African Revenue Services.

~~2.3.3 No remuneration (as defined in the Fourth Schedule to the Income Tax Act) shall be paid to any employee, office bearer, Member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered, and no person shall be economically benefitted in any way which is not consistent with the objects of WESSA;~~

~~2.3.4~~1.1.1 ~~No donations may be made by WESSA to the Members or the Directors of WESSA and donations will only be made in accordance with the main object of WESSA;~~

Commented [NC5]: In the 2018 document this was amended to refer to the 1973 Companies Act. But this was not true, as the company was formed in 1933, so it must have been in terms of this Act

Commented [NC6]: We need to sneak in a definition of PBAs in order to make the nuanced changes to clause 2.3.5

Commented [BK7]: SARS requirement

Commented [NC8]: Moved to the clause dealing with employees, 13.3

~~2.3.5~~2.3.3 All of the public benefit activities of WESSA shall be carried out in a non-profit manner and with an altruistic or philanthropic intent and no ~~such~~ activiti~~y~~es shall be intended to directly or indirectly promote the economic self-interest of any Director, officer, member or employee of WESSA, otherwise than by way of reasonable remuneration payable to that Director, officer, member or employee;

~~2.3.6 The income and property of WESSA, whencesoever derived, shall be applied solely towards the promotion of its main object or invested and no funds will be distributed to any person other than in the course of undertaking any 'public benefit activity' (as defined in the Income Tax Act) and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever, to the Directors of WESSA; provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of WESSA, for any services rendered to WESSA;~~

~~2.3.7 WESSA shall be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any representation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation; and~~

~~2.3.8~~2.3.4 WESSA shall not use its resources directly or indirectly to support, advance or oppose any political party.

~~2.4 Upon its winding up, de-registration or dissolution the assets of WESSA remaining after the satisfaction of all its liabilities shall be given or transferred to some other organisation or organisations to be determined by the Directors of WESSA at or before the time of its dissolution, or failing such determination, by the court and which:~~

~~2.4.1 are non-profit,~~

~~2.4.2 have objects similar to its main object;~~

~~2.4.3 if WESSA is so registered, is/are are registered in terms of the Nonprofit Organisations Act, 1997; and~~

~~2.4.4 if WESSA is exempt from income tax, donations tax and estate duty, under the relevant laws of the country is/are:~~

~~2.4.4.1 any similar public benefit organisation, which has been approved in terms of section 30 of the Income Tax Act;~~

~~2.4.4.2 any institution, board or body which is exempt from income tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has its sole or principal object the carrying on of any public benefit activity; or~~

~~2.4.4.3 any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) of the Income Tax Act.~~

3. OPTIONAL PROVISIONS OF THE ACT

3.1 WESSA elects, in terms of section 34 (2), to comply voluntarily with some of the provisions of Chapter 3 of the Companies Act, 2008, in that WESSA:

3.1.1 may appoint a Company secretary, and, in this circumstance, will comply with sections 86 to 89; and

3.1.2 will appoint an auditor, in terms of sections 90 to 93.

4. MEMBERS OF WESSA

Commented [NC9]: Making the wording more tightly adhere to the Income Tax Act, and avoid confusion about whether fundraising activities, for example, need to be carried out in an altruistic manner.

Commented [NC10]: Please note that this SARS restriction:
1. Refers to the WESSA NPC only, as a public benefit organisation. It has no impact on any subsidiary of WESSA; and
2. It specifically refers to the 'public benefit activities' of WESSA. Any commercial activities (such as renting out premises owned by WESSA) or fundraising activities (selling tickets to a gala dinner) are not impacted by the SARS restriction.

Commented [NC11]: Updated version in 15.3, in the Expenditure clause

Commented [NC12]: Updated version in the finance clause

Commented [NC13]: In terms of 1(4)(b)(ii) of Schedule 1 to the Companies Act this must, if there are members, be a decision by them.
The clause has been moved to the end of the document and amended to reflect the ultimate power of the members in these matters.

4.1 As contemplated in item 4(1) of Schedule 1 to the Act, WESSA has Members who are in either of two classes, being voting and non-voting Members, respectively.

~~4.1~~4.2 The Members of WESSA shall be such ~~other~~ persons or bodies which support the objectives of WESSA as may be admitted from time to time in terms of this MOI.

~~4.2~~4.3 Subject to the provisions of clause 4.5 hereof, the Board may fix the subscriptions or other charges payable to WESSA by the Members and, in fixing such subscriptions or other charges, may differentiate among the Members belonging to different categories of membership.

4.4 Members shall be made up of:

4.4.1 **Individual, natural persons**, each of whom shall have one vote (except for members under the age of 18, who shall be non-voting members);
4.4.2 **Legal entities** which are commercial or businesses entities, or which are non-profit legal entities, each legal entity having one member number and one vote;
4.4.3 **Family Group** members, each family group having one membership number and one vote;
4.4.4 **Affiliated** or aligned **organisations** or groups, known as **Friends Groups** and **Conservancies** and other local biodiversity or environmental organisations, clubs or groups. Each Affiliated Organisation shall have one membership number and one vote;
4.4.5 **Schools** which wish to become members, each school having one membership number and one vote; and
4.4.6 All directors and permanent **employees** of WESSA, each of whom shall have one vote;

~~4.3 Only Adult Members shall have a vote attaching to their membership or be entitled to hold any office in WESSA. Junior Members shall be non-voting Members. Within each of the two classes of Member, WESSA shall distinguish between various categories of Member, from time to time.~~

~~4.4~~4.5 Upon the recommendation of the Board, the Members at any general meeting may appoint as an Honorary Life Member of WESSA, any adult natural person who has rendered any long or conspicuous service to WESSA or who has in a conspicuous manner promoted the object of WESSA. An Honorary Life Member shall not be required to pay any subscriptions to WESSA.

~~4.5~~4.6 Admission to any category~~lass~~ of membership of WESSA shall be at the sole discretion of the Board or its nominee, which may either admit or refuse to admit any applicant, and in the event of its refusing to admit any applicant, it shall not be obliged to furnish reasons for its refusal.

~~4.6~~4.7 The Board shall have the right to delegate to any Committee or any employee or office bearer of WESSA, the power to admit or to refuse to admit any applicant to membership and the provisions of 4.6 hereof shall *mutatis mutandis* apply to such Committee, employee or office bearer.

~~4.7~~4.8 Membership of WESSA shall be valid for a period of 1 (one) year from the date upon which membership is granted and shall thereupon automatically cease and the Member's name shall be struck from the register of Members, unless the Member has made application for renewal of membership and paid the amount then determined for the respective category~~lass~~ of membership for the ensuing year, provided that the provisions hereof may be waived in respect of any application for renewal received within a reasonable period after the expiry of the previous period of membership.

~~4.8~~4.9 The provisions of clauses 4.6, 4.7 and 4.8 shall apply to any application for renewal of membership.

Commented [NC14]: In the 2018 version this word had been changed to "elected". Admitted is correct for members. It is the directors who are elected.

Commented [NC15]: This detailed clause added for clarity on the structure and voting powers of members of WESSA.

Commented [NC16]: Already included in 4.4.1

~~4.9~~4.10 WESSA shall maintain at its National Office or at such other place as may from time to time be determined by the Board, a register of Members as provided in Section 24(4)(a) of the Act, which register shall be open for inspection as provided in Section 26 of the Act.

4.11 Matters concerning the discipline of the Members, the adherence of Members to the Rules and processes of WESSA, the non-payment of member fees, ~~and~~ any action to be taken in these matters (including removal of Members) shall be dealt with in terms of the WESSA Policies, ~~or Standard Operating Procedures~~ in place from time to time. These Policies ~~and SOPs~~ shall:

4.11.1 Ensure that the appropriate structure deals with any -particular matter, and that no structure of WESSA is the judge on its own case;
4.11.2 Respect the privacy, confidential information and reputation of all parties;
4.11.3 Be administratively fair, and allow the right to reply when appropriate;
4.11.4 Impose only sanctions which are necessary and appropriate.

~~isciplinary committee or in the event of it determining that the Member should be suspended or expelled from WESSA, shall refer the matter to a special disciplinary committee consisting of three people, at least one of whom shall be an advocate or attorney, who shall preside.~~

~~4.10 The special disciplinary committee shall have the power to hear the matter, and the presiding officer shall have the power to determine the matters of procedure including the hearing of evidence, provided that both the Board and the said Member shall be entitled to appoint any other Member to represent such Member.~~

~~4.11 The special disciplinary committee shall report, in writing, to Board its finding and make its recommendations as to whether or not the Member should be expelled or whether a lesser sanction is merited, provided that in the event of the said Committee not recommending any such action the Board shall be bound by such decision.~~

~~4.12 In the event of the special disciplinary committee recommending expulsion or a lesser sanction, such decision shall not be enforced unless Board resolves to carry out the recommendation.~~

~~4.13~~4.12 No Member who has been expelled from WESSA ~~as hereinbefore provided~~ shall be entitled to any refund of any portion of any subscription fees paid in connection with such Member's membership of WESSA.

~~4.14~~4.13 A Member of WESSA shall cease to be a Member:

~~4.14.1~~4.13.1 if such Member resigns in writing addressed to the Chairperson of WESSA or to its Secretary at its registered office;

~~4.14.2~~4.13.2 if the Member is suspended or expelled through an administrative process of the relevant WESSA structure, in accordance with the WESSA Policies ~~in terms of clause 4.15;~~

~~4.14.3~~4.13.3 if such Member's nomination by the body which such Member represents is revoked in writing addressed to the Chairperson of WESSA or its Secretary at its registered office;

~~4.14.4~~4.13.4 if such Member dies or is declared ~~insolvent or~~ legally incapable of managing their affairs ~~sane~~ or is convicted of a criminal offence the nature of which is directly- undermines or is opposed to the mission and work of WESSA ~~in respect of which a sentence of imprisonment without the option of a fine is imposed~~; or

~~4.14.5~~4.13.5 if such Member, being a juristic person, is wound up or placed under judicial management, in any such case provisionally or finally.

Commented [NC17]: The members are a foundational and necessary part of the composition and governance of the NPC. As the discipline of members affects their membership, it must be dealt with in sufficient detail in the MOI.
The extent of 'sufficient detail' differs between organisations, but one generally wants to 'concrete' in the MOI the necessary guardrails to ensure that proper processes are followed. I have here edited to remove the sorts of detail which will change over time (as they already have) but include the outlines of the process (which will then be fleshed out in more detail in the policies)
Note: The staff are employees of the NPC, and their disciplinary issues and processes are not be dealt with in the MOI. They are employment issues, and dealt with in terms of their employment contracts, policies and employment law.

Commented [NC18]: This clause updated in terms of discussions regarding factors relevant to membership

5. RIGHTS OF MEMBERS

~~5.1 If, at any time, every Member of WESSA is also a Director of WESSA, as contemplated in section 57(4), the authority of the Members to act without notice or compliance with any other internal formalities, as set out in that section is not limited or restricted by this MOI.~~

Commented [NC19]: Excluded as not relevant or needed.

5.1 Members which are Legal Entities, Family Groups, Friends Groups, Conservancies or Schools, shall appoint a representative who shall speak and vote on behalf of that member in all meetings and other communications or processes of members. The name of the representative may be updated by notice in writing from time to time,

Commented [NC20]: Practical requirement to ensure:
1.WESSA is dealing with a properly authorised representative; and
2. There is only one representative voting, so internal group conflicts do not affect WESSA meetings outcomes

5.2 Members (or representatives of juristic members) may appoint proxies to act on their behalf at meetings of WESSA provided that:

5.2.1 Members may not appoint more than one proxy at a time ~~concurrent~~ proxies;

Commented [NC21]: Just making it clearer

~~5.2.2 in the case of an institution, corporate body, group, or family member, only one proxy may be appointed;~~

Commented [NC22]: Deleted as the representative acts as such, and not as a proxy.
But the rep may appoint a proxy, as per wording added above.

~~5.2.3~~5.2.2 a Member's proxy may not re-allocate their~~delegate the~~ proxy~~'s powers~~ to another person;

~~5.2.4~~5.2.3 unless authorised by the Board in advance, no person may act as proxy for more than three Members at any time;

~~5.2.5~~5.2.4 a Member must deliver to WESSA a copy of the instrument appointing a proxy before that proxy may exercise the Member's rights at a Members meeting;

~~5.2.6~~5.2.5 any Member intending to vote by proxy shall have the right to terminate such proxy at any time prior to the commencement of the meeting by lodging with the WESSA Secretary a written notice terminating such proxy and a proxy shall further be deemed to be ipso facto terminated in the event of the Member who granted such proxy being present at the meeting; and

~~5.2.7~~5.2.6 a Member's proxy may not decide without direction from the Member whether to exercise, or abstain from exercising any voting right of the Member.

5.3 Any Member possessed of voting rights shall have the right to demand a poll upon any matter upon which any meeting at which they have the right to vote is required to decide.

5.4 Only ~~Adult~~ Members ~~-~~ or representatives of Members who are 18 years and older shall have a vote attaching to their membership or be entitled to hold any office in WESSA.

Commented [NC23]: Younger people can be members (attend and speak at meeting, participate in activities) but, legally, they cannot vote as members until they are 18

5.5 If, at any time, WESSA's Board of Directors fails to determine a record date (being the date upon which it is determined which persons are recorded as Members of WESSA), as contemplated in section 59, the record date for the relevant matter is:

5.5.1 in the case of a meeting, the latest date by which WESSA is required to give Members notice of that meeting; or

5.5.2 the date of the action or event, in any other case.

~~5.6 WESSA shall publish and distribute such books, magazines, articles or periodicals or arrange for the publication and distribution thereof as the Board may from time to time decide and may attach the right to distribute all or any of such books, magazines, articles or periodicals to all or any classes of membership upon such conditions as it may deem fit.~~

Commented [NC24]: Excluded as unnecessary detail for the MOI

6. MEETINGS OF MEMBERS: CONVENING

6.1 WESSA shall convene an Annual General Meeting of its Members once in every calendar year, but no more than 15 months after the date of the previous Annual General Meeting, or within an extended time allowed by the Members by unanimous vote.

6.2 Special General Members' meetings of all Members shall also be called:

6.2.1 at any time that the Board is required by the Act or this MOI to refer a matter to Members for decision and the Board determines that it is not appropriate to hold the matter over till the following annual general meeting; or

6.2.2 if the number of Directors drops below the minimum required by this MOI, and the next annual general meeting is more than 2 months from the date upon which the relevant Director/s cease/s to act; or

6.2.3 if the Board resolves to call a meeting of the Members, and directs the WESSA Secretary to call such a meeting; or

6.2.4 in the event of at least one hundred Members in good standing requesting in writing a meeting, in which case the WESSA Secretary shall, within 28 (twenty-eight) days of such request, convene a general meeting of WESSA.

6.3 Meetings of all Members shall be held in South Africa or elsewhere, in a location determined by the Board, with due regard to the requests of Members.

6.4 Notice of any Annual General Meeting, or Special General Meeting, shall be given in writing not fewer than 21 (twenty-one) days before the date of such meeting and shall be distributed as provided for herein to each person entitled to attend such meeting.

6.5 Notice of any Annual General Meeting or Special General Meeting shall be published on the WESSA website, and in addition may be given through any National or Regional publication of WESSA or by publication or by email or any other electronic means, the intention being to bring such notice to as many Members as possible who are entitled to attend such meeting.

6.6 ~~The~~ ~~authority of~~ WESSA may ~~to~~ conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 ~~is not limited or restricted by this MOI~~ so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

Commented [NC25]: Tweaked to make it easier to read, same meaning

~~6.7~~ The rules for the conduct of meetings set out in ~~provisions of~~ this clause and of clause 7 shall also apply to meetings of Members in Regions and Branches, except where they are expressly varied.

7. MEMBERS MEETINGS: QUORUM AND VOTING

7.1 The quorum requirement for an Annual General Meeting or a Special General Meeting of all Members to begin, or for a matter to be considered is 50~~25~~ voting Members being present.

7.2 The quorum requirement for meetings of the Board and of all Committees of WESSA, be they Board, Region or Branch, or any subcommittees thereof, for a meeting to begin, or for a matter to be considered, shall be 50% plus one of voting Members serving on that body being present.

7.3 In the case of non-committee meetings of Regions or Branches, the quorum will be as decided by each Region or Branch, subject to the Board approving the quorum determined by the Region or Branch in advance of the meeting, and any decision on a substantive matter being referred to the Board for final decision.

7.4 If, within thirty minutes after the appointed time for a meeting to begin, the quorum requirements for that meeting to begin have not been satisfied, the meeting shall be automatically postponed without considering any business or item of the agenda for a date determined being not fewer than 7 (seven) days nor more than 21 (twenty one) days after the date of adjournment, subject to the proviso in 7.5. If the quorum requirements for consideration of a particular matter to begin have not been satisfied and:

7.4.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or

7.4.2 if there is no other business on the agenda of the meeting, the meeting is adjourned for one week, without motion or vote.

7.5 The rules in 7.1 to 7.4 shall be subject to the proviso that the person intended to preside at a meeting that cannot begin may extend the thirty minute limit allowed for in a reasonable period on the grounds that exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of Members to be present at the meeting or one or more particular Members, having been delayed, have communicated an intention to attend the meeting, and those Members, together with others in attendance, would satisfy the quorum requirements.

7.6 Subject to the provisions of clause 5.4 hereof and to any other provisions contained in this MOI the voting Members shall have the right to vote at all meetings of WESSA, and each voting Member shall have one vote.

7.7 For a resolution to be adopted at a Members meeting, it must be supported by:

7.7.1 in the case of an ordinary resolution, 50% plus one of the Members who voted on the resolution; and

7.7.2 in the case of a special resolution, at least 75 % of the Members who voted on the resolution, as provided in section 65(7).

7.8 The Members may consider a matter other than at a meeting, and the Members may, instead of voting to make a decision at a meeting, adopt a decision by written consent of the Members. Proposed written resolutions shall be electronically submitted to voting Members for consideration and electronic voting by Members and:

Commented [NC26]: The quorum needs to be high enough to guard against organisation hijack, but not so high that you cannot get a quorum.

Commented [NC27]: In the 2018 version this had been changed to 'less'. "fewer" is correct.

Commented [NC28]: IN the 2018 MOI this had been altered to "and". But 'to' is correct, as all of the clauses are referred to.

Commented [NC29]: This more detailed clause reflects all of the parts of section 60 of the Act.

7.8.1 voting shall close when votes from all Members are received or 20 business days after the call for votes, whichever occurs sooner, in accordance with section 60 of the Act; and

7.8.2 the number of votes received shall be at least the number required for a quorum at a meeting of voting Members; and

7.8.3 for a resolution to be adopted it must be supported by:

7.8.3.1 more than 50% of votes received in the case of an ordinary resolution; or

7.8.3.2 at least 75% of votes received in the case of a special resolution.

7.8.4 the results of the voting shall be communicated to all Members within 10 business days of the close of the voting period.

~~7.8 For a resolution to be adopted by written vote of Members it must be supported by:~~

~~7.8.1 in the case of an ordinary resolution, at least 50% plus one of the total number of Members, and~~

~~7.8.2 In the case of a special resolution, at least 75% of the total number of Members,~~

~~which votes shall be those received within 20 days of the resolution's being submitted to them.~~

7.9 A special resolution of the members is ~~only~~ required for those matters set out in section 65(11), being the amending of the MOI, approving the voluntary winding up of WESSA, disposing of all or a greater part of the assets of WESSA, or amalgamation with another Company and for the approving of any board remuneration in terms of section 66(8) and 66(9).

Commented [NC30]: The culture of the organisation is that directors serve in a voluntary capacity, and are not paid any board fees or honoraria for their service on the board.
In order to embed this culture to bind future boards, and to ensure that the power to approve board remuneration sits with the members, this has been added to the list of special resolutions to be taken by members.

8. REGIONS AND BRANCHES

8.1 The Board may at any time and from time to time determine the activities and groupings of Members by region ("Regions") and branches ("Branches") within such Regions, and in consultation with the affected Regions, increase or reduce the number of Regions and Branches and define the area of territorial jurisdiction of such number of Regions and Branches and may likewise alter the areas or territorial jurisdiction of existing Regions and Branches.

8.2 A Member residing in the area of jurisdiction of any Region and Branch shall be a Member of that Region and Branch, unless they request~~s~~, in writing, to belong to another Region or Branch.

8.3 Regions and Branches are established within and are component parts of WESSA. They do not have separate or independent legal status, and are established and function as parts of the whole of WESSA. Regions and Branches shall be established and function in accordance with and abide by the applicable Policies of WESSA.

Commented [NC31]: We have so often seen issues and conflicts arise where there is confusion about this aspect, and branches think they can have an independent life, that we think it best to make it absolutely clear that this is not the case.

8.4 Members of Regions and Branches shall at meetings of such Regions and Branches have and enjoy *mutatis mutandis* the rights to which they are entitled at meetings of WESSA in terms of this MOI. Regions and Branches shall hold annual meetings for election of committees and for reflections and planning of the regional aspects of the work of WESSA. Minutes of all Region and Branch meetings shall be copied to the WESSA central person designated by the WESSA CEO.

8.5 ~~Subject to clause 8.1, any Region shall have the right at any time and from time to time to create a Branch or Branches within its area of territorial jurisdiction, or to increase or reduce the number of Branches or to alter the territorial jurisdiction of such Branche~~s.

Commented [NC32]: Where these clauses are outdated, or deal with matters mentioned elsewhere (including in the WESSA Policies) they have been deleted.
Those that are retained are 'structural' in nature, and so should be in the MOI

8.6 Subject to any general or specific limitations on the authority delegated to any Region or Branch from time to time and to ongoing compliance with the fiscal and reporting systems, standards and requirements of WESSA and its auditors, , management of WESSA's affairs at Region and Branch level shall vest in Committees elected for that purpose; provided that each of these Committees shall appoint suitably qualified persons to serve as chairperson and as treasurer and the Board shall at all times have the right to vary the composition of, to disband or to re-constitute any such Committees, and to vary the authority delegated to such Region or Branch.

~~8.7 The Region and Branch Committees shall be elected by the Members of the respective areas and shall be entitled to make rules in regard to all and any matters not specifically reserved to the Board, provided however that such rules shall not be in conflict with this MOI or the WESSA.~~

~~8.8 The rules of each Region and Branch shall determine that the provisions of clause 12.413.10 hereof shall apply *mutatis mutandis* to the terms of office of Committee Members.~~

~~8.9~~8.7 In each Region, the committee elected or appointed to manage and administer WESSA's affairs at Region level shall elect or appoint a representative, normally but not necessarily the Chairperson of that committee, to represent the Region within WESSA and to vote on behalf of the Region in the instances determined in this MOI where a vote of Regional Representatives is required.

~~8.10~~8.8 The Regional Representatives will, prior to a meeting to elect Directors as contemplated by clause 9.3, elect from amongst their number by a simple majority, 2 (two) Regional Representatives to be appointed as Directors in accordance with clause 9.1.3.

~~8.11 The Chairperson or nominee of any Region or Branch shall call general meetings of the Members of such Region or Branch as provided in clause 8.3 hereof: provided that, where meetings are called at the request of Members, the requisition shall be made by at least 10% (ten percent) of the Members of that Region or Branch or one hundred Members, whichever is the smaller number of Members.~~

9. COMPOSITION OF THE BOARD OF DIRECTORS

9.1 The Board shall consist of not fewer than 7 (of whom at least 3 are not 'connected persons' (as defined in the Income Tax Act) in relation to one another), and not more than 14 Directors, including the following:

9.1.1 the Chief Executive Officer;

9.1.2 such Executive Directors as Board may deem fit;

9.1.3 two representatives elected by the Regional Representatives in the manner set out in clause 8.8; and

9.1.4 the balance of the ~~such other Directors as~~ Board being elected by the Members at the AGM ~~may from time to time determine~~ provided that such other Directors shall each be elected in respect of a specific portfolio of duties, at least one of which shall be the portfolio of National Treasurer.

9.2 No single person shall, directly or indirectly, control the decision-making powers of WESSA.

9.3 WESSA shall elect and appoint the Directors contemplated in clause 9.1.4 as follows:

9.3.1 Once a year, in good time before the expiry of terms of office of the relevant Directors, electronic notification shall be issued to Members indicating which Directors' terms will end, which may be elected for a further term of office and if any other of the Directors has ceased or will cease to serve. The notice shall include a call for nominations and specify the portfolios which need to be filled.

Commented [NC33]: The definition in the Income Tax Act refers to **connections based on personal relationships**- people married to each other (or co-habiting), and blood and adopted relatives (or spouses/partners of those relatives) "to the third degree of consanguinity" - so cousins are too close, but a cousin's child is far enough away not to count, as an example.

Commented [NC34]: The previous MOI provided for the Board to repopulate itself, with only the Regional Reps being (indirectly) appointed by the members. This was undemocratic, gave too much power to the Board and did not reflect actual practice.

Commented [NC35]: This clause has been edited to include the crucial detail of the nominations process

~~9.3.1~~9.3.2 any Member may nominate any person, who must be a Member but who need not be a Member of any committee of WESSA, for election to the Board;

9.4 nominations for election to the Board must be supported by a written indication of the suitability of the nominee and an indication, in writing, of the willingness of the nominee~~,~~ to accept such appointment.

~~Director shall be appointed to office unless such Member has either prior to or at the meeting at which it is proposed to appoint such Member indicated their~~

9.4.1 nominations for election to the Board must be submitted to the Nominations Committee ~~WESSA Secretary~~ at least 1 (one) month prior to the meeting to elect Directors;

9.4.2 the Nominations Committee shall consider and assess nominees for suitability and experience required, may reject unsuitable nominations and may themselves suggest or recruit other suitable nominees;

~~9.4.2~~ such Directors shall be elected by vote of Members at a duly constituted Annual General Meeting~~;~~

9.4.3 ~~at such a meeting, each Region will be allocated 1 (one) vote and the then incumbent Board will exercise up to 50% of the number of votes allocated to the Regions, with the votes of the incumbent Board to be determined by a simple majority of the incumbent Board;~~

9.5 Directors elected in terms of 9.1.3 and 9.1.4 shall hold office for a period of 3~~2~~ (t~~wo~~three) years from the date of their election; save as is provided for in clause 9.7 ,provided that at least one third of the elected Directors shall retire at each Annual General Meeting and provided that no person shall serve on~~in any one capacity on~~ the Board for more than 3~~4~~ (three~~four~~) full terms in succession. However, this period may be extended, should there be a super majority vote by at least 75~~80~~ (seventy five~~eighty~~) percent of the Members entitled to vote at an AGM in accordance with clause 9.3 , (excluding from the vote the person involved.) The directors, in consultation with the nominations committee, shall manage the ends of their terms of office proactively, and, if necessary, step down before required, so that not too many directors step out of office in one year.

9.6 If at any meeting at which an election of Directors ought to take place, the offices of the retiring Directors are not filled, then:

9.6.1 unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the provisions of clause 7.3 shall apply *mutatis mutandis* to such adjournment; and

9.6.2 if at such adjourned meeting the vacancies are not filled, the retiring Directors or such of them as have not had their offices filled shall be deemed to have been re-elected at such adjourned meeting unless a resolution for re-election of any such Director shall have been put to the meeting and defeated.

9.7 Any casual vacancy occurring on the Board may be filled by the Directors, but the Director so appointed shall be subject to retirement at the same time as if that Director had become a Director on the day on which the Director, in whose stead that Director is appointed, was elected a Director. The Directors shall have power at any time and from time to time to appoint a person as an additional Director and such Director shall retire from office at the next annual general meeting but shall then be eligible for re-election.

Commented [NC36]: These three clauses moved up to be in logical order

Commented [NC37]: The Board Charter included this very unusual and quite undemocratic provision:

WESSA shall elect and appoint the Directors at a duly constituted Annual General Meeting ("AGM") where each Region will be allocated one vote, and the then incumbent board will be allocated a number of votes which is the equivalent of half of the number of the total number of votes allocated to all of the Regions. The votes of the incumbent board will be exercised by a simple majority vote of the incumbent board.

I understand that this is not how things have been run, and so have amended accordingly

Commented [NC38]: This had been removed in the 2018 MOI.
However, it is a mandatory provision for with-members NPCs, and so does need to be reflected in the MOI and adhered to.

~~9.8 The Board may appoint any other person possessing the necessary qualifications of a Director to act as an alternate Director in the place of any Director during such Director's absence or inability to act as such and on such appointment being made, the alternate Director shall in all respects be subject to the terms, qualifications and conditions existing with reference to the other Directors.~~

~~9.9 The alternate Directors, whilst acting in the place of the Directors in whose stead they are appointed, shall exercise and discharge all the powers, duties and functions of the Directors they represent. The appointment of an alternate Director shall be revoked, and the alternate Director shall cease to hold office, whenever the Director in whose stead that alternative Director was appointed ceases to be a Director or gives notice to the WESSA Secretary that the alternate Director representing that Director has ceased to do so and in the event of the disqualification or resignation of any alternate Director during absence or inability of the Director whom that alternative Director represents, the vacancy so arising shall be filled by the Board who shall nominate a Member to fill such vacancy.~~

Commented [NC39]: Alternate directors are intended for shareholder companies where the shareholder (or bloc of shareholders) is/are represented by a specific director and that director gets to select someone to replace them if they cannot attend a meeting.
Alternate directors:
- Are not suitable for NPCs
- have to be registered with CIPC, and
- Are unnecessary since the advent of electronic meetings.

~~9.10~~9.8 The Directors shall, in terms of sections 24 and 73 of the Act, cause minutes to be kept of:

~~9.10.1~~9.8.1 all appointments of officers;

~~9.10.2~~9.8.2 names of Directors present at every meeting of WESSA and of the Directors;

~~9.10.3~~9.8.3 all proceedings at all meetings of WESSA and of the Board;

~~9.10.4~~9.8.4 any declaration given by notice or made by a Director as required by section 75 with reference to the personal financial interests of the Director, whether it be an advance declaration of interests, or a specific declaration with reference to a specific matter; and

~~9.10.5~~9.8.5 every resolution adopted by the Board.

~~9.11~~9.9 Such minutes shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the next succeeding meeting and copies of the minutes of every meeting shall be despatched by the person appointed by the Board from time to time, to all Directors within 30 days of the holding of the meeting.

~~9.12~~9.10 The office of Director shall be vacated if the Director:

~~9.12.1~~9.10.1 ceases to be a Director or becomes prohibited from being a Director by virtue of any provisions of the Act; or

~~9.12.2~~9.10.2 resigns their office by notice in writing to WESSA; or

~~9.12.3~~9.10.3 for more than six months is absent without permission of the Board from meetings of the Board held during that period; or

~~9.12.4~~9.10.4 is directly or indirectly interested in any contract or proposed contract with WESSA and fails to declare that interest and the nature thereof in the manner required by the Act; or

~~9.12.5~~9.10.5 is no longer a Member of WESSA.

~~9.13 No Director shall be entitled to any remuneration for any act, deed or thing done in that capacity as such provided that:~~

Commented [NC40]: Replaced by the new clause

9.13.1 ~~other than a Director referred to in clause 10.1.1 or clause 10.1.2 and notwithstanding the provisions of clause 19.17, a Director shall be entitled to reasonable remuneration for attendance at general meetings of Members and meetings of the Board, committees of the Board and committees of WESSA;~~

9.13.2 ~~a Director shall at all times be entitled to be reimbursed any reasonable expenses including travelling, subsistence and other expenses incurred by them in the exercise of their duties; and~~

9.13.3 ~~a Director may be engaged to act for or to assist or advise WESSA in their professional capacity as distinct from their capacity as a Director and in that event such Director shall be entitled to such professional fees as may be agreed upon by them and WESSA.~~

10. AUTHORITY, VALUES AND DUTIES OF THE BOARD OF DIRECTORS

10.1 The authority of WESSA's Board of Directors to manage and direct the business and affairs of WESSA, as set out in section 66 (1) is limited or restricted to the extent that the powers of WESSA are limited in clause 2.

10.2 In accordance with legal requirements, each of the Directors shall exercise their powers:

10.2.1 in good faith and for the purpose for which they were conferred;
10.2.2 in the best interests of WESSA; and
10.2.3 with the degree of care, skill and diligence that may reasonably be expected of a person:

10.2.3.1 carrying out the functions of a Director; and
10.2.3.2 having the general knowledge, skill and experience of that Director.

10.3 The Directors shall exercise their powers in accordance with the following fundamental values:

10.3.1 **Integrity:** upholding the highest standards of honesty and ethics;
10.3.2 **Mutual Respect:** Maintaining a respectful and inclusive culture as essential for productive collaboration
10.3.3 **Excellence:** making a meaningful difference driven by a culture of passion, consistency and professionalism;
10.3.4 **Innovation:** fostering a culture of creativity, empowerment, and forward-thinking; and
10.3.5 **Accountability:** taking ownership of actions, and responsibilities, being transparent and sharing responsibility.

10.4 The duties of the Directors shall include (but not be limited to) the following key areas:
10.4.1 the formulation of policy, and broad strategy, and keeping the planning, strategy and work of WESSA aligned with the objects of WESSA and being familiar with the fundamentals of the projects and programmes in which WESSA is engaged;
10.4.2 monitoring the organisational affairs, policies and compliance environment of the company;
10.4.3 interrogating the budget and financial reports and statements and assessing the financial sustainability of WESSA and its status as a going concern;
10.4.4 overseeing the implementation and ongoing monitoring of risk management;
10.4.5 responding to strategic challenges in a creative, proactive and constructive manner;
10.4.6 establishing and maintaining a delegation of authority framework which shall record and detail the extent and nature of the delegation of authority to management; and
10.4.7 interacting with fellow Directors, members and management in a manner that is beneficial to the work of WESSA.

Commented [NC41]: We think it useful to include this description of the fiduciary duties of directors in the MOI, to provide guidance

~~10.1 The management and control of WESSA shall be vested in the Board, which shall be responsible for the formulation of policy, broad strategy, overall budgets, and approval of expenditure over the limits set by Board for spending by the Executive from time-to-time, as well as such other matters as may be set out in the Rules and Procedures Manual from time to time.~~

~~10.2 In addition to the powers and duties herein conferred upon it the Board shall have all such powers as are necessary to enable it to comply with all or any of the provisions of the Act.~~

~~10.3~~10.5 ~~Any matter which falls for decision and is not contemplated by this MOI or by the Act shall be decided upon by the Board, the decision of which shall be final and binding upon WESSA, its Members and its Committees.~~

11. BOARD OF DIRECTORS MEETINGS

11.1 The ~~authority of~~ WESSA~~'s~~ Board of Directors may~~to~~ determine the manner and form of providing notice of its meetings, as set out in section 73(4~~) is not limited or restricted by this MOI~~.

11.2 The ~~authority of~~ WESSA~~'s~~ Board of Directors may~~to~~ proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) ~~is not limited or restricted by this MOI~~.

11.3 The Directors shall at the first meeting after the annual general meeting appoint from amongst their number office bearers including a Chairperson and a Vice Chairperson, and Treasurer. E~~-~~ach of the office bearers shall serve 3-year terms of office, provided that no person may serve in one office for longer than nine consecutive years without a break of at least three years before being re-appointed to that same office.

11.4 The Directors may from time to time appoint an official, to be known as the WESSA Secretary, who shall perform the duties of the secretary of WESSA, as required by the Act.

11.5 A Director may, and the WESSA Secretary, on the requisition of a Director shall at any time convene a meeting of the Board.

11.6 The Board may meet for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

11.7 The ~~authority of~~ WESSA~~'s~~ Board of Directors may~~to~~ conduct a meeting entirely by electronic communication, or ~~to~~ provide for participation in a meeting by electronic communication, as set out in section 73(3) ~~is not limited or restricted by this MOI~~ so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

11.8 The quorum for Board meetings shall be at least 50%~~one-half~~ plus one of the Directors.

11.9 Questions arising at any meeting shall preferably be resolved by consensus, and, if consensus cannot be achieved, be decided by a simple majority of votes, and in the event of an equality of votes the Chairperson shall have a second or casting vote.

11.10 ~~The authority of~~ WESSA~~'s Board of Directors to consider a matter other than at a meeting as set out in section 74 is not limited or restricted by this MOI, and t~~ The WESSA Directors may, instead of voting to make a decision at a meeting, adopt a decision by written consent of the majority of Directors, given

Commented [CC42]: The rest of the MOI we speak of 50% plus one - shall we not continue with that consistency?

Commented [NC43R42]: Made consistent

Commented [CC44]: We want to move towards forming consensus first and then vote if all else fails. Can you please reword this to reflect that? You will see the wording in the Membership ToR

Commented [NC45R44]: Done

in person or by electronic communication, provided that each Director has received notice of the matter to be decided. A decision so made shall have the same effect as if it had been approved at a meeting.

Commented [NC46]: Making it more straightforward to read.

11.11 Subject to the provisions of Section 75 of the Act, a Director shall not vote in respect of any contract or proposed contract with WESSA in which that Director is interested or any matter arising therefrom and if that Director does so vote, that Director's vote shall not be counted.

11.12 The continuing Directors may act notwithstanding any vacancy in their body, but if and for so long as their number is reduced below the number fixed by or pursuant to this MOI as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number, but for no other purpose.

11.13 The Directors may delegate any of their powers to committees. Any committee so formed shall in the exercise of the powers so delegated conform to the rules that may be imposed upon it by the Directors.

11.14 All acts done by any meeting of the Board or a committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there were some defects in the appointment of any such Directors or persons acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and were qualified to be a Director or committee member.

~~12. PATRONS~~

Commented [NC47]: Removed as no longer necessary or relevant

~~12.1 WESSA may appoint one or more Patrons in the following manner:~~

~~12.1.1 Patrons are appointed by the Board;~~

~~12.1.2 any Member may nominate any person, who need not be a Member of WESSA, for appointment as a Patron;~~

~~12.1.3 each nomination for appointment as a Patron must be supported by a written statement detailing the desirability and suitability of the nominee and a written statement, signed by the nominee, setting out the willingness of the nominee to accept such appointment and to carry out the duties attendant upon the office of Patron; and~~

~~12.1.4 nominations for appointment as a Patron must be submitted to the WESSA Secretary.~~

~~13.~~12. OFFICERS AND COMMITTEES

~~13.1~~12.1 The Board of Directors may appoint any officers it considers necessary to better achieve the objects of WESSA.

~~13.2~~12.2 The ~~authority of~~ WESSA~~'s~~ Board of Directors may~~to~~ appoint committees of Directors, and ~~to~~ delegate to any such committee any of the authority of the Board as set out in section 72(1), or ~~to~~ include in any such committee persons who are not Directors, as set out in section 73(2)(a) ~~is not limited or restricted by this MOI~~.

~~13.3~~12.3 The authority of a committee appointed by WESSA's Board, as set out in section 72(2)(b) and (c) is limited and restricted to the extent that the powers of WESSA are limited by clause 2.

~~13.4~~12.4 No Member shall be appointed to any office or capacity or to membership of any Committee in WESSA unless such Member has either prior to or at the meeting at which it is proposed to appoint such Member indicated their willingness, in writing, to accept such appointment.

~~13.5~~12.5 Committee members ~~All persons elected in terms of this MOI or by virtue of any authority herein contained~~ shall hold office for a period of 3~~2~~ (t~~wo~~three) years from the date of their election; save as is provided for in clause 9.7 provided that:

~~13.5.1~~12.5.1 a person co-opted to a Committee shall not be bound by this clause and shall be co-opted for a specific task, and for a specific period as determined by the Committee but not exceeding 3~~2~~ (three~~wo~~) years; and

~~13.5.2~~12.5.2 no person shall serve in any one capacity on any Committee of WESSA for more than 3~~4~~ (three~~four~~) full terms in succession. However, this period may be extended, should there be a super majority vote in favour of extension of the term by at least 75 (seventy five) percent of the members of the applicable C~~c~~ommittee, excluding the person involved~~, as the case may be~~.

~~13.6~~12.6 The Chairperson of the relevant Committee, acting alone, shall determine the date, time and venue of all meetings of that Committee

~~13.7~~12.7 ~~Similarly, a~~Any Committee may convene meetings by teleconferencing or videoconferencing facilities, and electronic presence is equivalent to physical presence~~in such case, Committee members participating shall be deemed to be "present" at that meeting~~. A break in electronic communication facilities shall cause the meeting to automatically stand adjourned until the electronic communications are re-established. ~~Any round robin or written resolution, or electronic meeting, shall be valid only if subsequently recorded in writing and ratified by the Board, or Committee, as the case may be.~~

~~13.8~~12.8 Notice of any ~~meeting of WESSA, whether a meeting of Members or a~~ meeting of a Committee ~~or any other notice required to be given in terms of this MOI,~~ shall be given in writing not less than 21 (twenty-one) days before the date of such meeting and shall be distributed as provided for herein to each person entitled to attend such meeting.

~~13.9~~12.9 In respect of a meeting of any Committee, written notice may be waived only if agreed to by not less than three-quarters of all Committee members.

~~13.10~~12.10 For the purposes of any Committee meeting the quorum shall be at least 50% ~~one-half~~ plus one of the members of such committee.

~~13.11~~12.11 In the event of a quorum not being present within 30 (thirty) minutes of the notified time of any meeting, that meeting shall stand adjourned to a date determined being not less than 7 (seven) days nor more than 21 (twenty one) days after the date of adjournment, to the same time and place and in that event the number present at such adjourned meeting shall constitute a quorum; provided that if the general meeting is called as contemplated in terms of clause 6.2.4 or 1.1 hereof, whichever is applicable, and a quorum is not present within 30 (thirty) minutes of the notified time, the meeting shall be abandoned.

~~13.12~~12.12 At all meetings of Committees, the Chairperson of such committee shall preside and, failing the Chairperson, the Vice Chairperson. Failing the Vice Chairperson, the committee members present shall elect from amongst their number a Chairperson for the duration of the meeting.

Commented [NC48]: I have re-ordered the subclauses in this clause to flow in chronological order:
Who is on the committee, who calls meetings, notice, quorums, voting, powers.

Commented [NC49]: Terms of office for committee members have also been set at 3 years, to align with Board terms.

Commented [NC50]: Round robin and written resolutions which comply with requirements are resolutions.
And resolutions taken at electronic meetings have the same standing as those taken at in-person meetings.
Clause updated.

Commented [NC51]: The Members meeting clause already contains notice provisions, and it is dangerous to double up like this, as it is easy for internal contradictions to creep in

Commented [CC52]: 50% plus 1?

Commented [NC53R52]: Done

~~13.13~~12.13 A Committee may meet and adjourn as it thinks fit. Matters arising at any meeting shall be determined by a majority of votes of the Members present, and in the event of an equality of votes the Chairperson shall have a second or casting vote.

12.14 Decisions may be taken either by round robin or written resolution of the members of that Committee. A "round robin" resolution signed by a majority of Committee members then holding office shall have the same force and effect as if it was passed at a duly convened Committee meeting and shall be entered into the minute book as a resolution of that Committee.

~~13.14~~12.15 Every Committee of WESSA shall keep a summary of its deliberations and record its decisions, which record shall be retained by a person nominated by the Committee concerned and shall be available for inspection at all reasonable times by any Member or by any office bearer or employee of WESSA.

~~13.15~~12.16 All material decisions of Committees or sub-committees shall ~~mus~~t be submitted to the next Board meeting for approval by the Board or for the Board to decline to approve or ask the Committee to reconsider any aspect and revert to the Board.

~~13.16 At any meeting of Members or of a Committee, unless otherwise required by the Act, a resolution passed by a majority of those present and who are entitled to vote at the meeting in question shall be deemed to be a resolution of WESSA or of such committee, as the case may be.~~

~~13.17~~12.17 Subject to 12.16, a~~A~~ny Committee duly constituted in terms of this MOI shall have all such powers as may be necessary to enable it to carry out the objects of WESSA; provided that such powers shall at all times be subject to the right of Board to prohibit, restrict or deduct from or to place any control or limitations on such powers.

~~13.18~~12.18 In addition to the powers and duties delegated to them by the Board, the Committees of WESSA shall have all such powers as are necessary to enable them to operate, subject to the restrictions imposed in this MOI. In addition to and without derogating from the generality of the aforegoing, all Committees of WESSA shall have the right to:

~~13.18.1~~12.18.1 establish such sub-committees as they may consider necessary from time to time, to define the functions, purposes and powers of such sub-committees and to disestablish same subject at all times to a member of the enabling Committee being ex-officio a member of all sub-committees; and

~~13.18.2~~12.18.2 co-opt persons to the Committee or sub-committee provided that a person who is co-opted to a Committee or sub-committee shall have no vote on any matter falling for decision by that Committee or sub-committee, unless the Committee or sub-committee resolves otherwise.

~~13.19~~12.19 No member of any Committee or sub-Committee of WESSA shall be entitled to any remuneration for any act, deed or thing done in that capacity as such provided that:

~~13.19.1~~12.19.1 a Committee member shall at all times be entitled to be reimbursed any reasonable expenses including travelling, subsistence and other expenses incurred by them in the exercise of their duties; and

~~13.19.2~~12.19.2 a Committee member may be engaged to act for or to assist or advise WESSA in their professional capacity as distinct from their capacity as a Director or Committee member and in that event such Committee member shall be entitled to such professional fees as may be agreed upon by them and WESSA.

Commented [NC54]: This moved up from what was 13.8

Commented [NC55]: Already dealt with in 13.8

Commented [NC56]: These clauses were in conflict with each other, one saying that committees make recommendations and the board makes decisions, and the other giving powers to carry out objects to the committees. We have adjusted to make it clear that decisions are made by the Board, based upon committee recommendations

~~13.20 A "round robin" resolution signed by a majority of Committee members then holding office shall have the same force and effect as if it was passed at a duly convened Committee meeting and shall be entered into the minute book as a resolution of that Committee.~~

~~13.21 No Member, nor member of any Committee, nor any office bearer shall be liable in respect of any loss of whatsoever nature sustained by WESSA (including any loss occasioned to the income or assets thereof) by reason of any negligent or careless act, mistake, or omission, unless their conduct is willfully dishonest, fraudulent or reckless, and no other person shall be answerable for the omissions of or for the acts or defaults of any such person, nor shall any such person be liable for the negligence or default of any person employed by WESSA or acting in a capacity as agent or servant thereof; provided further that this indemnity shall only be effective if the person who is sought to be made liable has acted in accordance with the provisions of the Articles or in terms of any direction made by the Board or any Committee or sub-committee authorised to give such direction.~~

~~14.~~13. EMPLOYEES

~~14.1~~13.1 All employees of WESSA, whether their employment is at the request of and/or for service in ~~instance of the Board,~~ a Region or a Branch, are and shall be employed by WESSA and the Chief Executive Officer or other duly appointed representative of the Board shall at all times have the right to dismiss any employee and to vary the terms and conditions of employment or areas where or fields in which the employee is employed, and~~provided that~~:

~~14.1.1~~13.1.1 the Chief Executive Officer shall make ~~be consulted in respect of~~ all employee appointments ~~prior to the appointment being made~~;

~~14.1.2~~13.1.2 the Chief Executive Officer shall prepare the contract of employment in consultation with the Region or Branch if appropriate and thereafter sign the contract of employment on behalf of WESSA; and

~~14.1.3~~13.1.3 where the employee is ~~employed by or~~ to be appointed at the request ~~instance~~ of a Region or Branch, the duly appointed representative of the Region or Branch shall be consulted prior to that employee being appointed or the terms and conditions of employment or areas where or fields in which the employee is employed being varied.

~~14.2~~13.2 ~~On t~~The request of a Region or Branch to the Chief Executive Officer that WESSA employ a person or persons, whether in a permanent, temporary or part-time capacity, shall be dealt with in terms of the relevant Policy of WESSA. ~~shall consider whether employ such person or persons in accordance with clause 20.1 unless, in the reasonable opinion of Board, the employment of the person or persons is not necessary for the proper and due functioning of or for the furtherance of the objects of WESSA, is aligned with the strategic objective and plans of WESSA, and whether the projected budget could include the expenditure and shall make a determination .~~

13.3 No remuneration (as defined in the Fourth Schedule to the Income Tax Act) shall be paid to any employee, office bearer, Member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered, and no person shall be economically benefitted in any way which is not consistent with the objects of WESSA;

~~14.3~~13.4 ~~No p~~Paid employees in any capacity, permanent or temporary, shall be entitled to vote upon any matter which may fall for the consideration of a Committee of WESSA provided that they shall not be entitled to participate in discussion of or vote on any matter which concerns their employment, their remuneration or performance, or any other matter in which they have a personal interest~~:~~

Commented [NC57]: Moved to be with another clause dealing with the same subject matter

Commented [NC58]: Dealt with in the expanded general indemnity clause

Commented [NC59]: These clauses have been adjusted to reflect that the regions and branches are not legal entities so cannot employ people. WESSA through the office of the CEO makes the necessary appointments. Regions and branches elect/appoint members (volunteers) to hold certain positions in the regional committee but they cannot employ anyone.

~~14.3.1~~ ~~the Board at any time and in its sole discretion may grant permission for specified employees to participate in the proceedings of and vote on matters raised in meetings of Board or any Committee of WESSA; and~~

~~14.3.2~~ ~~this clause shall in no way detract from any right which that employee may have to vote as a Member at a general or annual general meeting of WESSA in the event of the employee also being a Member.~~

~~15.~~14. ACCOUNTING RECORDS AND DONATIONS

~~15.1~~14.1 The Directors shall cause such accounting records as are prescribed by Section 28 of the Act to be kept.

14.2 The accounting records shall be kept in the registered office of WESSA or at such other place or places as the Directors think fit and shall always be open to inspection by the Directors.

14.3 WESSA shall be entitled to accept donations including revocable and conditional donations provided that:

14.3.1 WESSA may only accept revocable donations where the reason for the revocation is:

14.3.1.1 a material failure to conform to the designated purposes and conditions of the donation; or

14.3.1.2 any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act;

14.3.2 a donor (other than a donor which is an approved public benefit organisation or an institution or body which is exempt from tax in terms of section 10(1)(*c*A)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable the donor or any connected person in relation to the donor to derive some direct or indirect benefit from the application of the donation.

14.4 No donations may be made by WESSA to the Members or the Directors of WESSA and donations will only be made in accordance with the main object of WESSA;

~~16.~~15. EXPENDITURE AND FINANCE

~~16.1~~ All membership fees and subscriptions in terms of this MOI and all other funds received, and assets held by WESSA, including funds received, and assets held, by the Regions and Branches, shall be the property of WESSA and shall be under the ultimate control of the Board. WESSA funds shall be dealt with in terms of the Policies of WESSA ~~or its duly appointed nominee, which shall cause same to be invested or re-invested or otherwise dealt with in such manner as it may from time to time determine:~~

~~16.2~~ ~~provided that Board shall be entitled to allocate, either generally or specifically any sum of money accruing to WESSA or any portion thereof to any Region or Branch or any project of WESSA and shall have the right to vary or terminate such allocation; and~~

~~16.3~~15.1 ~~provided further that Board shall only deal with funds received or assets held by a Region or a Branch in consultation with the Region or the Branch, as the case may be.~~

Commented [NC60]: This updated and expanded clause moved here

Commented [NC61]: SARS requires this clause.

Commented [NC62]: Aligned with the new Membership ToR provisions for financial governance .

Commented [NC63]: Although the rules and internal systems of WESSA allow for local administration of funds, as the Regions and Branches are not separate legal bodies, but are component parts of WESSA, the Board of WESSA has ultimate responsibility for the proper financial management and oversight of all funds, including those administered by the Regions and Branches.
With this responsibility must come the authority to carry out the responsibility. Even if delegated, this authority originates with the Board.

15.2 Regions and Branches shall establish and maintain financial systems and banking practices which comply with WESSA Policies and South African legislation and best practice. All membership structures shall adhere to reporting requirements and schedules as required by WESSA Policies to allow the Board to oversee and report on all financial transactions.

Commented [NC64]: This clause of the MOI binds Regions and branches to follow the WESSA SOPs. It is a necessary legal link

15.3 The income and property of WESSA, however derived, shall be applied solely towards the promotion of its main object or invested and no funds will be distributed to any person other than in the course of undertaking any 'public benefit activity' (as defined in the Income Tax Act) and no portion of the income or assets of WESSA may be paid or transferred, directly or indirectly, to the Directors , members or persons appointing Directors of WESSA; provided that this shall not prevent:

Commented [NC65]: This is a mandatory SARS clause and must be contained in the MOI

15.3.1 the payment in good faith of reasonable remuneration to any officer or servant of WESSA, for any services rendered to WESSA;

15.3.2 payment of an amount due and payable by WESSA in terms of a *bona fide* agreement between WESSA and that person or another;

15.3.3 payment in respect of any rights of that person, to the extent that those rights are administered by WESSA in order to advance a stated object of WESSA; or

15.3.4 payment in respect of any legal obligation binding on WESSA.

~~16.4~~15.4 No expenditure shall be incurred by or on behalf of WESSA except on authority of the Board or of the person or persons to whom the Board has generally or specifically delegated the power to authorise expenditure.

Commented [NC66]: This statement of the ultimate authority of the Board is important, and must be retained in the MOI

~~16.5~~15.5 The financial transactions of WESSA shall be administered via one or more bank accounts which shall be opened in the name of WESSA.

Commented [NC67]: This is a statutory compliance clause, internal requirement for NPO status.

~~16.6~~15.6 All ~~cheques, bills, promissory notes or other instruments drawn~~payments and transfers of any kind made on behalf of WESSA shall be signed by such person or persons as may from time to time be decided by Board, provided that Board shall have the right to delegate the authority to determine the signatory or signatories and that no transactions shall be enacted by one single person.

Commented [NC68]: It is crucial to here retain binding guardrails for payment process standards.

~~16.7 No contract, litigation, dispute resolution process, arbitration or agreement of sale, lease, exchange, barter or other deed by which any liability is or may be incurred on the part of WESSA or by which any of the assets or income of WESSA are in any way whatsoever diminished shall be entered into by any person, without the written consent of the Board first being obtained; provided that the Board shall have the right to grant such consent generally or specifically to any person or Committee, to specify the nature of the liabilities which may be incurred by that person or Committee, and to determine the maximum amount to which such person or Committee may incur liabilities, subject at all times to the Board's right to vary or terminate such consent.~~

~~16.8 In addition to the general indemnity contained in clause 1819 hereof, the Directors shall not be personally liable for any loss which may be occasioned to WESSA as a result of the inability to recover the whole or any part of the principal or interest on any investment made by them in the pursuance of the powers conferred upon them in terms of this MOI.~~

Commented [NC69]: 19.2 covers this

~~16.9 The Board shall have the right, subject to the provisions of the Act, to determine the form of and manner in which financial records are to be retained by the National Office, Regions and Branches.~~

Commented [NC70]: Duplication of the new 15.2

~~16.10~~15.7 The National Office and each Region shall prepare a budget ~~in~~in the ~~a~~ form set out in the WESSA Policies ~~to be determined by the Board,~~ which budgets shall be presented to Board upon a date to be determined by the Board.

~~16.11 Such budgets shall be considered by Board which shall have the power to approve same or to make such alterations or additions thereto or deletions therefrom as it deems fit and such alterations, additions or deletions shall be binding on the National Office and the Region concerned.~~

~~16.12 Notwithstanding anything to the contrary herein contained, no Region, Branch or project shall disburse any amount in excess of an amount determined by Board in consultation with the appropriate Region on any one item, project, function or other expense without the written consent of Board first being obtained.~~

~~16.13 In the event of any Region or Branch failing to comply with any determination given by Board in terms of clauses 15.116.1 to 15.1116.9 hereof, the Board shall have the right to divest such Region or Branch of any funds held by it and to deal with such funds as it deems fit.~~

~~17.~~16. ANNUAL FINANCIAL STATEMENTS

~~17.1~~16.1 The Directors shall from time to time, in accordance with sections 29 and 30 of the Act, cause to be prepared and laid before the Board such annual financial statements as are referred to in those sections.

~~17.2~~16.2 A copy of the annual financial statement shall, at least 10 days prior to the relevant Board meeting, be sent to every Director of WESSA.

~~17.3 The financial year of WESSA shall end on 31 March of each year.~~

Commented [NC71]: Not necessary to state in the MOI. Changing it is a simple process at CIPC, but not if it is in the MOI, and a special resolution of members required.

~~18.~~17. NONPROFIT ACT

~~18.1~~17.1 The Directors may apply for WESSA to be registered as a NonProfit Organisation and shall, if so registered, ensure that WESSA complies with all the requirements of the Nonprofit Organisations Act No.71 of 1997.

18. REMUNERATION OF AND CONTRACTS WITH DIRECTORS

18.1 The Directors may not be remunerated for their service on the Board or any committee, but shall serve in a voluntary capacity unless otherwise determined by special resolution of members.

18.2 Directors who are also employees of WESSA or Executive Directors will not be paid for attending Board meetings or for any other Director duties, as they are already remunerated by WESSA in terms of their employment contracts.

18.3 Directors may be paid the reasonable travelling, hotel and other expenses properly incurred by them in or about the performance of their duties as Directors including those of attending and travelling to and from meetings of the Directors or of any committee of the Directors, as are approved and provided for in the budget.

Commented [NC72]: In the 2018 MOI the relevant clause was amended to allow payment of board stipends and the clause read as follows (highlighted bit added in 2018)

10.13 No Director shall be entitled to any remuneration for any act, deed or thing done in that capacity as such provided that:

10.13.1 other than a Director referred to in clause 10.1.1 or clause 10.1.2 and notwithstanding the provisions of clause 19.17, a Director shall be entitled to reasonable remuneration for attendance at general meetings of Members and meetings of the Board, committees of the Board and committees of WESSA;

10.13.2 a Director shall at all times be entitled to be reimbursed any reasonable expenses including travelling, subsistence and other expenses incurred by them in the exercise of their duties; and

10.13.3 a Director may be engaged to act for or to assist or advise WESSA in their professional capacity as distinct from their capacity as a Director and in that event such Director shall be entitled to such professional fees as may be agreed upon by them and WESSA.

Commented [NC73R72]: As the policy of WESSA is voluntary service on board and committees only, we have inserted this more detailed clause replacing that clause and putting guardrails in place.

18.4 ~~WESSAWESSA~~If Directors, connected persons to Directors (of any legal entities in which Directors or their connected persons have an interest) are appointed to act in their professional capacity on behalf of WESSA or perform services for WESSA or may contract with WESSA or with any entity in which WESSA is interested, this appointment shall be subject to compliance with the procurement policy of WESSA, the fees or contractual amounts paid shall be reasonable, their appointment and the amounts paid to them shall be declared and they may not vote on the contract or on any other matter in which they are interested, directly or indirectly.

19. INDEMNIFICATION OF MEMBERS, DIRECTORS, COMMITTEE MEMBERS AND OFFICERS

19.1 Directors, Members, Committee Members and other officer of WESSA shall incur no personal liability for the debts or obligations of WESSA, by reason only of their service in that capacity. Members incur no liability for the debts or obligations of WESSA, by reason only of their participation in WESSA. Subject to the relevant provisions of this MOI and the Act, each Director, Committee Member and other officer of WESSA shall be indemnified by WESSA against all costs, expenses, and liabilities reasonably incurred by them on behalf and in the interests of WESSA and with the authority of the Board.

19.2 WESSA will indemnify Directors, Officers, Committee Members or employees of WESSA against personal liability for loss, expenses or damages incurred by WESSA:

19.2.1 through the insufficiency or deficiency of any security in or upon which any of the funds of WESSA are invested;
19.2.2 arising from the bankruptcy, insolvency or delictual acts of any persons with whom monies, securities or effects are deposited; or
19.2.3 occasioned by any error of judgment or oversight on their part; or
19.2.4 through other misfortunes which occur in the execution of the duties of their office,

or in relation thereto, unless the loss, damage or expense:

19.2.4.1 happened through their own gross negligence, gross default, gross breach of duty or wilful misconduct or wilful breach of trust; or
19.2.4.2 is a fine arising from conviction for an offence (provided that WESSA will indemnify against fines imposed in circumstances where there is no wrongful conduct by the Director, officer or employee, but the fine is imposed by law purely because of the officer's position in WESSA).

19.3 WESSA may, in the discretion of the Board and if funds are available:

19.3.1 advance expenses to a Director, Member or other officer of WESSA to defend litigation in any proceedings arising out of their service to WESSA; and/or
19.3.2 directly or indirectly indemnify a Director for expenses contemplated in 19.3.1, irrespective of whether it has advanced those expenses, if the proceedings—

19.3.2.1 are abandoned or exculpate the Director; or
19.3.2.2 arise in respect of any liability for which WESSA may legally indemnify the Director, Committee member or other officer.

~~19.1 Every Member, Director, and officer of WESSA, every Member of any committee of WESSA, and any person employed by WESSA as auditor, shall be indemnified by WESSA against all liability incurred by him as such Director, officer or auditor, in defending any proceedings, whether civil or criminal, in which judgment is given in their favour, or in which they is acquitted, or in respect of any proceedings which~~

Commented [NC74]: Updated and rephrased for clarity and detail

~~are abandoned or in connection with any application under Section 77(9) of the Act in which relief is granted to him by the Court.~~

~~19.2 No Director, officer or employee of WESSA shall be liable for:~~

~~19.3 loss or expense incurred by WESSA through the insufficiency or deficiency of any security in or upon which any of the moneys of WESSA are invested;~~

~~19.3.1 any loss or damage arising from the bankruptcy, insolvency or delictual acts of any persons with whom monies, securities or effects shall be deposited;~~

~~19.3.2 any loss or damage occasioned by any error of judgment or oversight on his/her part; or~~

~~19.3.3 any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his/her office, or in relation thereto,~~

~~unless the same happened through his/her own negligence, default, breach of duty or wilful misconduct or wilful breach of trust.~~

~~19.4 The authority of WESSA's Board of Directors to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, to indemnify a Director in respect of liability and to purchase insurance to protect WESSA or a Director, as set out in sections 78(3), 78(5) and 78(6), is not limited or restricted by this MOI.~~

20. AMENDING MEMORANDUM OF INCORPORATION ~~AND COMPANY RULES~~

20.1 This MOI of WESSA may be altered or amended in the manner set out in sections 16 (by special resolution of Members in terms of clause proposed by the Board or Members holding not less than 10% of the voting rights, and adopted by 75% of those Members present and voting), 17, 60 or 152(6)(b), subject to the following:

20.1.1 if WESSA is exempted from payment of normal tax a copy of any such amendment shall be sent to the Commissioner for the South African Revenue Service or their authorised representative;

20.1.2 if WESSA is registered as a Non-Profit Organisation then a copy of any amendments shall be sent to the Directorate of Non-Profit Organisations.

~~20.2 The authority of WESSA's Board of Directors to make rules for WESSA, as contemplated in section 15(3) to (5) is limited or restricted to the extent that the powers of WESSA are limited by clause 2 of this MOI.~~

~~20.3 WESSA has formulated and the Board has adopted rules in the form of a manual that governs the internal procedures of WESSA, which manual is known as the "Rules and Procedures Manual" and in this regard:~~

~~20.3.1 the Rules and Procedures Manual may be amended by means of a resolution of the Board adopted by a simple majority. Such amendments shall be binding on an interim basis until ratified by an ordinary resolution of members and shall thereafter be binding on a permanent basis;~~

~~20.3.2 unless otherwise indicated by the context, the terminology of the Rules and Procedures Manual will be interpreted in the manner determined in this MOI; and~~

Commented [NC75]: Moved here from near the front as a more natural place for it to sit in the narrative flow.

Commented [NC76]: Added for clarity

Commented [NC77]: All organisations have rules, processes, policies, TORs etc. And these internal rules are adjusted by the relevant body over time.
The reference to Rules in these clauses was to official Rules of the company which are registered with the Companies Office and which require to be updated at the Companies Office.
As WESSA (like most non-profits) will never have these sorts of registered Rules, these clauses are not applicable and deleted.

~~20.3.3 this MOI shall govern the provisions of the Rules and Procedures Manual and in the event of any conflict between this MOI and the Procedures Manual, the terms and conditions of this MOI shall prevail and take precedence.~~

~~20.4~~20.2 ~~The Board shall publish any alterations to the Procedures Manual and any other rules made in terms of section 15(3) to (5) by delivering a copy of those rules to each Director by ordinary mail, or by electronic communication, provided that the Directors concerned have consented to the delivery of such communication by electronic mail.~~

~~20.5 WESSA shall publish a notice of any alteration of the MOI or the Procedures Manual or other rules, which alterations are made to correct a patent error in spelling, punctuation, reference, grammar or similar defect in terms of section 17(1), by delivering a copy of those rules to each Director by ordinary mail or electronic mail provided that the Directors concerned have consented to the delivery of such communication by electronic mail.~~

21. WINDING UP, DEREGISTRATION OR DISSOLUTION

21.1 Upon its winding up, deregistration or dissolution no past or present member or Director of WESSA, or person appointing a Director of WESSA, is entitled to any part of the net value of WESSA, but the assets of WESSA remaining after the satisfaction of all its liabilities shall be given or transferred to some other organisation or organisations to be determined by the Members of WESSA after advice from the Board, at or immediately before the time of its dissolution, or failing determination, by a court and which:

21.1.1 are non-profit;
21.1.2 have objects similar to WESSA's main object;
21.1.3 if WESSA is so registered, is/are registered in terms of the Nonprofit Organisations Act, 1997; and
21.1.4 if WESSA is exempt from income tax, donations tax and estate duty, under the relevant laws of the country is/are an entity as listed below, and which shall be required to use the assets solely for the purpose of carrying on public benefit activities similar to those of WESSA:

21.1.4.1 a public benefit organisation, approved in terms of section 30 of the Income Tax Act; or
21.1.4.2 an institution, board or body contemplated in section 10(1)(cA)(i), of the Income Tax Act.

Commented [NC78]: In the previous MOI this clause, which was clause 2.3 (I have moved it to the end as it is about the end) said that the Directors made this decision.
However, it is by law a special resolution, which must be taken by members.

Current WESSA Memorandum of Incorporation

COMPANIES AND INTELLECTUAL PROPERTIES COMMISSION

REPUBLIC OF SOUTH AFRICA

In accordance with s 16(1)(c)

MEMORANDUM OF INCORPORATION

OF

THE WILDLIFE AND ENVIRONMENT SOCIETY OF SOUTH AFRICA NPC (RF)

Shortened name: WESSA NPC (RF)

Registration No. 1933/004658/08
('the Company' and 'WESSA')

The Company is a Non Profit Company with members, and with the following objects:

The promotion of environmental conservation and environmental education in South Africa and elsewhere; and

To promote public participation in caring for the Earth.

Adoption of Memorandum of Incorporation

This amended Memorandum of Incorporation was adopted by the Members of the Company, in accordance with section 16(1)(c) of the Companies Act, 2008 ('the Act'), as evidenced by the resolution to which it is annexed.

In this Memorandum of Incorporation:

a) A reference to a section by number refers to the corresponding section of the Act; and

b) Words that are defined in the Act bear the same meaning in this Memorandum as in the Act.

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1. INCORPORATION AND GOVERNING LAW

1.1 The Company was incorporated as an Association not for gain, under section 21 of the Companies Act, 1978. In terms of the Act, it is now a Non Profit Company, as defined in the Act.

1.2 The Company is governed by:

1.2.1 the unalterable provisions of the Act that are applicable to Non Profit companies;

1.2.2 the alterable provisions of the Act that are applicable to Non Profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and

1.2.3 the provisions of this Memorandum of Incorporation.

2. OBJECTS AND POWERS OF THE COMPANY

2.1 The Company is subject to the special conditions contained in this clause 2, as contemplated in section 15(2)(b.

2.2 The objects of the Company are as set out on the cover sheet and the Company shall have all the legal powers and capacity of an individual, except to the extent necessarily implied by the stated objects, and except to the extent that a juristic person is incapable of exercising such a power or having such a capacity, and subject to the following restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii):

2.2.1 All of the powers may only be executed in accordance with the main object of the Company;

2.2.2 The Company may not:

2.2.2.1 amalgamate or merge with, or convert to, a profit Company; or

2.2.2.2 dispose of any part of its assets, undertaking or business to a profit Company, other than for fair value, except to the extent that such a disposal of an asset occurs in the ordinary course of the activities of the non-profit Company;

2.2.3 No remuneration (as defined in the Fourth Schedule to the Income Tax Act 58 of 1962, as amended ("the Income Tax Act")) shall be paid to any employee, office bearer, Member or other person which is excessive, having regard to what it generally considered reasonable in the sector and in relation to the service rendered, and no person shall be economically benefitted in any way which is not consistent with the objects of the Company;

2.2.4 No donations may be made by the Company to the Members or the Directors of the Company and donations will only be made in accordance with the main object of the Company;

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2.2.5 All of the activities of the Company shall be carried out in a non-profit manner and with an altruistic or philanthropic intent and no such activity shall be intended to directly or indirectly promote the economic self-interest of any Director, officer or employee of the Company, otherwise than by way of reasonable remuneration payable to that Director, officer or employee;

2.2.6 The income and property of the Company, whencesoever derived, shall be applied solely towards the promotion of its main object or invested and no funds will be distributed to any person other than in the course of undertaking any 'public benefit activity' (as defined in the Income Tax Act) and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever, to the Directors of the Company; provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Company, for any services rendered to the Company;

2.2.7 The Company shall be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any representation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution or body which is exempt from tax in terms of section 10(1)(*cA*)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation; and

2.2.8 The Company shall not use its resources directly or indirectly to support, advance or oppose any political party.

2.3 Upon its winding up, de-registration or dissolution the assets of the Company remaining after the satisfaction of all its liabilities shall be given or transferred to some other organisation or organisations to be determined by the Directors of the Company at or before the time of its dissolution, or failing such determination, by the court and which:

2.3.1 are non-profit,

2.3.2 have objects similar to its main object;

2.3.3 if the Company is so registered, is/are are registered in terms of the Nonprofit Organisations Act, 1997; and

2.3.4 if the Company is exempt from income tax, donations tax and estate duty, under the relevant laws of the country is/are:

2.3.4.1 any similar public benefit organisation, which has been approved in terms of section 30 of the Income Tax Act;

2.3.4.2 any institution, board or body which is exempt from income tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has its sole or principal object the carrying on of any public benefit activity; or

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2.3.4.3 any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) or(b) of the Income Tax Act.

3. MEMORANDUM OF INCORPORATION AND COMPANY RULES

3.1 This Memorandum of Incorporation of the Company may be altered or amended in the manner set out in sections 16 (by special resolution in terms of clause proposed by the board or Members holding not less than 10% of the voting rights, and adopted by 75% of those present and voting), 17, 60 or 152(6)(b), subject to the following:

3.1.1 if the Company is exempted from payment of normal tax a copy of any such amendment shall be sent to the Commissioner for the South African Revenue Service or his authorised representative;

3.1.2 if the Company is registered as a Non-Profit Organisation then a copy of any amendments shall be sent to the Directorate of Non-Profit Organisations.

3.2 The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15(3) to (5) is limited or restricted to the extent that the powers of the Company are limited by clause 2 of this Memorandum.

3.3 WESSA has formulated and the Board has adopted rules in the form of a manual that governs the internal procedures of WESSA, which manual is known as the "Rules and Procedures Manual" and in this regard:

3.3.1 the Rules and Procedures Manual may be amended by means of a resolution of the Board adopted by a simple majority. Such amendments shall be binding on an interim basis until ratified by an ordinary resolution of members and shall thereafter be binding on a permanent basis;

3.3.2 unless otherwise indicated by the context, the terminology of the Rules and Procedures Manual will be interpreted in the manner determined in this Memorandum; and

3.3.3 this Memorandum shall govern the provisions of the Rules and Procedures Manual and in the event of any conflict between this Memorandum and the Procedures Manual, the terms and conditions of this Memorandum shall prevail and take precedence.

3.4 The Board shall publish any alterations to the Procedures Manual and any other rules made in terms of section 15 (3) to (5) by delivering a copy of those rules to each Director by ordinary mail, or by electronic communication, provided that the Directors concerned have consented to the delivery of such communication by electronic mail.

3.5 The Company shall publish a notice of any alteration of the Memorandum of Incorporation or the Procedures Manual or other rules, which alterations are made to correct a patent error in spelling, punctuation, reference, grammar or similar defect in terms of section 17 (1) by delivering a copy of those rules to each Director by ordinary mail or electronic mail provided that the Directors concerned have consented to the delivery of such communication by electronic mail.

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4. OPTIONAL PROVISIONS OF THE ACT

4.1 The Company elects, in terms of section 34 (2), to comply voluntarily with some of the provisions of Chapter 3 of the Companies Act, 2008, in that the Company:

4.1.1 may appoint a Company secretary, and, in this circumstance, will comply with sections 86 to 89; and

4.1.2 will appoint an auditor, in terms of sections 90 to 93.

5. MEMBERS OF THE COMPANY

5.1 As contemplated in Item 4(1) of Schedule 1 of the Act, the Company has Members who are in either of two classes, being voting and non-voting Members, respectively. Only Adult Members shall have a vote attaching to their membership or be entitled to hold any office in WESSA. Junior Members shall be non-voting Members. Within each of the two classes of Member, the Company shall distinguish between various categories of Member, from time to time.

5.2 The Members of the Company shall be such other persons or bodies which support the objectives of the Company as may be elected from time to time in terms of this Memorandum.

5.3 Subject to the provisions of clauses 5.4 hereof, the Board may fix the subscriptions or other charges payable to WESSA by the Members and, in fixing such subscriptions or other charges, may differentiate among the Members belonging to different categories of membership.

5.4 Upon the recommendation of the Board, the Members at any general meeting may appoint as an Honorary Life Member of WESSA, any adult natural person who has rendered any long or conspicuous service to WESSA or who has in a conspicuous manner promoted the object of WESSA. An Honorary Life Member shall not be required to pay any subscriptions to WESSA.

5.5 Admission to any class of membership of WESSA shall be at the sole discretion of the Board or its nominee, which may either admit or refuse to admit any applicant, and in the event of its refusing to admit any applicant, it shall not be obliged to furnish reasons for its refusal.

5.6 The Board shall have the right to delegate to any Committee or any employee or office bearer of WESSA, the power to admit or to refuse to admit any applicant to membership and the provisions of 5.5 hereof shall *mutatis mutandis* apply to such Committee, employee or office bearer.

5.7 Membership of WESSA shall be valid for a period of 1 (one) year from the date upon which membership is granted and shall thereupon automatically cease and the Member's name shall be struck from the register of Members, unless the Member has made application for renewal of membership and paid the amount then determined for the respective class of membership for the ensuing year, provided

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that the provisions hereof may be waived in respect of any application for renewal received within a reasonable period after the expiry of the previous period of membership.

5.8 The provisions of clauses 5.5, 5.6 and 5.7 shall apply to any application for renewal of membership.

5.9 WESSA shall maintain at its National Office or at such other place as may from time to time be determined by the Board, a register of Members as provided in Section 24(4)(a) of the Act, which register shall be open for inspection as provided in Section 26 of the Act.

5.10 If a Member has acted in a manner which, in the opinion of the Board, makes that Member's continuance of membership of WESSA undesirable, the Board, if it determines to take the matter further, shall, in writing, advise the Member of the grounds of complaint and direct the said Member to furnish the Board, in writing, within a period of 14 (fourteen) days from the date of the Board's direction, with an explanation of that Member's action or with reasons why such Member should not be expelled or suspended from WESSA.

5.11 If the Member fails to comply with Board's direction, or where such Member fails to comply timeously, or when Board has considered such an explanation or such reasons and finds them to be inadequate, Board shall thereupon notify the Member, in writing, of the action, which it has taken.

5.12 The Board, in the event of the Member requesting that the matter be referred to a special disciplinary committee or in the event of it determining that the Member should be suspended or expelled from WESSA, shall refer the matter to a special disciplinary committee consisting of three people, at least one of whom shall be an advocate or attorney, who shall preside.

5.13 The special disciplinary committee shall have the power to hear the matter and the presiding officer shall have the power to determine the matters of procedure including the hearing of evidence, provided that both the Board and the said Member shall be entitled to appoint any other Member to represent such Member.

5.14 The special disciplinary committee shall report, in writing, to Board its finding and make its recommendations as to whether or not the Member should be expelled or whether a lesser sanction is merited, provided that in the event of the said Committee not recommending any such action the Board shall be bound by such decision.

5.15 In the event of the special disciplinary committee recommending expulsion or a lesser sanction, such decision shall not be enforced unless Board resolves to carry out the recommendation.

5.16 No Member who has been expelled from WESSA as hereinbefore provided shall be entitled to any refund of any portion of any subscription fees paid in connection with such Member's membership of WESSA.

5.17 A Member of the Company shall cease to be a Member:

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5.17.1 if such Member resigns in writing addressed to the Chairman of the Company or to its Secretary at its registered office;

5.17.2 if the Member is suspended or expelled in terms of clauses 5.11 to 5.15;

5.17.3 if such Member's nomination by the body which such Member represents is revoked in writing addressed to the Chairman of the Company or its Secretary at its registered office;

5.17.4 if such Member dies or is declared insolvent or insane or is convicted of a criminal offence in respect of which a sentence of imprisonment without the option of a fine is imposed; or

5.17.5 if such Member, being a juristic person, is wound up or placed under judicial management, in any such case provisionally or finally.

6. RIGHTS OF MEMBERS

6.1 If, at any time, every Member of the Company is also a Director of the Company, as contemplated in section 57(4), the authority of the Members to act without notice or compliance with any other internal formalities, as set out in that section is not limited or restricted by this Memorandum of Incorporation.

6.2 Members may appoint proxies to act on their behalf at meetings of the Company provided that:

6.2.1 Members may not appoint concurrent proxies;

6.2.2 in the case of an institution, corporate body, group, or family member, only one proxy may be appointed..

6.2.3 a Member's proxy may not delegate the proxy's powers to another person;

6.2.4 unless authorised by the Board in advance, no person may act as proxy for more than three Members at any time; and.

6.2.5 a Member must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the Member's rights at a Members meeting.

6.2.6 any Member intending to vote by proxy shall have the right to terminate such proxy at any time prior to the commencement of the meeting by lodging with the WESSA Secretary a written notice terminating such proxy and a proxy shall further be deemed to be ipso facto terminated in the event of the Member who granted such proxy being present at the meeting; and

6.2.7 a Member's proxy may not decide without direction from the Member whether to exercise, or abstain from exercising any voting right of the Member.

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6.3 Any Member possessed of voting rights shall have the right to demand a poll upon any matter upon which any meeting at which they have the right to vote is required to decide.

6.4 Only Adult Members shall have a vote attaching to their membership or be entitled to hold any office in WESSA.

6.5 If, at any time, the Company's Board of Directors fails to determine a record date (being the date upon which it is determined which persons are recorded as Members of the Company), as contemplated in section 59, the record date for the relevant matter is:

6.5.1 in the case of a meeting, the latest date by which the Company is required to give Members notice of that meeting; or

6.5.2 the date of the action or event, in any other case.

6.6 WESSA shall publish and distribute such books, magazines, articles or periodicals or arrange for the publication and distribution thereof as the Board may from time to time decide and may attach the right to distribute all or any of such books, magazines, articles or periodicals to all or any classes of membership upon such conditions as it may deem fit.

7. MEETINGS OF MEMBERS- CONVENING

7.1 The Company shall convene an Annual General Meeting of its Members once in every calendar year, but no more than 15 months after the date of the previous Annual General Meeting, or within an extended time allowed by the Members by unanimous vote.

7.2 Special General Members' meetings of all Members shall also be called:

7.2.1 at any time that the board is required by the Act or this Memorandum of Incorporation to refer a matter to Members for decision and the Board determines that it is not appropriate to hold the matter over till the following annual general meeting; or

7.2.2 if the number of Directors drops below the minimum required by this Memorandum, and the next annual general meeting is more than 2 months from the date upon which the relevant Director/s cease/s to act.

7.2.3 if the Board resolves to call a meeting of the Members, and directs the WESSA Secretary to call such a meeting.

7.2.4 In the event of at least one hundred Members in good standing requesting in writing a meeting, in which case the WESSA Secretary shall, within 28 (twenty-eight) days of such request, convene a general meeting of WESSA.

7.3 Meetings of all Members shall be held in South Africa or elsewhere, in a location determined by the Board, with due regard to the requests of Members.

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7.4 Notice of any Annual General Meeting or Special General Meeting, shall be given in writing not less than 21 (twenty one) days before the date of such meeting and shall be distributed as provided for herein to each person entitled to attend such meeting.

7.5 Notice of any Annual General Meeting or Special General Meeting shall be published on the WESSA website, and in addition may be given through any National or Regional publication of WESSA or by publication or by email or any other electronic means, the intention being to bring such notice to as many Members as possible who are entitled to attend such meeting

7.6 The authority of the Company to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 is not limited or restricted by this Memorandum of Incorporation so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

7.7 The provisions of this clause and of clause 8 shall also apply to meetings of Members in Regions and Branches, except where they are expressly varied.

8. MEMBERS MEETINGS-QUORUM AND VOTING

8.1 The quorum requirement for an Annual General Meeting or a Special General Meeting of all Members to begin, or for a matter to be considered is 25 voting Members being present.

8.2 The quorum requirement for meetings of the Board and of all Committees of WESSA, be they Board, Region or Branch, or any subcommittees thereof, for a meeting to begin, or for a matter to be considered, shall be 50% plus one of voting Members being present.

8.3 In the case of non-committee meetings of Regions or Branches, the quorum will be as decided by each Region or Branch, subject to the Board approving the quorum determined by the Region or Branch in advance of the meeting, and any decision on a substantive matter being referred to the Board for final decision.

8.4 If, within thirty minutes after the appointed time for a meeting to begin, the quorum requirements for that meeting to begin have not been satisfied, the meeting shall be automatically postponed without considering any business or item of the agenda for a date determined being not less than 7 (seven) days nor more than 21 (twenty one) days after the date of adjournment, subject to the proviso in 8.5. If the quorum requirements for consideration of a particular matter to begin have not been satisfied and:

8.4.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or

8.4.2 if there is no other business on the agenda of the meeting, the meeting is adjourned for one week, without motion or vote.

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8.5 The rules in 8.1 and 8.4 shall be subject to the proviso that the person intended to preside at a meeting that cannot begin may extend the thirty minute limit allowed for in a reasonable period on the grounds that exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of Members to be present at the meeting or one or more particular Members, having been delayed, have communicated an intention to attend the meeting, and those Members, together with others in attendance, would satisfy the quorum requirements.

8.6 Subject to the provisions of clause 6.4 hereof and to any other provisions contained in this Memorandum the voting Members shall have the right to vote at all meetings of the Company, and each voting Member shall have one vote.

8.7 For a resolution to be adopted at a Members meeting, it must be supported by:

8.7.1 in the case of an ordinary resolution, 50% plus one of the Members who voted on the resolution; and

8.7.2 in the case of a special resolution, at least 75% of the Members who voted on the resolution, as provided in section 65(7)

8.8 For a resolution to be adopted by written vote of Members it must be supported by:

8.8.1 in the case of an ordinary resolution, at least 50% plus one of the total number of Members; and

8.8.2 in the case of a special resolution, at least 75% of the total number of Members,

which votes shall be those received within 20 days of the resolution's being submitted to them.

8.9 A special resolution is only required for those matters set out in section 65 (11), being the amending of the Memorandum of Incorporation, approving the voluntary winding up of the Company, disposing of all or a greater part of the assets of the Company, or amalgamation with another Company.

9. REGIONS AND BRANCHES

9.1 The Board may at any time and from time to time determine the activities and groupings of Members by region ("Regions") and branches ("Branches") within such Regions, and in consultation with the affected Regions, increase or reduce the number of Regions and Branches and define the area of territorial jurisdiction of such number of Regions and Branches and may likewise alter the areas or territorial jurisdiction of existing Regions and Branches.

9.2 A Member residing in the area of jurisdiction of any Region and Branch shall be a Member of that Region and Branch, unless he requests, in writing, to belong to another Region or Branch.

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9.3 Members of Regions and Branches shall at meetings of such Regions and Branches have and enjoy *mutatis mutandis* the rights to which they are entitled at meetings of WESSA in terms of this Memorandum.

9.4 Subject to clause 9.1, any Region shall have the right at any time and from time to time to create a Branch or Branches within its area of territorial jurisdiction, or to increase or reduce the number of Branches or to alter the territorial jurisdiction of such Branches.

9.5 Subject to the authority delegated to any Region or Branch from time to time, management of WESSA's affairs at Region and Branch level shall vest in Committees elected for that purpose; provided that the Board shall at all times have the right to vary the composition of, to disband or to re-constitute any such Committees, and to vary the authority delegated to such Region or Branch.

9.6 The Region and Branch Committees shall be elected by the Members of the respective areas and shall be entitled to make rules in regard to all and any matters not specifically reserved to the Board, provided however that such rules shall not be in conflict with this Memorandum.

9.7 The rules of each Region and Branch shall determine that the provisions of clause 19.10 hereof shall apply *mutatis mutandis* to the terms of office of Committee Members.

9.8 In each Region, the committee elected or appointed to manage and administer WESSA's affairs at Region level shall elect or appoint a representative, normally but not necessarily the chairman of that committee, to represent the Region within WESSA and to vote on behalf of the Region in the instances determined in this Memorandum where a vote of Regional Representatives is required.

9.9 The Regional Representatives will, prior to a meeting to elect Directors as contemplated by clause 10.3, elect from amongst their number by a simple majority, 2 (two) Regional Representatives to be appointed as Directors in accordance with clause 10.1.3.

9.10 The Chairman or nominee of any Region or Branch shall call general meetings of the Members of such Region or Branch as provided in clause 9.3 hereof: provided that, where meetings are called at the request of Members, the requisition shall be made by at least 10% (ten percent) of the Members of that Region or Branch or one hundred Members, whichever is the smaller number of Members.

10. COMPOSITION OF THE BOARD OF DIRECTORS

10.1 The Board shall consist of not fewer than 7 (of whom at least 3 are not 'connected persons' (as defined in the Income Tax Act) in relation to one another), and not more than 14 Directors, including the following:

10.1.1 the Chief Executive Officer;

10.1.2 such Executive Directors as Board may deem fit;

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10.1.3 two representatives elected by the Regional Representatives in the manner set out in clause 9.9; and

10.1.4 such other Directors as Board may from time to time determine provided that such other Directors shall each be elected in respect of a specific portfolio of duties, at least one of which shall be the portfolio of National Treasurer.

10.2 No single person shall, directly or indirectly, control the decision-making powers of the Company.

10.3 WESSA shall elect and appoint the Directors contemplated in clause 10.1.4 as follows:

10.3.1 such Directors shall be elected at a duly constituted Annual General Meeting;

10.3.2 at such a meeting, each Region will be allocated 1 (one) vote and the then incumbent Board will exercise up to 50% of the number of votes allocated to the Regions, with the votes of the incumbent Board to be determined by a simple majority of the incumbent Board;

10.3.3 any Member may nominate any person, who must be a Member but who need not be a Member of any committee of WESSA, for election to the Board;

10.3.4 nominations for election to the Board must be supported by a written indication of the suitability of the nominee;

10.3.5 nominations for election to the Board must be submitted to the WESSA Secretary at least 1 (one) month prior to the meeting to elect Directors.

10.4 Directors shall hold office for a period of 2 (two) years from the date of their election; save as is provided for in clause 10.7, provided that no person shall serve in any one capacity on the Board for more than 4 (four) full terms in succession. However this period may be extended, should there be a super majority vote by at least 80 (eighty) percent of the Members entitled to vote at an AGM in accordance with Clause 10.3, excluding the person involved.

10.5 No Director shall be appointed to office unless such Member has either prior to or at the meeting at which it is proposed to appoint such Member indicated their willingness, in writing, to accept such appointment.

10.6 If at any meeting at which an election of Directors ought to take place, the offices of the retiring Directors are not filled, then:

10.6.1 unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the provisions of clause 8.3 shall apply *mutatis mutandis* to such adjournment; and

10.6.2 if at such adjourned meeting the vacancies are not filled, the retiring Directors or such of them as have not had their offices filled shall be deemed to have been re-elected at such adjourned meeting unless a resolution for re-election of any such Director shall have been put to the meeting and defeated.

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10.7 Any casual vacancy occurring on the Board may be filled by the Directors, but the Director so appointed shall be subject to retirement at the same time as if that Director had become a Director on the day on which the Director, in whose stead that Director is appointed, was elected a Director. The Directors shall have power at any time and from time to time to appoint a person as an additional Director and such Director shall retire from office at the next annual general meeting but shall then be eligible for re-election.

10.8 The Board may appoint any other person, possessing the necessary qualifications of a Director to act as an alternate director in the place of any Director during such Director's absence or inability to act as such and on such appointment being made, the alternate director shall in all respects be subject to the terms, qualifications and conditions existing with reference to the other Directors.

10.9 The alternate directors whilst acting in the place of the Directors in whose stead they are appointed shall exercise and discharge all the powers, duties and functions of the Directors they represent. The appointment of an alternate director shall be revoked, and the alternate director shall cease to hold office, whenever the Director in whose stead that alternative director was appointed ceases to be a Director or gives notice to the WESSA Secretary that the alternate director representing that Director has ceased to do so and in the event of the disqualification or resignation of any alternate director during absence or inability of the Director whom that alternative director represents, the vacancy so arising shall be filled by the Board who shall nominate a Member to fill such vacancy.

10.10 The Directors shall, in terms of sections 24 and 73 of the Act, cause minutes to be kept:

10.10.1 of all appointments of officers;

10.10.2 of names of Directors present at every meeting of WESSA and of the Directors; and

10.10.3 of all proceedings at all meetings of WESSA and of the Board.

10.10.4 any declaration given by notice or made by a Director as required by section 75 with reference to the personal financial interests of the Director, whether it be an advance declaration of interests, or a specific declaration with reference to a specific matter; and

10.10.5 every resolution adopted by the board.

10.11 Such minutes shall be signed by the Chairman of the meeting at which the proceedings took place or by the Chairman of the next succeeding meeting and copies of the minutes of every meeting shall be despatched by the person appointed by the board from time to time, to all Directors within 30 days of the holding of the meeting.

10.12 The office of Director shall be vacated if the Director:

10.12.1 ceases to be a Director or becomes prohibited from being a Director by virtue of any provisions of the Act; or

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10.12.2 resigns his office by notice in writing to WESSA; or

10.12.3 for more than six months is absent without permission of the Board from meetings of the Board held during that period; or

10.12.4 is directly or indirectly interested in any contract or proposed contract with WESSA and fails to declare that interest and the nature thereof in the manner required by the Act; or

10.12.5 is no longer a Member of WESSA.

10.13 No Director shall be entitled to any remuneration for any act, deed or thing done in that capacity as such provided that:

10.13.1 other than a Director referred to in clause 10.1.1 or clause 10.1.2 and notwithstanding the provisions of clause 19.17, a Director shall be entitled to reasonable remuneration for attendance at general meetings of Members and meetings of the Board, committees of the Board and committees of WESSA;

10.13.2 a Director shall at all times be entitled to be reimbursed any reasonable expenses including travelling, subsistence and other expenses incurred by them in the exercise of their duties; and

10.13.3 a Director may be engaged to act for or to assist or advise WESSA in their professional capacity as distinct from their capacity as a Director and in that event such Director shall be entitled to such professional fees as may be agreed upon by them and WESSA.

11. AUTHORITY OF THE BOARD OF DIRECTORS

11.1 The management and control of WESSA shall be vested in the Board, which shall be responsible for the formulation of policy, broad strategy, overall budgets, and approval of expenditure over the limits set by Board for spending by the Executive from time-to-time, as well as such other matters as may be set out in the Rules and Procedures Manual from time to time.

11.2 In addition to the powers and duties herein conferred upon it the Board shall have all such powers as are necessary to enable it to comply with all or any of the provisions of the Act.

11.3 Any matter which falls for decision and is not contemplated by this Memorandum or by the Act shall be decided upon by the Board, the decision of which shall be final and binding upon WESSA, its Members and its Committees.

11.4 The authority of the Company's Board of Directors to manage and direct the business and affairs of the Company, as set out in section 66 (1) is limited or restricted to the extent that the powers of the Company are limited in clause 2.

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12. BOARD OF DIRECTORS MEETINGS

12.1 The Directors shall at the first meeting after the annual general meeting appoint from amongst their number:

12.1.1 a Chairman; and

12.1.2 a Vice Chairman.

12.2 The Directors may from time to time appoint an official, to be known as the WESSA Secretary, who shall perform the duties of the secretary of the Company, as required by the Act.

12.3 A Director may, and the WESSA Secretary, on the requisition of a Director shall at any time convene a meeting of the Board.

12.4 The Board may meet for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

12.5 The quorum for Board meetings shall be at least one-half plus one of the Directors.

12.6 Questions arising at any meeting shall be decided by a simple majority of votes, and in the event of an equality of votes the Chairman shall have a second or casting vote.

12.7 Subject to the provisions of Section 75 of the Act, a Director shall not vote in respect of any contract or proposed contract with WESSA in which that Director is interested or any matter arising therefrom and if that Director does so vote, that Director's vote shall not be counted.

12.8 The continuing Directors may act notwithstanding any vacancy in their body, but if and for so long as their number is reduced below the number fixed by or pursuant to this Memorandum as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number, but for no other purpose.

12.9 The Directors may delegate any of their powers to committees. Any committee so formed shall in the exercise of the powers so delegated conform to the rules that may be imposed upon it by the Directors.

12.10 All acts done by any meeting of the Board or a committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there were some defects in the appointment of any such Directors or persons acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and were qualified to be a Director or committee member.

12.11 The authority of the Company's Board of Directors to consider a matter other than at a meeting as set out in section 74 is not limited or restricted by this Memorandum of Incorporation, and the Directors may, instead of voting to make a decision at a meeting, adopt a decision by written consent of the majority of Directors, given in person or by electronic communication, provided that each Director has received

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notice of the matter to be decided. A decision so made shall have the same effect as if it had been approved at a meeting.

12.12 The authority of the Company's Board of Directors to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73 (3) is not limited or restricted by this Memorandum of Incorporation so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

12.13 The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meetings, as set out in section 73 (4) is not limited or restricted by this Memorandum of Incorporation.

12.14 The authority of the Company's Board of Directors to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73 (5) is not limited or restricted by this Memorandum of Incorporation.

13. PATRONS

13.1 WESSA may appoint one or more Patrons in the following manner:

13.1.1 Patrons are appointed by the Board;

13.1.2 any Member may nominate any person, who need not be a Member of WESSA, for appointment as a Patron;

13.1.3 each nomination for appointment as a Patron must be supported by a written statement detailing the desirability and suitability of the nominee and a written statement, signed by the nominee, setting out the willingness of the nominee to accept such appointment and to carry out the duties attendant upon the office of Patron; and

13.1.4 nominations for appointment as a Patron must be submitted to the WESSA Secretary.

14. ACCOUNTING RECORDS

14.1 The Directors shall cause such accounting records as are prescribed by Section 28 of the Act to be kept.

14.2 The accounting records shall be kept in the registered office of the Company or at such other place or places as the Directors think fit and shall always be open to inspection by the Directors.

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15. EXPENDITURE AND FINANCE

15.1 All membership fees and subscriptions in terms of this Memorandum and all other funds received, and assets held by WESSA, including funds received, and assets held, by the Regions and Branches, shall be the property of WESSA and shall be under the control of the Board or its duly appointed nominee, which shall cause same to be invested or re-invested or otherwise dealt with in such manner as it may from time to time determine:

15.1.1 provided that Board shall be entitled to allocate, either generally or specifically any sum of money accruing to WESSA or any portion thereof to any Region or Branch or any project of WESSA and shall have the right to vary or terminate such allocation; and

15.1.2 provided further that Board shall only deal with funds received or assets held by a Region or a Branch in consultation with the Region or the Branch, as the case may be.

15.2 No expenditure shall be incurred by or on behalf of the Company except on authority of the board or of the person or persons to whom the board has generally or specifically delegated the power to authorise expenditure.

15.3 The financial transactions of the Company shall be administered via one or more bank accounts which shall be opened in the name of the Company.

15.4 All cheques, bills, promissory notes or other instruments drawn on behalf of WESSA shall be signed by such person or persons as may from time to time be decided by Board, provided that Board shall have the right to delegate the authority to determine the signatory or signatories.

15.5 In addition to the general indemnity contained in clause 18 hereof, the Directors shall not be personally liable for any loss which may be occasioned to WESSA as a result of the inability to recover the whole or any part of the principal or interest on any investment made by them in the pursuance of the powers conferred upon them in terms of this Memorandum.

15.6 The Board shall have the right, subject to the provisions of the Act, to determine the form of and manner in which financial records are to be retained by the National Office, Regions and Branches.

15.7 Notwithstanding anything to the contrary herein contained, no Region, Branch or project shall disburse any amount in excess of an amount determined by Board in consultation with the appropriate Region on any one item, project, function or other expense without the written consent of Board first being obtained.

15.8 The National Office and each Region shall prepare a budget in a form to be determined by the Board, which budgets shall be presented to Board upon a date to be determined by the Board.

15.9 Such budgets shall be considered by Board which shall have the power to approve same or to make such alterations or additions thereto or deletions therefrom as it deems fit and such alterations, additions or deletions shall be binding on the National Office and the Region concerned.

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15.10 In the event of any Region or Branch failing to comply with any determination given by Board in terms of clauses 15.1 to 15.9 hereof, the Board shall have the right to divest such Region or Branch of any funds held by it and to deal with such funds as it deems fit.

15.11 No contract, litigation, dispute resolution process, arbitration or agreement of sale, lease, exchange, barter or other deed by which any liability is or may be incurred on the part of WESSA or by which any of the assets or income of WESSA are in any way whatsoever diminished shall be entered into by any person, without the written consent of the Board first being obtained; provided that the Board shall have the right to grant such consent generally or specifically to any person or Committee, to specify the nature of the liabilities which may be incurred by that person or Committee, and to determine the maximum amount to which such person or Committee may incur liabilities, subject at all times to the Board's right to vary or terminate such consent.

16. ANNUAL FINANCIAL STATEMENTS

16.1 The Directors shall from time to time, in accordance with sections 29 and 30 of the Act, cause to be prepared and laid before the board such annual financial statements as are referred to in those sections.

16.2 A copy of the annual financial statement shall, at least 10 days prior to the relevant board meeting, be sent to every Director of the Company.

16.3 The financial year of the Company shall end on 31 March of each year.

17. NONPROFIT ACT

17.1 The Directors may apply for the Company to be registered as a NonProfit Organisation and shall, if so registered, ensure that the Company complies with all the requirements of the Nonprofit Organisations Act No.71 of 1997.

18. INDEMNIFICATION OF DIRECTORS

18.1 Every Member, Director, and officer of the Company, every Member of any committee of the Company, and any person employed by the Company as auditor, shall be indemnified by the Company against all liability incurred by him as such Director, officer or auditor, in defending any proceedings, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted, or in respect of any proceedings which are abandoned or in connection with any application under Section 77(9) of the Act in which relief is granted to him by the Court.

18.2 No Director, officer or employee of the Company shall be liable for

18.2.1 loss or expense incurred by the Company through the insufficiency or deficiency of any security in or upon which any of the moneys of the Company are invested;

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18.2.2 any loss or damage arising from the bankruptcy, insolvency or delictual acts of any persons with whom monies, securities or effects shall be deposited;

18.2.3 any loss or damage occasioned by any error of judgment or oversight on his/her part; or

18.2.4 any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his/her office, or in relation thereto,

unless the same happened through his/her own negligence, default, breach of duty or wilful misconduct or wilful breach of trust.

18.3 The authority of the Company's Board of Directors to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, to indemnify a Director in respect of liability and to purchase insurance to protect the Company or a Director, as set out in sections 78 (3), 78 (5) and 78 (6), is not limited or restricted by this Memorandum of Incorporation.

19. OFFICERS AND COMMITTEES

19.1 The Board of Directors may appoint any officers it considers necessary to better achieve the objects of the Company.

19.2 The authority of the Company's Board of Directors to appoint committees of directors, and to delegate to any such committee any of the authority of the Board as set out in section 72(1), or to include in any such committee persons who are not directors, as set out in section 73(2)(a) is not limited or restricted by this Memorandum of Incorporation.

19.3 The authority of a committee appointed by the Company's Board, as set out in section 72(2)(b) and (c) is limited and restricted to the extent that the powers of the Company are limited by clause 2.

19.4 The Chairman of the relevant Committee, acting alone, shall determine the date, time and venue of all meetings of that Committee

19.5 All material decisions of Committees or sub-committees must be submitted to the next Board meeting for approval by the Board.

19.6 Notice of any meeting of WESSA, whether a meeting of Members or a meeting of a Committee or any other notice required to be given in terms of this Memorandum, shall be given in writing not less than 21 (twenty one) days before the date of such meeting and shall be distributed as provided for herein to each person entitled to attend such meeting.

19.7 In respect of a meeting of any Committee, written notice may be waived only if agreed to by not less than three-quarters of all Committee members.

19.8 A Committee may meet and adjourn as it thinks fit. Matters arising at any meeting shall be determined by a majority of votes of the Members present, and in the event of an equality of votes the Chairman shall have a second or casting vote.

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19.9 Decisions may be taken either by round robin or written resolution of the members of that Committee. Similarly, any Committee may convene meetings by teleconferencing or videoconferencing facilities, and in such case, Committee members participating shall be deemed to be "present" at that meeting. A break in electronic communication facilities shall cause the meeting to automatically stand adjourned until the electronic communications are re-established. Any round robin or written resolution, or electronic meeting, shall be valid only if subsequently recorded in writing and ratified by the Board, or Committee, as the case may be.

19.10 All persons elected in terms of this Memorandum or by virtue of any authority herein contained shall hold office for a period of 2 (two) years from the date of their election; save as is provided for in clause 10.7 provided that:

19.10.1 a person co-opted to a Committee shall not be bound by this clause and shall be co-opted for a specific task, and for a specific period as determined by the Committee but not exceeding 2 (two) years; and

19.10.2 no person shall serve in any one capacity any Committee of WESSA for more than 4 (four) full terms in succession. However this period may be extended, should there be a super majority vote by at least 80 (eighty) percent of the members of the applicable committee, excluding the person involved, as the case may be.

19.11 At all meetings of Committees, the Chairman of such committee shall preside and, failing the Chairman, the Vice Chairman. Failing the Vice Chairman, the committee members present shall elect from amongst their number a chairman for the duration of the meeting.

19.12 For the purposes of any Committee meeting the quorum shall be at least one-half plus one of the members of such committee.

19.13 In the event of a quorum not being present within 30 (thirty) minutes of the notified time of any meeting, that meeting shall stand adjourned to a date determined being not less than 7 (seven) days nor more than 21 (twenty one) days after the date of adjournment, to the same time and place and in that event the number present at such adjourned meeting shall constitute a quorum; provided that if the general meeting is called as contemplated in terms of clause 7.2.4 or 9.10 hereof, whichever is applicable, and a quorum is not present within 30 (thirty) minutes of the notified time, the meeting shall be abandoned.

19.14 At any meeting of Members or of a Committee, unless otherwise required by the Act, a resolution passed by a majority of those present and who are entitled to vote at the meeting in question shall be deemed to be a resolution of WESSA or of such committee, as the case may be.

19.15 Every Committee of WESSA shall keep a summary of its deliberations and record its decisions, which record shall be retained by a person nominated by the Committee concerned and shall be available for inspection at all reasonable times by any Member or by any office bearer or employee of WESSA.

19.16 No Member shall be appointed to any office or capacity or to membership of any Committee in WESSA unless such Member has either prior to or at the meeting at which it is proposed to appoint such Member indicated their willingness, in writing, to accept such appointment.

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19.17 No member of any Committee or sub-Committee of WESSA shall be entitled to any remuneration for any act, deed or thing done in that capacity as such provided that:

19.17.1 a Committee member shall at all times be entitled to be reimbursed any reasonable expenses including travelling, subsistence and other expenses incurred by them in the exercise of their duties; and

19.17.2 a Committee member may be engaged to act for or to assist or advise WESSA in their professional capacity as distinct from their capacity as a Director or Committee member and in that event such Committee member shall be entitled to such professional fees as may be agreed upon by them and WESSA.

19.18 A "round robin" resolution signed by a majority of Committee members then holding office shall have the same force and effect as if it was passed at a duly convened Committee meeting and shall be entered into the minute book as a resolution of that Committee.

19.19 Any Committee duly constituted in terms of this Memorandum shall have all such powers as may be necessary to enable it to carry out the objects of WESSA; provided that such powers shall at all times be subject to the right of Board to prohibit, restrict or deduct from or to place any control or limitations on such powers.

19.20 In addition to the powers and duties delegated to them by the Board, the Committees of WESSA shall have all such powers as are necessary to enable them to operate, subject to the restrictions imposed in this Memorandum. In addition to and without derogating from the generality of the aforegoing, all Committees of WESSA shall have the right to:

19.20.1 establish such sub-committees as they may consider necessary from time to time, to define the functions, purposes and powers of such sub-committees and to disestablish same subject at all times to a member of the enabling Committee being ex-officio a member of all sub-committees; and

19.20.2 co-opt persons to the Committee or sub-committee provided that a person who is co-opted to a Committee or sub-committee shall have no vote on any matter falling for decision by that Committee or sub-committee, unless the Committee or sub-committee resolves otherwise.

19.21 No Member, nor member of any Committee, nor any office bearer shall be liable in respect of any loss of whatsoever nature sustained by WESSA (including any loss occasioned to the income or assets thereof) by reason of any negligent or careless act, mistake, or omission, unless their conduct is willfully dishonest, fraudulent or reckless, and no other person shall be answerable for the omissions of or for the acts or defaults of any such person, nor shall any such person be liable for the negligence or default of any person employed by WESSA or acting in a capacity as agent or servant thereof; provided further that this indemnity shall only be effective if the person who is sought to be made liable has acted in accordance with the provisions of the Articles or in terms of any direction made by the Board or any Committee or sub-committee authorised to give such direction.

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20. EMPLOYEES

20.1 All employees of WESSA, whether their employment is at the instance of the Board, a Region or a Branch, are and shall be employed by WESSA and the Chief Executive Officer or other duly appointed representative of the Board shall at all times have the right to dismiss any employee and to vary the terms and conditions of employment or areas where or fields in which the employee is employed, provided that:

20.1.1 the Chief Executive Officer shall be consulted in respect of all employee appointments prior to the appointment being made;

20.1.2 the Chief Executive Officer shall prepare the contract of employment in consultation with the Region or Branch if appropriate and thereafter sign the contract of employment on behalf of WESSA; and

20.1.3 where the employee is employed by or to be appointed at the instance of a Region or Branch, the duly appointed representative of the Region or Branch shall be consulted prior to that employee being appointed or the terms and conditions of employment or areas where or fields in which the employee is employed being varied.

20.2 On the request of a Region or Branch to the Chief Executive Officer that WESSA employ a person or persons, whether in a permanent, temporary or part-time capacity, WESSA shall employ such person or persons in accordance with clause 20.1 unless, in the reasonable opinion of Board, the employment of the person or persons is not necessary for the proper and due functioning of or for the furtherance of the objects of WESSA.

20.3 No paid employee in any capacity, permanent or temporary, shall be entitled to vote upon any matter which may fall for the consideration of a Committee of WESSA provided that:

20.3.1 the Board at any time and in its sole discretion may grant permission for specified employees to participate in the proceedings of and vote on matters raised in meetings of Board or any Committee of WESSA; and

20.3.2 this clause shall in no way detract from any right which that employee may have to vote as a Member at a general or annual general meeting of WESSA in the event of the employee also being a Member.

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