

CONSTITUTION

ETHANOL PRODUCERS ASSOCIATION OF SOUTHERN AFRICA

1. NAME

The name of the Association shall be ETHANOL PRODUCERS ASSOCIATION OF SOUTHERN AFRICA (hereinafter referred to as "EPASA".)

2. OBJECTIVES

EPASA is an association of Southern African ethanol producers established to provide a forum for agricultural and synthetic ethanol producers to, subject to compliance with their country's relevant legislation, including any pro-competition legislation, address the following specific objectives;

- a) To safeguard and advance the common interests, (which common interests shall expressly exclude: the sharing of prices and trading conditions by the members in that these are directly or indirectly fixed, the allocation of products, geographic areas or customers by the members and sharing of information regarding tenders for purposes of "rigging" a tender, i.e. collusive tendering by the members, hereinafter referred to as "Prohibited Practices")) of the ethanol industry in Southern Africa,
- b) To initiate, support or oppose any legislation affecting the ethanol industry,
- c) To act in conjunction with other associations in Southern Africa and internationally in carrying out common objects, excluding Prohibited Practices,
- d) To take such steps as are necessary to ensure the upholding of EPASA's good name and the provisions contained in this constitution and to censure any misconduct of Members and generally do all things to further and protect the interests of the EPASA and its Members,
- e) To provide access to the benefit of the Association's experience and to assist with industry compliance matters in particular.
- f) To disseminate public information to Members, as appropriate.

3. POWERS

- a) EPASA may in its discretion support, or assist financially, any other organisation whose objects include the legitimate stabilisation and protection of the ethanol industry in Southern Africa.
- b) EPASA may appoint such officials and officers, including attorneys and auditors, as may be necessary or desirable.

4. MEMBERSHIP

- a) i) Companies, partnerships and/or individuals engaged in, or committed to, the bona fide manufacture of fermentation ethanol and/or synthetic ethanol, shall be eligible for membership of EPASA. Manufacture of related products as well, shall not prohibit membership.
- ii) The ethanol manufactured shall be classifiable under tariff items 22.07 i.e., undenatured or denatured ethanol .
- iii) EPASA will have two categories of Members distinguished by their annual nameplate capacity and their proposed date of initial production, i.e.,
- Full Members, meaning those having a nameplate capacity of 5 000 kl /a, or more, and
 - Associate Members, meaning those having a nameplate capacity of less than 5 000 kl/a.
 - An entity that is granted membership prior to the commencement of production shall be an Associate Member until such time as production commences, whereafter the category of membership may change according to the Member's nameplate capacity.
- b) Application for membership shall be made to the Secretary on a form approved from time to time by the Executive Committee. Provided that all requirements are met, the Executive Committee shall have full and absolute power to approve or refuse any application.
- c) The Secretary shall keep a register containing the names and addresses of all Members of EPASA. It shall be the duty of Members to notify the Secretary of their postal address and subsequent changes thereof. The address notified from time to time by any Member shall be deemed to be the address of that Member until such Member notifies the Secretary of any change.
- d) An entrance fee shall be payable by Members upon admission or within 14 days thereafter. The initial entrance fee shall be R 1 000 for Full Members and R 500 for Associate Members and this shall be reviewed from time to time by EPASA at an Annual General Meeting.
- e) The annual subscriptions for the 2009/10 year will be as follows.
- | | |
|---|----------|
| Nameplate capacity less than 10 000 kl/a | R 10 000 |
| Nameplate capacity between 10 000 and 40 000 kl/a | R 20 000 |
| Nameplate capacity greater than 40 000 kl/a | R 35 000 |
- with these Rand figures escalating annually thereafter, commensurate with the South African inflation rate and falling due on the anniversary of a Member's date of joining the Association.. No Member shall be entitled to vote unless the subscription due and payable by him has been paid.

5. MEMBER'S CONDUCT

By accepting membership, the Member acknowledges that conformance to the provisions of their respective competition legislation is required during any meeting held under the auspices of the Association and the Member undertakes to adhere to this requirement and ensure that the Member's representative(s) also honours this undertaking. .

6. MANAGEMENT

The function of EPASA shall be performed and its business shall be managed by an Executive Committee which may exercise all the powers of the Association not expressly excluded by its Constitution and Rules.

- a) The Executive Committee shall consist of minimum three and maximum four natural persons appointed by Full Members only, and shall be constituted of ,
 - The Chairman,
 - The vice-chairman,
 - The Secretary and
 - A further Member's representative, if necessary.
- b) Members of the Executive Committee shall have equal voting rights at Executive Committee meetings, provided that the Chairman shall have a casting vote when there are four Executive Committee members present.
- c) Two Members of the Executive Committee shall form a quorum at an Executive Committee meeting. All questions at any Meeting of the Executive Committee shall be decided by a majority vote. Decision by "round robin" shall be permitted on the same basis.
- d) A quorum at any General Meeting shall be two thirds of the Members.
- e) At each Annual General Meeting, the Members of EPASA shall elect a Chairman and Vice Chairman from the Full Members representatives who shall hold office until the next Annual General Meeting, but shall be eligible for re-election.
- f) All questions at a General Meeting shall be decided by a two thirds majority vote provided that a Member may appoint another in writing as proxy with instructions on how to vote (for the absent Member) on issues previously advised in the agenda.
- g) The Secretary, who shall not necessarily be a member of EPASA, shall be appointed by the Members and the initial remuneration shall be fixed by the Chairman and vice Chairman and reviewed annually them.
- h) The Chairman or in his absence the Vice Chairman or in the absence of either, a Member elected by the meeting, shall preside at all meetings of EPASA.

- i) The Executive Committee shall have the power to appoint, from time to time, such Sub-Committees as it may deem desirable to deal with such particular matters as it may specially delegate to any such Sub-Committees.
- j) The Executive Committee may frame such by-laws for the conduct of its affairs or for that of any Sub-Committee appointed by it, as may be necessary, provided that the Constitution is not infringed.
- k) The Annual General Meeting at which audited accounts shall be tabled for approval by the Executive Committee shall be held in such month in each year as shall be determined by the Executive Committee, provided that the Annual General Meeting shall take place within three months of the financial year end.
- l) Further General Meetings shall be held at such times as may be considered advisable by the Executive Committee.
- m) At least fourteen (14) days notice of any General Meeting shall be given by circular, such notice to state the business to be considered at such meeting.

7. EXPULSION OF MEMBERS

- a) If any Member behaves in a manner which the Executive Committee considers may be prejudicial to the interests of EPASA or in conflict with its objects as herein set out, or should the Executive Committee consider that it is no longer in the interests of EPASA to allow any representative of a Member to continue his/her representation, the Executive Committee shall have the following powers:-
 - (i) to call upon each Member for information or a written explanation;
 - (ii) to suspend such Member for such period as it may deem desirable;
 - (iii) to call upon such Member to resign and, if the Member fails to do so, to expel the Member; and/or
 - (iv) to require the Member to replace their representative.

The decision of the Executive Committee shall be final unless the Member shall lodge an appeal with the Secretary within seven (7) days of being advised of the decision of the said Committee. Should an appeal be lodged as above it shall be considered and decided upon at a General Meeting. The Member whose conduct is in question or who is affected by such decision of the Executive Committee shall be entitled to be present and to offer such explanation as he may think fit and he shall be entitled to be represented legally, but he shall not be entitled to vote at such a meeting.

- b) Any Member who fails to make payment of any annual subscription determined in terms of clause 4 (e) within the period prescribed thereof shall be deemed to have behaved in a manner prejudicial to the interests of EPASA.

8. RESIGNATION

- a) Members shall be entitled to resign at any time by giving written notice to the Secretary, but resignation shall not serve to release the Member resigning from liability for his share of any expenditure incurred by EPASA to the date of such resignation. Any amount so due by such Member shall be a debt due to EPASA and may be recovered as such.
- b) When a Member ceases to be a member for any reason whatsoever, he shall not be entitled to, nor shall he have any claim for a refund of the subscription paid by him, or any portion thereof, unless the Executive Committee may decide otherwise.

9. FINANCE

- a) The funds of EPASA shall be applied towards the promotion of the objectives of EPASA at the discretion of the Executive Committee.
- b) Funding of daily operations of EPASA shall be covered by the annual subscriptions of members.
- c) Additional funding required for extraordinary expenditure shall be provided by a levy on Members, pro rata to their annual subscriptions.
- d) All disbursements of EPASA funds shall be authorised by the Chairman or vice Chairman.
- e) The funds of EPASA shall be lodged with such bank or banks as the Executive Committee may decide.
- f) An appropriate body appointed to handle the financial affairs of EPASA shall cause proper accounts to be kept of all money received and expended by EPASA and the manner in respect of which such receipts and expenditure take place and of the Assets and Liabilities of EPASA.
- g) After the close of each financial year which shall be 31 August, the body appointed to handle EPASA's financial affairs shall lay before the Executive Committee a Revenue and Expenditure statement for the past year and the Executive Committee shall approve or reject such statement at the Annual General meeting of EPASA
- h) Any member sending to the Secretary, so as to reach him not later than fourteen (14) days before any General Meeting, a notice in writing of his desire to bring any subject or motion before EPASA for discussion or decision, shall be entitled to have such notice included upon the Agenda paper for that meeting. Any matter of urgent importance not on the Agenda paper may, however, be brought before a General Meeting under the agenda item, General.

10. GENERAL

- a) This constitution, or any revision thereof, shall come into operation immediately on its adoption by the Members, which acceptance and adoption may be elicited by correspondence (“round robin”).
- b) Notice of motion to delete, alter or add to any section of this Constitution shall be sent to the Secretary in writing, and on receipt of such notice it shall be considered by the Executive Committee who may in its discretion, agree to the motion by correspondence (“round robin”) or agree to call a Special General Meeting for the purpose of considering such motion. If at said meeting the Executive Committee should not adopt the motion, the notice of motion shall be considered at the next Annual General Meeting.
- c) A resolution to alter amend or add to the Constitution of EPASA shall only be valid if passed by a two thirds majority of the Members. .
- d) In the event of there being no specific rules provided within the Constitution to regulate the internal management of EPASA, the appropriate regulation, mutatis mutandis, contained in Table "A" of the South African Companies Act, 1973 as amended, shall apply.

11. LIABILITY OF MEMBERS AND INDEMNITY OF OFFICE BEARERS

- a)
 - (i) The liability of each Member shall be limited to the amount of their annual subscription and extraordinary funding as per clause 9 (c).
 - (ii) The members of EPASA including the Secretary shall, provided they have acted bona fide and diligently, be indemnified by EPASA against all proceedings, costs and expenses incurred by reason of any claim in connection with EPASA.
- b) No Chairman or other office bearer of EPASA shall be liable for the acts, receipts, neglects or default of any other office bearer or for joining in any receipt, or for any loss or expense happening in EPASA though the insufficiency or deficiency of title to any property acquired for and on behalf of EPASA or for the insufficiency or deficiency of any security in or upon which any of the moneys of EPASA shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortuous act of any person with whom any moneys, securities or effects shall be deposited or for any loss or damage occasioned by any error of judgement or oversight on his part or for any other loss, damage or misfortune whatever, which shall happen in the execution of the duties of his office or in relation thereto, unless the same happens through his own dishonesty, negligence, default, breach of trust in relation to EPASA.

12. DISSOLUTION

EPASA may be dissolved by a majority vote of its Full Members. The assets shall be liquidated in such manner as authorised by the majority vote of such Full Members and be distributed amongst all Members pro rata to the total subscriptions that have been paid by such Members since inception.

13. ACCEPTANCES

Approved and accepted this day of 2012 at, Kwa-Zulu Natal.

Mr A Trusler for Glendale Distilling Company.

Approved and accepted thisday of2012 at, Kwa-Zulu Natal.

Mr B Pretoriusfor Illovo Sugar South Africa Ltd – Merebank.

Approved and accepted this day of 2012 at Umgeni, Durban.

Mr P W Starling for NCP Alcohols (Pty) Ltd.

Approved and accepted this day of 2012.....

Mr V van Heerdenfor Sasol Solvents division of Sasol Chemical Industries (Pty) Ltd.

Approved and accepted thisday of 2012 at..... , Kwa-Zulu Natal.

Mr T Stapelberg for Greenpoint Alcohols (Pty) Ltd.

New Members :

Accepted thisday of 201..... at

Name and signature :

Company :.....

Original Aug 04
Amended Nov 05
Amended Nov 09
Amended Nov 10
Amended Oct 12