

# CONSTITUTION

for

## THE SOUTH AFRICAN FRUIT JUICE ASSOCIATION (“SAFJA”)

### INDEX

<u>Clause</u>	<u>Page</u>
1. Name	2
2. Interpretation and Definitions	2
3. Corporate Status	3
4. Object	4
5. Members	5
6. Meetings of Members	6
7. Proceedings at Meetings of Members	7
8. Decisions and Votes of Members	8
9. Proxies	9
10. Associate Members	10
11. Board of Management	12
12. Powers of the Board	13
13. Alternates	16
14. Disqualification from the Board	16
15. Proceedings of the Board	16
16. Validity of Acts of the Board and Committees	18
17. Technical Committee	18
18. Income, Monies and Property	19
19. Reserves	20
20. Accounts and Annual Financial Statements	20
21. Audit	20
22. Funding and Membership Fees	20
23. Notices	21
24. Indemnity	21
25. Amendment of Constitution	21
26. Dissolution	21
27. Section 30B	22
Annexure A: Code of Ethics	24
Annexure B: Code of Conduct and Ethics Policy for Elected Board & Committee Members	25
Amendment Control List	28

# CONSTITUTION

for

## THE SOUTH AFRICAN FRUIT JUICE ASSOCIATION (“SAFJA”)

### 1. NAME

The name of the organisation is the South African Fruit Juice Association (“SAFJA”), being a voluntary Association of persons with a common aim and purpose as set out in this Constitution (hereinafter referred to as the “Association”).

### 2. INTERPRETATION AND DEFINITIONS

2.1 In this Constitution, unless the context otherwise requires:

- |       |                |   |
|-------|----------------|---|
| 2.1.1 | “Association”  | means the South African Fruit Juice Association (“SAFJA”), an unincorporated association created in terms of this Constitution;   |
| 2.1.2 | “Board Member” | means any member of the Board from time to time;  |
| 2.1.3 | “Constitution” | means the constitution of the Association as contained in this document and any amendments hereto from time to time;  |
| 2.1.4 | the “Board”    | means the managing committee of the Association elected and/or appointed in terms of this Constitution empowered to manage the Association’s business and affairs;  |
| 2.1.5 | “Member”       | means the persons or entities referred to in this Constitution and who become members of the Association and are <u>actively involved and participate</u> in the manufacturing, importation, exportation, packaging, distribution, marketing and supply of fruit juice products – excluding direct selling of the products to the consumer; |

- 2.1.6 “Associate Member” means the persons or entities that has an interest in the ethical and fair supply and selling of fruit juice products to the consumer, consisting out of role payers in variable membership categories including, but not limited to, laboratories, tertiary institutions, government departments, retail and chain stores, fruit growers associations, and manufacturers of packaging and other related products;
- 2.1.7 “Register” means the register of members kept in terms of this Constitution;
- 2.1.8 “Republic” means the Republic of South Africa;
- 2.2 Words in the singular number shall include the plural and words in the plural number shall include the singular, words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

### **3. CORPORATE STATUS**

- 3.1 This Association shall be a body corporate having an existence independent of its members and office-bearers with perpetual succession, notwithstanding changes in the composition of its membership or office bearers, capable of entering into contractual and other relations, of suing and being sued in its own name and shall be an association not for gain.
- 3.2 The Association does not engage in trading or other profit-making activities, including participation or any other interest in any business, profession or occupation conducted or carried on by its members. No financial assistance or facilities required by its members for the purpose of conducting any business are provided to its members. Any services or assistance provided to its members are limited to those listed in the objectives of the Association. No member may directly or indirectly have any personal or private interest in the Association.
- 3.3 The individual members of the Association shall not be liable to meet the debts, engagements or liabilities of the Association, which shall be incurred in the name of the Association. The liability of the members shall be limited to the amounts due by them in respect of their subscriptions or in respect of any other monies payable by them in terms of this constitution.

#### **4. OBJECT**

- 4.1 The main objectives of the South African Fruit Juice Association shall be to:
- 4.1.1 act in the best interest of all Members and protect and further the interests of the Members in ensuring a sustainable, environmentally sound, profitable and an organised industry and business environment for the manufacturing, importation, exportation, distribution, bottling, marketing and supplying of fruit juice products in South Africa;
  - 4.1.2 ensure that healthy, fair and ethical competition takes place within the South African juice industry;
  - 4.1.3 protect the image and integrity of the industry and to act as its representative and voice;
  - 4.1.4 define and apply a code of ethics regarding the conduct of Members of the Association (see annexure A);
  - 4.1.5 promote consumer confidence by ensuring the integrity of juice products;
  - 4.1.6 encourage all participants in the industry to adhere to the principles set out in this Constitution and the statutes;
  - 4.1.7 establish an effective policing mechanism for self-regulation of the juice industry;
  - 4.1.8 to create a mark/seal that represents the Association commercially. Thus the consumer can with confidence, when the mark/seal is displayed on the final product, accept the content to be fully compliant to the description on the label and the product adheres to the ethical standards of the Association and applicable Government regulations. The Association will protect the use of the mark/seal by ensuring strict compliance to the agreed standards.
  - 4.1.9 work with government departments towards updating and simplifying the legislation applicable to the manufacture, distribution and labelling of fruit juice or juice derived products;
  - 4.1.10 lobby and engage government on a national, provincial and local level to further the general interests of the Association and its Members and if necessary, promote, support or oppose, as may be deemed expedient any proposal, legislative or other measures which may affect the interests of Members;

- 4.1.11 endeavour to promote representation of all industry role players throughout the juice industry, but always act within the stipulations of the Competition Act;
- 4.1.12 promote co-operation and goodwill among Members for the good of their common interests: and
- 4.1.13 co-operate with such other organisations and entities when expedient to do so in the overall interest of Members of the Association;
- 4.2 The Association shall have all ancillary objects as may be necessary for it to attain its main objectives.
- 4.3 No activity undertaken by the Association will directly or indirectly promote the economic self-interest of any fiduciary or employee of the Association other than by way of reasonable remuneration.

## **5. MEMBERS**

- 5.1 Membership of the Association is only open to persons or entities actively involved in and participating in the manufacturing, importation, exportation, packaging, distribution, marketing and supply of fruit juice products – excluding direct selling of the products to the consumer; and
- 5.2 The membership of the Association shall further only consist of such persons :
  - 5.2.1 who shall have completed such application form, including relevant annexures as may be required, for membership as may be prescribed by the Board Members from time to time;
  - 5.2.2 who shall have paid the required entrance and annual fees as may be prescribed by the Board Members from time to time;
  - 5.2.3 who shall have agreed to be bound by the terms of this Constitution and any code of ethics and/or code of conduct that may be required by the Members from time to time;
  - 5.2.4 whose compliance with the requirements contained in clauses 5.2.1 and 5.2.2 has been approved by the majority of the Board Members; and
  - 5.2.5 whose names and addresses have been recorded in the membership register established by the Board Members for that purpose.

- 5.3 A Member shall *ipso facto* cease to be a Member of the Association:
- 5.3.1 if, being a natural person, he ceases to represent the body which nominated him to membership or his nomination is withdrawn;
  - 5.3.2 if, being a natural person, he dies or his estate is finally sequestrated, or he is placed under curatorship or he is no longer capable of managing his affairs;
  - 5.3.3 if, being a body corporate, an order for the final winding-up or judicial management of the Member is granted or a special resolution for the winding-up of the Member is duly passed and registered in terms of the Companies Act;
  - 5.3.4 if, being a Member he is removed as a Member by a majority of the Members in a special or general meeting of the Association. The Member may be removed if, in the opinion of the majority of the Members at such a meeting, the Member's conduct is harmful, or not in the interests of the Association or in conflict with the objects of the Association;
  - 5.3.5 if by notice in writing to the Association he resigns as a Member;
  - 5.3.6 if the Member fails to discharge his/its liability in respect of the annual membership fees due by him/it to the Association within 30 (thirty) days after such membership fees becomes due and payable as contemplated in clause 22.2.
- 5.4 The Association shall maintain a register of Members of the Association and the nominated representative of each Member, at its designated principal place of business. The Register shall be open to inspection by all Members during normal office hours. The Register shall be used to regulate the Members' right to vote at meetings and control access to meetings.

## **6. MEETINGS OF MEMBERS**

- 6.1 The Association shall hold its first Annual General Meeting within eighteen months after the date of adoption of this Constitution and shall thereafter in each year hold an Annual General Meeting; within four (4) months after the financial year end. Other special general meetings of the Association may be held at any time in accordance with the provisions of this Constitution.
- 6.2 The Board Members may, whenever they think fit, convene a special general meeting on a requisition by Members representing not less than two-thirds of the total voting rights of all the Members of the Association having at the date

of the lodgement of the requisition a right to vote at general meetings of the Association.

6.3 Every meeting of Members shall be held at such location as may have been decided and nominated by the Board.

6.4 An Annual General Meeting and a meeting called for the passing of a special resolution shall be called by at least twenty-one clear days' notice in writing, and a meeting of the Association, other than an Annual General Meeting or a meeting for the passing of a special resolution, that is, an ordinary meeting, shall be called by at least fourteen clear days' notice in writing. The notice shall specify the place, the day and the hour of meeting and, in the case of special business, the general nature of the business, and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Association at a meeting of Members, to such persons as are, under this Constitution, entitled to receive such notices from the Association: provided that a meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in this clause, be deemed to have been duly called if it is so agreed by a majority in number of the Members having a right to attend and vote at the meeting who hold not less than ninety-five percent of the total voting rights of all the Members. The non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings of that meeting.

6.5 At least two (2) meetings will be held per year whereat the Board will provide feedback to the Members regarding activities and projects. The Board will also use these meetings to get approval for initiatives and plans of the Association, including anticipated interactions with government and regulatory institutions on matters such as legislation, standards, etc.

## **7. PROCEEDINGS AT MEETINGS OF MEMBERS**

7.1 All business that is transacted at a General Meeting, and all that is transacted at the Annual General Meeting, with the exception of the consideration of the audited financial statements (if any), the election of auditors (if any) and the fixing of the remuneration of the auditors (if any), shall be deemed to be special business.

7.2 Business may be transacted at any meeting of Members only while a quorum is present.

- 7.3 Save as herein otherwise provided, the quorum at a meeting of Members shall be not less than one third of the number of Members entitled to vote, personally present.
- 7.4 If within thirty minutes from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or, if that day be a public holiday, to the next succeeding day other than a public holiday, and if at such adjourned meeting a quorum is not present within thirty minutes from the time appointed for the meeting then, the Members present shall be a quorum.
- 7.5 The Chairman, if any, of the Board shall preside at every meeting of Members of the Association, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as Chairman, the Members present shall choose some Board Member, or if no Board Member be present, or if all the Board Members present decline to take the chair, they shall choose some Member present to be Chairman of the meeting.
- 7.6 The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at a meeting from which the adjournment took place. When a meeting is adjourned it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 7.7 Members will electronically be checked and confirmed against the Members' register before allowed access to the meeting. The electronic list of attendees and proxies received beforehand will be used at the meeting to control voting.
- 7.8 Minutes will be taken at every meeting to record the members' decisions. The minutes of each meeting will be given to each member at least two weeks before the next meeting. The minutes will be confirmed as a true record of proceedings, by the next meeting of the members and shall thereafter be signed by the Chairman. Minutes of all meetings must be kept safely and always be on hand for members to consult.

## **8. DECISIONS AND VOTES OF MEMBERS**

- 8.1 Every Member in good standing shall have one vote at any meeting of Members.



- 8.2 The Members shall endeavour to pass all decisions on a consensus basis. However, if consensus cannot be achieved, at any meeting of Members a resolution put to the vote of the meeting shall be decided by majority vote on a show of hands or by ballot as decided by the meeting. A declaration by the Chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Association, shall be conclusive evidence of the fact, and recording of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is given. Any such objection shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.
- 8.3 Any proxies as defined and controlled by clause 9, will be kept by the Chairman at the meeting and he will announce the proxies at the start of the meeting.
- 8.4 In the case of an equality of votes, the Chairman of the meeting shall not be entitled to a second or casting vote, in addition to his deliberative vote as a Member.
- 8.5 A resolution in writing signed by all the persons for the time being entitled to receive notice of and to attend and vote at a meeting of Members or by duly authorised representatives on their behalf shall be as valid and effectual as if it had been passed at a meeting of the Association duly convened and held.
- 8.6 On show of hands, each Member present in person or by proxy or, if the Member is a body corporate, duly represented, at any meeting of the Association shall have one vote. Any attendees that are not eligible to vote will leave the meeting prior to the start of the voting process.

## **9. PROXIES**

- 9.1 The form appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or, if the appointer is a body corporate, under the hand of an officer or agent authorised by that body. The same applies to the holder of a general or special power of attorney given by a Member to attend and take part in the meetings and proceedings of the Association or companies generally, whether or not he be himself a member of the Association. A proxy need not be a member of the Association.
- 9.2 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or

authority shall be deposited at or transmitted to the registered office of the Association not less than twenty-four hours (or such lesser period as the Board may unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote, and in default the form of proxy shall not be treated as valid. No form appointing a proxy shall be valid after the expiration of six months from the date when it was signed, except at an adjourned meeting unless otherwise specifically stated in the proxy.

## **10. ASSOCIATE MEMBERS**

- 10.1 Associate Membership of the Association is only open to persons or entities that have an interest in the ethical and fair supply and selling of fruit juice products to the consumer, consisting out of role payers in variable membership categories including, but not limited to, laboratories, tertiary institutions, government departments, retail and chain stores, fruit growers associations, and manufacturers of packaging and other related products.
- 10.2 The associate membership of the Association shall further only consist of such persons/institutions who:
- 10.2.1 shall have completed such application form, including relevant annexures as may be required, for associate membership as may be prescribed by the Board Members from time to time;
  - 10.2.2 who shall have paid the required entrance and annual fees as may be prescribed by the Board Members from time to time;
  - 10.2.3 who shall have agreed to be bound by the terms of this Constitution and any code of ethics and/or code of conduct that may be required by the Members from time to time;
  - 10.2.4 whose compliance with the requirements contained in clauses 10.2.1 and 10.2.2 has been approved by the majority of the Board Members; and
  - 10.2.5 whose names and addresses have been recorded in the associate membership register established by the Board Members for that purpose.
- 10.3 An Associate Member shall ipso facto cease to be an Associate Member of the Association :

- 10.3.1 if by notice in writing to the Association he resigns as an Associate Member;
  - 10.3.2 if the Associate Member fails to discharge his/its liability in respect of the annual Associate membership fees due by him/it to the Association within 30 (thirty) days after such associate membership fees becomes due and payable as contemplated in clause 10.7.1;
  - 10.3.3 if, being an Associate Member he is removed as an Associate Member by a majority of the Members in a special or general meeting of the Association. The Associate Member will be removed if, in the opinion of the majority of the Members at such a meeting, the Associate Member's conduct is harmful, or not in the interests of the Association or in conflict with the objects of the Association.
- 10.4 The Association shall maintain a register of Associate Members of the Association and the nominated representative of each Associate Member, at its designated principal place of business.
- 10.5 Meetings of SAFJA:
- 10.5.1 Associate Members will be invited to attend the Members' meetings that will be held during the year whereat the Board will provide feedback to Members and Associate Members regarding activities and projects.
  - 10.5.2 Associate Members have the right to speak at Members meetings and to give input, but will not be part of final decisions.
  - 10.5.3 At any of the meetings of the Association, the Associate Members will have no voting rights.
- 10.6 If an Associate Member is willing and capable, he would be allowed to serve on any committees because of his field of expertise or experience.
- 10.7 Associated Membership Fees:
- 10.7.1 All Associate Members on the Association's Register as at the Association's annual general meeting, shall be obliged to contribute annual membership fees, which amount shall be due and payable within sixty (60) days after the date of the annual general meeting; provided that all new Associate Members must pay the said annual contribution in full against the approval of their associate membership application by the Board and prior to them being recorded in the Register.

10.7.2 The annual contribution payable by each Associate Member shall be set and determined at the Association's annual general meeting each year and may be amended at any annual or special general meeting by a 75% (seventy five percent) majority of Members present or represented at such meeting ("special resolution").

10.8 A notice by the Association to any Associate Member shall be regarded as validly given if it is either delivered personally to the Associate Member, by telefax at his telefax number or sent by electronic mail.

## **11. BOARD OF MANAGEMENT**

11.1 The Members shall be entitled to elect a Board to manage the business and affairs of the Association and to carry out the Association's objects. Only representatives of Members in good standing are eligible to serve on the Board.

11.2 Until otherwise determined by a meeting of Members, the number of the Board Members shall not be more than 6 (six). At the first general meeting 3 (three) Board members will be elected for a period of 3 (three) years and 3 (three) Board members will be elected for a period of 2 (two) years. Thereafter Board members will be elected every 2 (two) years at the annual general meeting. Board members retiring after their 2 (two) year period are available for re-election if he/she so wishes.

11.3 Nominations for candidates for the Board will be done on the appropriate nomination form. Completed nomination forms must be delivered or transmitted to the registered office of the Association at least 7 days before the annual general meeting. Only Members in good standing can be nominated to serve on the Board. The nomination must be seconded and accepted by the nominee in writing. Two witnesses must confirm the nomination form.

11.4 Each nominee will submit a condensed Curriculum Vita highlighting his/her qualifications, experience and achievements in the industry in order to give members some background prior to the election of the Board at the Annual General Meeting.

11.5 The first Board Members of the Association may be determined in writing by a majority of the subscribers to this Constitution. Until Board Members are elected, whether or not the Board Members have been named by a majority of the subscribers of this Constitution, every subscriber of this Constitution shall be deemed for all purposes to be a Board Member of the Association.

- 11.6 The Association may from time to time at any meeting of Members increase or reduce the number of the Board Members. It is specifically recorded that at all times the Board will consists of at least 3 (three) Board Members who are not connected to each other.
- 11.7 Unless otherwise decided by a meeting of Members, any casual vacancy occurring in the Board may be filled by the Board, but which position shall be vacated by the Member by not later than the annual general meeting following his appointment (but may be available for re-appointment).
- 11.8 The Association at a meeting of Members or the Board shall have power at any time, and from time to time, to appoint any person as a Board Member but so that the total number of the Board shall not at any time exceed the maximum number fixed by or in terms of this Constitution, and such board member shall retire from office at the following annual general meeting and shall then be eligible for re-election.
- 11.9 In the event of the representative leaving the employ of the Member, such representative that has been appointed to the Board shall continue to serve on the Board, provided that such representative remains employed by a Member of the Association in good standing and failing being employed as such, will be compelled to resign.
- 11.10 No Member may have more than one representative appointed to the Board.

## **12. POWERS OF THE BOARD**

- 12.1 All the business and affairs of the Association shall be managed and controlled by a management board of the Association constituted in terms of clause 11 hereof (hereinafter referred to as (the "Board") which shall have full power to carry out all the objectives of the Association and generally to exercise all the powers of the Association but subject always to the wishes of the members as expressed by the terms of any resolution passed at any general meeting of members; but no such resolution shall invalidate any prior act of the Board which would otherwise have been valid.
- 12.2 The Board shall have custody and control of all the assets of the Association.
- 12.3 Without prejudice to the general powers conferred by clauses 12.1 and 12.2 the Board shall have the following powers (which powers are not exhaustive or complete), namely:

- 12.3.1 to appoint a Chairman who shall hold office for not longer than 2 (two) years, but who may be available for re-election.
- 12.3.2 the Board may from time to time appoint any person with the requisite skills and expertise to act as that Association's general manager.
- 12.3.3. the appointment/s contemplated in clause 12.3.2 shall be for such period and generally on such terms as the Board deems fit but such appointment shall terminate *ipso facto* if the Association in any meeting of members resolves to terminate the said appointment.
- 12.3.4 the Board may from time to time entrust to and confer upon the general manager for the time being such of the powers vested in them as they may think fit, and may confer such powers for such time and to be exercised for such objects and upon such terms and with such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the Board, and may from time to time revoke or vary all or any of such powers. A general manager appointed pursuant to the provisions hereof shall not be regarded as an agent or delegate of the Board and after powers have been conferred upon them by the Board in terms hereof they shall be deemed to derive such powers directly from this clause.
- 12.3.5 to make, amend and repeal rules for the regulation of the affairs of the Association and for the control and remuneration by salary or pension or otherwise of the officers and employees thereof and for the direction and control of the proceedings of the members thereof;
- 12.3.6 to collect levies, membership fees and control expenditure;
- 12.3.7 to open and close bank accounts in the name of Association, and to operate thereon in such manner as may be authorised from time to time by the Board;
- 12.3.8 to borrow money with or without security for the purpose of the Association on such terms as the Board may deem fit;
- 12.3.9 to institute and defend legal proceedings in the name of the Association and to exercise all the Association's rights as a shareholder in or a member of any company, Association or society. To purchase, sell, exchange, take on lease, hire out or dispose of movable property or any right therein and to improve and

- develop any property or asset of the Association in such manner as the Board may deem fit;
- 12.3.10 to determine how and by whom any documents shall from time to time be signed by the Association;
  - 12.3.11 to accept donations and other benefits on behalf of the Association from any person, firm, company or other source whatsoever;
  - 12.3.12 to enter, rescind and vary contracts, sign documents and do all such acts, matters and things on behalf of the Association as the Board may consider necessary or expedient for carrying out the objectives thereof;
  - 12.3.13 to engage with the relevant authorities and other organisations to put forward the Association's views and recommendations on legal, consumer, technical and quality matters;
  - 12.3.14 to regularly engage with the Members at appropriate opportunities via meetings and other platforms to give feedback of actions and plans and to seek approval of projects and future actions, including interactions with the relevant authorities;
  - 12.3.15 to establish such sub-committees as may be deemed by the Board to be necessary for the purpose of performing its functions and fulfilling its objectives;
  - 12.3.16 to delegate powers, duties, rights and obligations to sub-committees established for the purpose of performing such tasks;
  - 12.3.17 to do all such things and to take all such steps as may be necessary for the due and proper administration of the Association;
  - 12.3.18 to do all such things and to take all such steps as may be necessary to carry out any one of the other objectives stipulated under the Object clause 4 hereof;
  - 12.3.19 to determine any entrance fee and annual membership fees;
  - 12.3.20 to ensure Representatives on the Board and/or Committees sign and commit to the Code of Conduct for Elected Board and Committee Members (Annexure B);
  - 12.3.21 to ensure compliance to the Code of Conduct and take the necessary steps to discipline representatives in consultation with the Member should the Code of Conduct be transgressed.

12.3.22 to appoint/co-opt an interim representative on the Technical Committee should an elected representative resign, for whatever purpose, to serve on the Committee until the next AGM where the Members will then duly elect a replacement representative. The appointed representative may be nominated as a candidate for the Technical Committee at the next AGM.

### **13. ALTERNATES**

Any Board Member shall have the power to nominate another person to act as alternate in his place during his absence or inability to act as such, and on such appointment being made, the alternate shall, in all respects, be subject to the terms and conditions existing with reference to the other Board Members of the Association.

### **14. DISQUALIFICATION FROM THE BOARD**

14.1 The office of a Board Member shall be vacated:

14.1.1 if by notice in writing to the Association he resigns his office; or

14.1.2 if he dies or he is placed under curatorship or he is no longer capable of managing his affairs or he becomes insolvent or assigns his estate for the benefit of or compounds with his creditors; or

14.1.3 if he brings the Association into disrepute and the Board resolves that such person be removed from office; or

14.1.4 if the Member he represents ceases to be a Member; or

14.1.5 if he does not attend 3 (three) consecutive meetings of the Board and the Board then resolves, in its discretion, that such person be removed from office; or

14.1.6 if his office be terminated in terms of this Constitution.

14.2 No person shall be disqualified from his office if he contracts with the Association in any manner whatsoever; provided that such person shall not be entitled to vote at any Board meeting or general meeting or otherwise in relation to such contract and he shall not be reckoned for the purpose of constituting a quorum.

### **15. PROCEEDINGS OF THE BOARD**

15.1 A quorum of the Board Members may, at any time summon a meeting of the Board.

15.2 The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, but not less than 2 (two)



meetings per year.

- 15.3 All meetings of the Board shall be held in such place as nominated by the Chairman.
- 15.4 Questions arising at any meeting of the Board shall be decided by consensus, except if consensus is not possible, a decision shall be taken by a majority of votes.
- 15.5 The Chairman shall have a second or casting vote in addition to his deliberative vote as a Board Member.
- 15.6 The Board may determine what period of notice shall be given of meetings of the Board and may determine the means of giving such notice which may include telephone, email or telefax. It shall not be necessary to give notice of a meeting of the Board to any Board Member for the time being absent from the Republic, but notice of any such meeting shall be given to his alternate, if he has appointed one, provided that such alternate is in the Republic.
- 15.7 A quorum shall consist of not less than 50% (fifty percent) of the then existing number of the Board Members.
- 15.8 The Board Members may act notwithstanding any vacancy in their body.
- 15.9 A resolution in writing, including through the medium of telefax, signed by all the Board Members for the time being present in the Republic shall be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted: Provided that where a Board Member is not present in the Republic, but has an alternate who is, the resolution must be signed by that alternate. The resolution may consist of several documents, each signed by not less than one half of the Board Members or their alternates in terms of this clause.
- 15.10 If at any meeting the Chairman is not present within fifteen minutes after the time appointed for holding it, the Board Members present may choose one of their number to be Chairman of the meeting.
- 15.11 Minutes will be taken at every meeting to record the Board's decisions. The minutes of each meeting will be given to each Board Member at least two weeks before the next meeting. The minutes will be confirmed as a true record of proceedings, by the next meeting of the Board Members and shall thereafter be signed by the Chairman. Minutes of all meetings must be kept safely and always be on hand for Board Members to consult.

## **16. VALIDITY OF ACTS OF THE BOARD AND COMMITTEES**

As regards all persons dealing in good faith with the Association, all acts done by any meeting of the Board or of a committee of the Board or of any executives, or by any person acting as a Board Member, shall, notwithstanding that it be afterwards discovered that there was such defect in the appointment or continuance in office of any such Board Members or persons acting as aforesaid, or that they or any of them were disqualified or had ceased to hold office or were not entitled to vote, be as valid as if every such person had been duly appointed or was qualified or had continued to be a Board Member or was entitled to vote, as the case may be.

## **17. TECHNICAL COMMITTEE**

17.1 The Members shall elect at the annual general meeting 6 (six) representatives of Members to serve on a Technical Committee.

17.2 At the first general meeting subject to clauses 17.5 and 17.6, 3 (three) representatives will be elected for a period of 3 (three) years, and 3 (three) representatives will be elected for a period of 2 (two) years. Thereafter, subject to clauses 17.5 and 17.6, the representatives of Members of the Technical Committee will serve for 2 (two) years, after which his/her term, expires. Such Members are available for re-election if he/she so wishes.

17.3 Nominations for candidates for the Technical Committee will be done on the appropriate nomination form. Completed nomination forms must be delivered or transmitted to the registered office of the Association at least 7 days before the annual general meeting. Only Members in good standing can be nominated to serve on the Technical Committee. The nomination must be seconded and accepted by the nominee in writing. Two witnesses must confirm the nomination form.

17.4 Each nominee for the Technical Committee will submit a condensed Curriculum Vita highlighting his/her qualifications, experience and achievements in the industry in order to give the Members some background prior to the election of the Technical Committee at the annual general meeting.

17.5 If a Member whose representative is serving on the Technical Committee ceases to be a Member of the Association for whatever reason, such representative shall be compelled to resign from the Technical Committee, and the Board shall have the right to appoint another person to fill such vacancy.

- 17.6 In the event of the representative leaving the employ of the Member, such representative shall continue to serve on the Technical Committee, provided that such representative remains employed by a Member in good standing of the Association and failing being employed as such, will be compelled to resign.
- 17.7 No Member may have more than one representative appointed to the Technical Committee
- 17.8 The Technical Committee will receive specific tasks and instructions from the Board Members and may include, but is not limited to, assisting on issues such as:
- 17.8.1 reviewing relevant legislation and form an opinion thereof on behalf of the Association;
  - 17.8.2 support the Board in its engagement with the relevant authorities and other organisations to put forward the Association's views and recommendation on technical and quality matters;
  - 17.8.3 compiling the protocols for self-regulation in the Industry and recruiting suitable independent organisation(s) to conduct the required testing and evaluations;
  - 17.8.4 monitoring and liaise with the organizations conducting the self-regulation testing on behalf of the Association to ensure acceptable standards and integrity are maintained.

## **18. INCOME, MONIES AND PROPERTY**

- 18.1 The income, monies and property of the Association from whatsoever source derived shall be applied solely towards the promotion of the objectives of the Association herein set forth and no portion thereof shall be paid or transferred directly or indirectly by way of a dividend, bonus or otherwise by way of profit to the persons who are at the time or have been members of the Association or to any other persons claiming through them, provided however that nothing contained herein shall prevent payment in good faith of the out-of pocket expenses of any officers, employees or members of the Association or the payment in good faith of remuneration to any person whomsoever in return for any services actually rendered to the Association.
- 18.2 Members or office bearers of the Association do not have rights over assets and equipment of any kind that belong to the Association.

## **19. RESERVES**

The Board may set aside out of the surplus of the Association and carry to reserve such sums as they think proper. All sums standing to the credit of revenue and general reserve shall at the discretion of the Board be applicable for meeting contingencies, for the gradual liquidation of any debt or liability of the Association, for repairing, improving or maintaining any property of the Association, or for any other purpose to which surplus of the Association may appropriately be applied. Pending such application such sums may either be employed in the business of the Association or be invested.

## **20. ACCOUNTS AND ANNUAL FINANCIAL STATEMENTS**

20.1 The Board shall cause all such books of account to be kept as are required by law.

20.2 The Board shall from time to time, prepare and lay before the Association in general meetings annual financial statements.

20.3 The Association's financial year shall be from March to February unless changed by a special resolution of the Members.

20.4 The Board will be responsible to control the day to day finances of the Association and shall arrange for all funds to be put in bank accounts in the name of the Association. All financial transactions of the Association will be conducted through the bank accounts of the Association.

## **21. AUDIT**

An auditor shall be appointed annually at the annual general meeting.

## **22. FUNDING AND MEMBERSHIP FEES**

22.1 It is recorded that it is the intention that the Association will be self funding such funding coming primarily from contributions paid by Members.

22.2 All Members on the Association's Register as at the Association's annual general meeting, shall be obliged to contribute annual membership fees, which amount shall be due and payable within sixty (60) days after the date of the annual general meeting; provided that all new Members must pay the said annual contribution in full against the approval of their membership application by the Board and prior to them being recorded in the Register.

22.3 The annual contribution payable by each Member shall be set and determined at the Association's annual general meeting each year and may be amended at any annual or special general meeting by a 75% (seventy five percent)

majority of Members present or represented at such meeting (“special resolution”).

- 22.4 Special levies may be raised by the Association to pay for activities of the Association, but may only be levied once approved by a special resolution of the Members at a special annual general meeting.

## **23. NOTICES**

- 23.1 A notice by the Association to any Member shall be regarded as validly given if it is either delivered personally to the Member, sent by prepaid post to him at his registered address, sent to him by telefax at his telefax number or sent by electronic mail.
- 23.2 The Association shall not be bound to enter any person in the Register of Members until that person gives the Association an address for entry in the Register.
- 23.3 In proving the giving of the notice sent by the Association to its Members it shall be sufficient to prove that the notice was sent to the relevant Member.

## **24. INDEMNITY**

Every Board Member, manager, secretary or officer of the Association and every person (whether an officer of the Association or not) employed by the Association shall be indemnified out of the funds of the Association against all liability incurred by him/her as such Board Member, manager, secretary or officer, in defending any proceedings in carrying out their duties and obligations under this Constitution, whether civil or criminal, in which judgment is given in his favour, or in which he/she is acquitted.

## **25. AMENDMENT OF CONSTITUTION**

This Constitution may be amended by a 75% (seventy five percent) majority of Members present and/or represented at a Special General Meeting of the Association as provided for in terms of this Constitution. Any such amendment of this Constitution will be submitted by the Board to the Commissioner of the South African Revenue Service within 30 days of its amendment.

## **26. DISSOLUTION**

- 26.1 The Association shall be dissolved if at least two-thirds of those entitled to vote at the annual general meeting, vote in favour of such dissolution. No motion for dissolution of the Association shall be considered unless all members are advised thereof at least three months prior to the consideration of the motion.

- 26.2 If upon liquidation or dissolution of the Association, there remains any property whatsoever after the satisfaction of all the debts and liabilities of the Association, it shall not be paid or distributed amongst the members or office-bearers of the Association, but shall be given or transferred to some other non-profit institution or institutions approved by the Commissioner of the South African Revenue Services and having objectives similar to those of the Association to be determined by the members of the Association at or before the time of the dissolution.

**27. SECTION 30B**

- 27.1 The Association will comply with such reporting requirements as may be determined by the Commissioner of the South African Revenue Service from time to time.
- 27.2 The Association is not knowingly and will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act 58 of 1962.

**ADOPTED AT Johannesburg ON THE 8<sup>th</sup> DAY OF November 2018**

## FULL NAMES OF SUBSCRIBERS

AS WITNESSES:

1. \_\_\_\_\_

per:

2. \_\_\_\_\_

\_\_\_\_\_,  
Member who warrants his authority hereto

AS WITNESSES:

1. \_\_\_\_\_

per:

2. \_\_\_\_\_

\_\_\_\_\_,  
Member who warrants his authority hereto

AS WITNESSES:

1. \_\_\_\_\_

per:

2. \_\_\_\_\_

\_\_\_\_\_,  
Member who warrants his authority hereto

## Annexure A

# **SOUTH AFRICAN FRUIT JUICE ASSOCIATION (SAFJA)**

## **CODE OF ETHICS**

As a Member of the South African Fruit Juice Association (SAFJA), I/We undertake to adhere and comply with the Code of Ethics of the Association as approved and accepted at the Association's meeting on 3 March 2011.

1. To promote and support free and fair competition within the fruit juice industry.
2. At all times to adhere to the relevant legislation and regulations governing the fruit juice industry.
3. To commit to upholding the Constitution of the Association and its contents and the decisions taken by the Association.
4. To act honestly and ethically.
5. To protect the seal of the Association and maintain the standards required for qualifying to use the seal.
6. To promote the objectives of the Association in order to build and maintain a reliable and fair fruit juice industry which will give the consumer confidence and peace of mind.

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Name:

Company:



## **Annexure B**

# **SOUTH AFRICAN FRUIT JUICE ASSOCIATION (SAFJA)**

## **CODE OF CONDUCT AND ETHICS POLICY FOR ELECTED BOARD & COMMITTEE MEMBERS**

### **The SAFJA Mission**

Through the application of ethical practices our Mission is to earn the confidence of our stakeholders that our Member's fruit juice products conform to accepted standards and regulations.

### **The SAFJA Stakeholders**

Apart from our Members, our stakeholders are relevant Government Departments, Regulators, Inspectorates, Accrediting Institutions, Media, Health Practitioners, Retail Outlets and most important the final Consumers.

### **Guiding principles for the way we will work as a team and play to win**

#### **Trust**

The belief that we can and will deliver the very best performance, both within our team and to our Members and Stakeholders.

#### **Accountability**

Ensuring that we understand and take ownership of important functions & outcomes. Inherent in this approach is the acceptance that mistakes could be made, but that we will learn from our experiences to improve our performance.

#### **Support**

We will provide committed support to our colleagues and other teams whenever we see that they might need help or encouragement.

#### **Truth**

A non-negotiable attitude of integrity towards one another and towards our Members and Stakeholders, implying straight talk and honesty of intention.

#### **Energy**

A sense of excitement within the teams that shows visible enthusiasm and a working environment that is free of negative attitudes that limit initiative and proactive responses.

### **Work Ethics and Protocols – Board of Management**

The specific terms of reference of the Board of Management are contained in Clause 11-16 of the Constitution.

All the business and affairs of the Association shall be managed and controlled by a management board of the Association which shall have full power to carry out all the objectives of the Association and generally to exercise all the powers of the Association, but subject always to the wishes of the Members as expressed by the terms of any resolution passed at any general meeting of Members; but no such resolution shall invalidate any prior act of the Board which would otherwise have been valid.

Any contractual or other 'corporate' commitment made by SAFJA shall be approved by the Board and signed on its behalf by the Chairman or a designated member of the Board.

### **Communications Protocol – Board of Management**

Members shall follow the internal communication structure as laid down by the Board.

Members shall keep information, tasks and actions confidential within the Board, and no documents of SAFJA may be circulated to anyone outside the Member's senior management, the Board or its Committees and always bearing in mind that the information is not official SAFJA policies or views until declared as such.

Members tasked to communicate with any of the government departments or other institutions should report back to the Board. Any information arising from these engagements must be kept confidential within the Board.

If information related to SAFJA operational activities needs to be discussed within the Board member's company, this information will be treated confidentially within the Member's organisation and any feedback will be channelled via the Member's representative to the SAFJA Board.

The Board, through the Chairman of the Board, shall be responsible for all communications to the Members via 'newsletters' or the holding of members meetings. This process includes the sending of relevant information as well as receiving of mandates to carry out the business of SAFJA.

The Chairman or a nominated member of the Board shall be responsible for all communications to external institutions such as the media and other interested parties.

### **Work Ethics and Protocols – Committees formed by the Board, including the Technical Committee**

The Committee members shall represent the SAFJA at all times in meetings, discussions and communications.

Only SAFJA related issues should be discussed during meetings and not specific company related issues – the focus must always be on the best interest of SAFJA and its Members.

No Committee member shall communicate with any government department or other institutions on behalf of SAFJA, unless specifically mandated by the Board to do so. The Team Leader will task Members from time to time to contact other institutions or source information.

Each Committee member must be granted the opportunity to express his/her professional views on matters under discussion – we must utilise all available skills appropriately.

The specific terms of reference of the Technical Committee are contained in Clause 17 of the Constitution.

No actions or outcomes arising from the Inspectorate program may be discussed outside the Technical Committee.

### **Communications Protocol – Committees formed by the Board, including the Technical Committee**

Members shall follow the internal communication structure as laid down by the Board.

Members shall keep information, tasks and actions confidential within the Committee and no documents of SAFJA may be circulated to anyone outside the Member's senior management, the Board or its Committees and always bearing in mind that the information is not official SAFJA policies or views until declared as such.

Members tasked to communicate with any of the government departments or other institutions should report back to the Team Leader and to the relevant Committee. Any information arising from these engagements must be kept confidential within the Committee.

If information related to SAFJA operational activities needs to be discussed within the Committee member's company, this information will be treated confidentially within the Member's organisation and any feedback will be channelled via the Member's representative to the SAFJA Board.

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As a member of the SAFJA elected Board and Committee structure I undertake to adhere to and comply with the Code of Conduct and Ethics Policy.

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_ / \_\_ /20\_\_

Amendment Control List

Revision	Date	Paragraph	Amendment
0.1	3 March 2011	4.11	Amend to include "...but always act within the stipulations of the Competition Act;"
0.1	3 March 2011	6.1	Amend wording from: "...provided that not more than fifteen months shall elapse between the date of one annual general meeting and that of the next." To: "... within four (4) months after the financial year end."
0.1	3 March 2011	6.5	Add paragraph 6.5.
0.1	3 March 2011	11.3.13	Add paragraph 11.3.13, and renumber subsequent sub-paragraphs.
0.1	3 March 2011	16.7.2	Amend to: "support the Board in its engagement with the relevant..."
0.2	28 April 2011	2.1.5	Amend definition of Member by adding: "... and are <u>actively involved and participate</u> in the manufacturing, importation, exportation, packaging, distribution, marketing and supply of fruit juice products – excluding direct selling of the products to the consumer"
0.2	28 April 2011	2.1.6	Add definition of Associate Member
0.2	28 April 2011	2.1.7 & 2.1.8	Renumber paragraphs for the definitions of "Register" and "Republic"
0.2	28 April 2011	4.1.1	Remove the word 'selling' from this paragraph and insert the word 'supplying' in its place.
0.2	28 April 2011	Annexures B, C, D, E	Remove Annexures from index page and any references to them in the body text
0.3	4 May 2011	6.5	Amend paragraph 6.5 to: At least two (2) meetings will be held per year whereat the Board will provide feedback to the Members regarding activities and projects. The Board will also use these meetings to get approval for initiatives and plans of the Association, including anticipated interactions with government and regulatory institutions on matters such as legislation, standards, etc.
0.3	4 May 2011	11.3.14	Add paragraph 11.3.14, and renumber subsequent sub-paragraphs
0.4	26 January 2012	2.1.6	Amend definition of Associate Member to describe organisations/institutions which would typically fall in this category of membership.
0.4	26 January 2012	10	Add paragraph 10 on Associate Members and renumber subsequent paragraphs.
0.4	26 January 2012	12.3.20 & 12.3.21	Add paragraphs regarding Code of Conduct and discipline of representatives under the Powers of the Board.
0.4	26 January 2012	Annexure B	Add Code of Conduct as annexure B.
0.5	10 May 2012	12.3.22	Add paragraph to handle resignations from the Technical Committee in interim between AGMs.
0.5	10 May 2012	17.4	Add requirement for CVs of Technical Committee candidates and renumber subsequent paragraphs.
0.6	04 October 2012	18	Add that property will not be distributed for NPO status
0.6	04 October 2012	3.1	Add that the Association is distinct from its office-bearers and that it will have perpetual succession notwithstanding the composition of its members or office-bearers for NPO status.

0.6	04 October 2012	20.4	Add that all funds will be deposited into bank accounts and that all financial transactions will be conducted through the bank accounts for NPO status.
0.6	04 October 2012	26.2	Add that office-bearers will not be entitled to distribution upon dissolution and that distribution will go to other non-profit institutions with similar objectives.
0.6	04 October 2012	25	Add that the special meeting occurs in terms of the provisions of this Constitution for NPO status.
0.7	15 November 2012	5.1	Amended to conform to the definition clause
0.7	15 November 2012	5.2	Amended to ensure compliance with Competition Act
0.7	15 November 2012	5.3.4	Amended to ensure an errant member may be removed
0.7	15 November 2012	10.1	Amended to conform to the definition clause
0.7	15 November 2012	10.2	Amended to ensure compliance with Competition Act
0.7	15 November 2012	10.3.3	Inserted to ensure an errant associate member may be removed
0.8	15 April 2013	7.8	Added to cater for exact wording required by the Director: Non-Profit Organisations
0.8	15 April 2013	15.11	Added to cater for exact wording required by the Director: Non-Profit Organisations
0.8	15 April 2013	18.1	The original clause 18 renamed 18.1 to allow for the addition of clause 18.2 to cater for the exact wording required by the Director: Non-Profit Organisations
0.8	15 April 2013	18.2	Added to cater for exact wording required by the Director: Non-Profit Organisations
0.9	18 April 2013	3.2	Added that no member may have any personal or private interest and that the association has no interest whatsoever in any business, profession or occupation carried on by its members
0.9	18 April 2013	4.3	Added this requirement as per section 30B of the Income Tax Act
0.9	18 April 2013	11.5	Added that requirement as per section 30B of the Income Tax Act
1.0	19 April 2013	22.2	Amend paragraph to reflect payment of membership fees to be payable <u>after</u> Association's AGM where fees are approved.
1.0	24 April 2013	10.7.1	Amend paragraph to reflect payment of <u>associate</u> membership fees to be payable <u>after</u> Association's AGM where fees are approved.
1.1	10 September	25	Added requirement to notify Commissioner in terms of section 30B of the Income Tax Act
1.1	10 September 2013	27	Added requirement as now requested by SARS.
1.2	20 May 2014	26.2	Added subject to approval of SARS
1.3	8 November 2018	11.3	Amended to 7 days (previously 24 hours)
1.3	8 November 2018	11.4	Insert requirement for CV to be submitted and re-number subsequent sub-paragraphs
1.3	8 November 2018	17.3	Amended to 7 days (previously 24 hours)