

# CONSTITUTION OF THE SOUTH AFRICAN WOOD PRESERVERS ASSOCIATION

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## 1. NAME AND QUALIFICATIONS

The name of the Association shall be the **SOUTH AFRICAN WOOD PRESERVERS ASSOCIATION** (hereinafter referred to as “the Association”).

- 1.1 the Association shall be a “universitas” having a separate legal identity from its members and being possessed of all the rights and obligations of a universitas as provided by law, including perpetual succession, the capacity to sue and be sued in its own name, to own property and to contract in its own name through its duly authorised representatives. The Members of the Association shall not, in their personal capacities, be liable for the debts of the Association;
- 1.2 membership of the Association does not and shall not give to any member any proprietary right, title, interest, claim or demand in or to any of the moneys, property or assets of the Association, but only confers on such Members the rights and privileges as set out in this Constitution;
- 1.3 in case of doubt as to the meaning or interpretation of the Constitution and rules of the Association, the interpretation of the Executive Committee shall be final and binding on all members of the Association.

## 2. OBJECTS AND POWERS

- 2.1 The objects of the Association shall be:
  - 2.1.1 to promote the interests of all Members who are treating timber and/or supplying timber treatment chemicals for commercial purposes;
  - 2.1.2 to promote and encourage the use of properly treated timber products and to take such steps to facilitate the marketing of such products;
  - 2.1.3 the Association will not engage in any business carried on by any of its Members; or provide any of its Members with financial assistance, any premises or continuous services required by them for the purpose of carrying on any business or profession;
  - 2.1.4 the Association will not distribute any of its profits to any person and all funds will be applied solely in the promotion of the Associations objects or for investment

purposes;

**2.2** The Association shall have the power:

- 2.2.1** to acquire either by purchase, lease or otherwise, any movable and immovable property, and also to sell, let, mortgage or otherwise deal with and dispose of movable or immovable property or other assets belonging to the Association;
- 2.2.2** to borrow, invest, lend, subscribe or donate money for the furtherance of the objects of the Association;
- 2.2.3** to use every legitimate means to induce all persons who are eligible for Membership to become Members;
- 2.2.4** to promote, support or oppose as may be deemed expedient, any proposed legislative or other measure affecting the interests of Members;
- 2.2.5** to promote good environmental practices amongst Members;
- 2.2.6** to do such other lawful things as may appear to be in the interest of the Association or its Members and which are not inconsistent with the objects or any matter specifically provided for in this Constitution;
- 2.2.7** to employ staff under such terms and conditions as laid down by the Executive Committee.

**3. MEMBERS**

**3.1 *Class I and II Members:***

All treaters purchasing timber treatment chemicals from an organisation at a price which includes a contribution payable to this Association shall be eligible for Class I Membership and all suppliers of timber treatment chemicals who charge a price for timber treatment chemicals which includes a contribution payable to this Association shall be eligible for

Class I Membership. All other organisations, employers and persons, having an interest in timber treatment shall be eligible for Class II Membership.

**3.1.1** Applications for Membership shall be lodged in writing on the Association's application form with the Secretaries.

**3.1.2** Applications for Membership shall be considered by the Executive Committee, within three (3) months of the receipt thereof by the Secretaries. The subscription, if any, paid shall be refunded to the applicant in the event of rejection of the application.

**3.1.3** If admission to Membership is refused by the Executive Committee, the applicant concerned shall be notified by the Secretaries and shall have the right to appeal to the next General Meeting of the Association. The appeal shall be lodged, in writing, with the Secretaries and the appellant shall be afforded an opportunity to state his case personally to a General Meeting.

**3.1.4** Every Member shall notify the Secretaries, in writing, of his postal address and any changes thereof, within fourteen (14) days of the day on which the change took place.

**3.1.5** Only one representative of a firm, partnership or company, which is a Member of the Association, shall be entitled to vote for it at meetings of the Association or in ballots conducted by the Association and the name of the representative shall be notified, in writing, to the Secretaries from time to time.

### **3.2 *Affiliate Members:***

Organisations and persons rendering a service or related to the Timber Preserving Industry may be invited by the Executive Committee to become Affiliate Members without voting rights and subject to such

terms and conditions as may be determined from time to time by the Executive Committee.

**3.3 *Honorary Life Members:***

Honorary Life Membership without voting rights may be extended at the discretion of the Association in General Meeting subject to the recommendation of the Executive Committee and on such terms and conditions as may be decided upon from time to time.

**4. ENTRANCE FEE AND SUBSCRIPTIONS**

**4.1 *Class I Members:***

No entrance fee nor subscription shall be payable by a Class I Member. Instead, payments to the Association will be by means of contributions payable under a scheme of arrangement with the suppliers of timber treatment chemicals at a rate which shall be fixed from time to time by the Executive Committee and timber treatment chemical suppliers who are Class I Members. Such contributions collected by the suppliers of timber treatment chemicals will be paid to the Association. Each Class I Member shall have three (3) votes at any General Meeting.

**4.2 *Class II Members:***

A subscription fee as laid down from time to time by the Executive Committee shall be payable by each Class II Member to the Association.

The subscriptions shall be paid yearly in advance to the Secretaries or such person as may be authorised by the Association to receive such subscriptions. Each Class II Member shall have one (1) vote at any General Meeting.

**4.3 *Affiliate Members:***

A subscription fee as laid down from time to time by the Executive Committee shall be payable. The Executive Committee may reduce, increase or suspend such subscriptions on such terms and conditions as may be decided upon from time to time.

**4.4 *Honorary Life Members:***

No subscription fee shall be payable by Honorary Life Members.

**4.5 *Financial Year:***

The Financial Year of the Association shall commence on 1 April and end on 31 March of the following year.

**5. CHANGE IN MEMBERSHIP**

Should a Class I Member cease purchasing or supplying timber treatment chemicals at a price which includes a contribution payable to this Association as per Clause 3.1 then that Member shall cease to be a Class I Member but shall be eligible to apply for Class II Membership.

**6. MEETINGS**

**6.1** A General Meeting of the Association shall ordinarily be held once every twelve (12) months. Special General Meetings shall be called whenever desired by a majority of the Executive Committee or upon a requisition signed by not less than one-third of Members of the Association in good standing.

**6.2** Notices of General Meetings showing the business to be transacted thereat shall be given to Members, in writing, by the Secretaries not less than twenty-one (21) days before the date of such meetings. In the case of Special General Meetings, shorter written notice being of not less than twenty-four (24) hours as may be decided by the Chairman, may be given.

**6.3** The Annual General Meeting of the Association shall be held not later than six (6) months after the year end.

**6.4** Subject to Clause 6.2, all matters on which this Constitution is silent shall be decided on motion by a majority vote of the Members present at the General Meeting.

**6.5** The Executive Committee shall ordinarily meet when considered necessary by the Chairman. Special Meetings of the Executive Committee shall be called by the Chairman whenever he deems it advisable or upon a requisition signed by not less than one-third of

Members of the Executive Committee, in which event the Meeting shall be called within fourteen (14) days of receipt by the Secretaries of the requisition.

- 6.6** Members of the Executive Committee shall be notified, in writing, by the Secretaries of the time and place of meetings of the Committee at least fourteen (14) days before the dates of such meetings, provided that shorter notice being not less than twenty-four (24) hours may, at the discretion of the Chairman, be given in respect of Special Meetings. To every Notice of Meeting, an Agenda shall be attached. All matters for consideration by the Executive Committee shall be decided on consensus failing which on motion duly seconded and voted upon by show of hands.
- 6.7** The quorum for any General Meeting shall be five (5) of the Class I Members in good standing and the quorum for Executive Committee Meetings shall be four (4) Members of the Committee. If within thirty (30) minutes of the times fixed for any Meeting a quorum is not present, the Meeting shall stand adjourned to the same day in the week following (and if that day is a Public Holiday, then to the next succeeding working day) at the same time and place. At such adjourned Meeting of which written notice shall be given, the Members present shall form a quorum.
- 6.8** At every General Meeting the Minutes of the last preceding Meeting shall be read by the Secretaries and signed by the Presiding Officer after confirmation. Minutes of Meetings of the Executive Committee shall be similarly dealt with by that body.
- 6.9** The proceedings of any Meeting shall not be invalidated by reason of the non-receipt by any Member of the Notice of the Meeting.
- 6.10** Subject to Clause 6.2, matters arising at any Meeting of the Association shall be decided by the majority of the Members present.

- 6.11 A Class I Member may appoint, in writing, a Proxy to vote for him at any Meeting of the Association provided that the written notification of the appointment is lodged with the Secretaries before commencement of the Meeting.

## 7. COMMITTEES

### 7.1 *Executive Committee:*

7.1.1 The Management of the affairs of the Association shall be invested in an Executive Committee consisting of:

- the Chairman, and
- a representative from each of the Regional Committees which under normal circumstances will be the duly elected Chairmen of the regional committees. In the event of the incumbent Chairman of a Regional Committee not being able to fulfill this position, his duly elected alternative shall be the representative on the Executive Committee, and
- three representatives from the Chemical Manufacturers' Forum, one of whom shall be the duly elected Chairman of that Forum, and two representatives duly elected by the Forum. If considered practicable by the chemical Manufactures's Forum, at least one person shall be a Creosote Manufacturer's appointee and at least one person shall be a CCA Manufacturer's appointee
- the Executive Director of the Association who shall be an ex officio Member of the Executive Committee.

The Chairman of the Executive Committee shall ipso facto be Chairman of the Association.

7.1.2 The Executive Committee shall hold office until the next Annual General Meeting of the Association. The Chairman shall ordinarily be elected at the Annual General Meeting on nomination duly seconded and voted upon by a show of hands or ballot. At every Annual General Meeting the nominated representatives of each of the Regional Committees and of the Chemical Manufacturers' Forum shall require to be approved.

- 7.1.3 Nominations for the election of Chairman of the Executive Committee will be accepted and voted upon at the Annual General Meeting.
- 7.1.4 A Member of the Executive Committee shall vacate his seat in any one of the following circumstances:
  - 7.1.4.1 on resignation, suspension or expulsion from Membership of the Association;
  - 7.1.4.2 on absenting himself without permission of the Executive Committee from three (3) consecutive General Meetings or Meetings of the Committee;
  - 7.1.4.3 on ceasing to be in good standing;
  - 7.1.4.4 on resigning as a Member of the Committee by giving written notice to the Secretaries.
- 7.1.5 The Executive Committee shall, subject to the general direction and decisions of General Meetings, and to the provisions of this Constitution, have power:
  - 7.1.5.1 to appoint from time to time such Sub-Committees as it may deem fit for the purpose of investigating and reporting on any matter referred to them by the Executive Committee;
  - 7.1.5.2 to admit or refuse to admit persons to Membership of the Association, to fix the conditions under which former Members of the Association may be re-admitted to Membership, and to suspend or expel a Member for causes appearing sufficient to a majority of the Executive Committee;
  - 7.1.5.3 to institute legal proceedings on behalf of or

to defend proceedings against the Association;

- 7.1.5.4** to acquire, either by purchase, lease or otherwise, any movable or immovable property on behalf of the Association, and to sell, let, mortgage, or otherwise deal with or dispose of any movable or immovable property belonging to the Association, provided that no immovable property shall be acquired or sold or mortgaged or let or leased for a period longer than five (5) years unless at least thirty (30) days written notice of intention to do so has been given to each Member of the Association by the Secretaries. If during this period not less than one-third of Members demand, in writing, that a ballot be taken on the proposed action, such ballot shall be taken;
- 7.1.5.5** to engage and dismiss an Executive Director of the Association, Secretaries or other employees of the Association and to fix their conditions of employment and define their duties;
- 7.1.5.6** to open and operate a banking account in the name of the Association;

**7.1.5.7** to do such other lawful things as, in the opinion of the Executive Committee, appear to be in the interest of the Association and which are not inconsistent with the objects set out in Clause 2.1 or any matter specifically provided for in this Constitution.

**7.2 Working Committees:**

The Executive Committee may from time to time appoint Working Committees to conduct such functions under the supervision of the Executive Committee as may be required from them including, but not limited to, matters of research, marketing, technical, etc. The Chairman of the Executive Committee and the Executive Director shall be ex officio Member of all Working Committees.

**7.3 Regional Committees:**

Regional Committees consisting of members whose business includes the treatment of timber or dealing in treated timber, will operate in demarcated areas. These areas will initially be the regions surrounding the following centres:-

Tzaneen  
Nelspruit  
Pietermaritzburg  
George  
Stellenbosch  
Johannesburg

The Executive Committee may alter, reduce or increase the centres and areas, as is considered appropriate for the well-being of the Association.

Regional Committees will deal with issues effecting the timber treatment industry on a regional, national and when appropriate, an international basis. They shall meet at least once a year and also when appropriate.

Each Regional Committee shall elect a Chairman who shall hold office until the next Annual General Meeting of the Association. Prior to each Annual General Meeting of the Association each Regional Committee shall meet to elect a Chairman. The duly elected Chairman of each

Regional Committee, or failing him his duly elected alternative, shall subject to the approval of members at the Annual General Meetings, be a member of the Executive Committee.

#### **7.4 *Chemical Manufacturer's Forum:***

A forum consisting of timber treatment Chemical Manufacturers and / or Distributors will be formed. Initially the members of this forum will be:

AgrEvo South Africa (Pty) Ltd  
Coastchem Industrial Chemicals (Pty) Ltd  
Kimleigh Marketing / Timber Life  
Rentokil (Pty) Ltd  
Sasol Carbo Tar  
Suprachem (Pty) Ltd

The Executive Committee will consider all applications received from any other timber treatment Chemical Manufacturer / Distributor for membership of the forum.

The forum will deal with issues effecting the timber treatment industry and will meet at least once a year and also when appropriate. The forum shall elect a Chairman who shall hold office until the next Annual General Meeting of the Association. Prior to each Annual General Meeting of the Association, the forum shall meet to elect a Chairman and two representatives. The duly elected representatives shall, subject to the approval of members at the Annual General Meeting, be members of the Executive Committee. The Chairman of the forum shall be eligible for election as a representative.

#### **7.5 *Indemnity:***

The Executive Committee, Working Committees, Regional Committees and Chemical Manufacturers Forum, Working Groups, all officers, all employees and the auditor of the Association shall be indemnified and held harmless out of the funds and property of the Association in respect of any and all claims against them personally or collectively arising out of their activities as such, provided that they shall not be indemnified in respect of any actions by them in their said capacities committed or omitted in bad faith.

### **8. OFFICE BEARERS**

**8.1** The duties of the office bearers shall be:

**8.1.1**            ***Chairman:***

The Chairman shall preside at all Meetings at which he is present, enforce observance of the Constitution of the Association, sign Minutes of Meetings after confirmation and generally exercise supervision over the affairs of the Association and perform such other duties as by usage and custom pertains to the office. He shall not have a deliberative vote, but shall, in the event of equality of voting, have a casting vote.

He shall ipso facto be a Member of any Sub-Committee and Working Committee.

**8.1.2**            ***Secretaries:***

The Secretaries shall be appointed from time to time by the Executive Committee. The Secretaries may terminate their services on giving three (3) months notice, in writing, to the Executive Committee and such services may be terminated by the Committee after a like period of notice has been given to the Secretaries.

The Secretaries shall prepare and keep proper books of accounts, financial statements, records of proceedings, receive requisitions for Meetings; issue Notices of Meetings, conduct all correspondence of the Association; keep originals of letters received and copies of those dispatched and at each Meeting of the Executive Committee report on the correspondence which has taken place since the previous Meeting; attend all Meetings and record Minutes of the proceedings; keep a register of Members; record therein every Member's address and date of enrolment and in the event of the resignation or termination of Membership, the date thereof and perform such other duties as the Executive Committee or a General Meeting may direct. They shall attend all

Meetings of the Executive Committee and all General Meetings but shall have no voting power.

**8.1.3 *Acting Chairman:***

**8.1.3.1** In the event of the Chairman being unable, either temporarily or permanently, to perform his duties, the Executive Committee shall appoint a person who is a representative of a Member or a Member of the Association to act as Chairman until the Chairman is able to resume his duties or until the next election, as the case may be.

**8.1.4 *Executive Director:***

The Executive Director shall be an employee of the Association employed under terms and conditions as laid down by the Executive Committee. He shall be the Chief Executive Officer of the Association and be responsible for the promotion of the Association and the use of treated timber and treated timber products to the extent as laid down by the Executive Committee and confirmed, in writing, by the Chairman.

**9. BALLOTS**

**9.1** If consensus is not reached, a ballot on any question shall be taken if a General Meeting or the Executive Committee so decides and shall also be taken:

**9.1.1** if demanded, in writing, by not less than one-third of the Members of the Association in good standing.

**9.2** Ballots shall be conducted in the following manner:

**9.2.1** Notice of a ballot shall be given to each eligible Member of the Association, in writing, by the Secretaries, at least seven (7) days before the ballot is to be taken, provided that a ballot may be taken without notice at any General

Meeting on the decision of a majority of the Members present.

- 9.3 Except in the case of postal ballots, ballots shall be conducted at the place, on the date and during the hours as may be specified in the notice referred to in Clause 9.2.1.
- 9.4 Ballot papers shall be provided by the Executive Committee. The issue to be voted upon shall be set forth clearly on the ballot paper and such papers shall not contain any information by means of which it would be possible to identify the voters.
- 9.5 One ballot paper specifying the number of votes to which that Member is entitled shall be issued on demand at the place and during the hours fixed for the taking of the ballot, to each Member who is entitled to vote.
- 9.6 Each voter shall be issued with one ballot paper which he shall thereupon complete, fold and deposit in a container provided for the purpose.
- 9.7 Ballot papers shall not be signed or marked in any way apart from the mark required to be made by a Member in recording his vote. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.
- 9.8 On completion of the ballot or so soon thereafter as possible, the result thereof shall be ascertained by the Secretaries and made known. In case of elections, the candidates up to the required number receiving the highest number of votes shall be declared elected.
- 9.9 Ballot boxes shall be inspected and sealed by the Secretaries prior to the issue of ballot papers.
- 9.10 Ballot papers, after they have been counted including spoilt papers, shall be placed in a container which shall be sealed and retained by the Secretaries for not less than three (3) years.
- 9.11 A Meeting of the Executive Committee may decide that a postal ballot

of Members be taken in which event the ballot shall be conducted in the following manner:

**9.11.1** The Secretaries shall send by post to each eligible Member of the Association, a ballot paper specifying the number of votes to which that Member is entitled and a stamped and addressed envelope marked "*Ballot*". The ballot paper shall on completion be inserted in the envelope provided for the purpose and posted so as to reach the Secretaries within thirty (30) days from the date of despatch from the Association's office to such Member.

**9.12** The Secretaries shall ascertain the result of the ballot. The ballot box shall be opened and the ballot papers counted by the Secretaries who shall immediately advise the Executive Committee of the result of the ballot.

**9.13** Except as provided in Clause **7.1.5** of this Constitution, the Executive Committee shall be bound to take action according to the decision of a majority of the Members voting by the ballot.

## **10. DISCIPLINE**

**10.1** A Member may be suspended or his Membership terminated as may be determined by the Executive Committee:

**10.1.1** if he fails within seven (7) days after having received written notice from the Secretaries to that effect, to pay any subscription which is more than three (3) months in arrear;

**10.1.2** if he infringes any of the terms of this Constitution or acts in a manner which is detrimental to the interests of the Association or should he cease to fulfil the conditions of Membership.

**10.2** No Member may be suspended or his Membership terminated unless he has been afforded an opportunity to state his case personally at a Meeting of the Executive Committee for which he has received not less

than seven (7) days' notice, in writing, from the Secretaries. The matter with which the Member is charged shall be set out in such notice.

- 10.3** A Member who has appeared before the Executive Committee in accordance with Clause **10.2** shall have the right of appeal against any decision by the Executive Committee at the first ensuing General Meeting. Notice of such appeal, stating the grounds of appeal, shall be given, in writing, to the Secretaries within ten (10) days of the date on which the decision of the Executive Committee was communicated to the Member concerned. Unless such notice is given within the period stipulated the right of appeal shall deem to have lapsed. The Member concerned shall have the right to state his case personally to the General Meeting who shall then act in terms of Clause **10.4**.
- 10.4** Any decision taken by the Executive Committee in terms of Clause **10.1.2** shall, if an appeal has been lodged in terms of Clause **10.2** be subject to ratification, variation or reversal by a General Meeting.
- 10.5** Upon termination of Membership, all monies due to the Association by such Member shall become payable. If payment thereof is not made within thirty (30) days, the Executive Committee may take such steps as it deems necessary to secure settlement.
- 10.6** A Member shall cease to be entitled to any of the benefits of Membership including the right to vote (where applicable) and shall be deemed to be out of good standing:
- 10.6.1** if any subscription or other amount due by him to the Association is more than three (3) months in arrear;
  - 10.6.2** during any period while he is under suspension in terms of this Constitution.
- 10.7** In the event of any subscription or other amount due to the Association by a member being more than three (3) months in arrear, he shall continue to be subject to the disabilities imposed by Clause **10.6** until

all arrears have been paid.

**10.8** Any notice required to be sent to a Member in terms of the preceding sub-clause, shall be regarded as delivered if posted by prepaid registered letter to the address furnished by such Member in terms of Clause 3.1.4.

**11. RESIGNATIONS**

**11.1** A Member may resign by giving one (1) month's notice, in writing, to the Secretaries, provided that no resignation shall take effect until all monies due to the Association by the Member concerned have been paid.

**12. WINDING-UP**

**12.1** The Association shall be wound up if at a ballot conducted in the manner prescribed in the Constitution not less than two-thirds of the total number of Members of the Association in good standing vote in favour of a resolution that the Association be wound up.

**12.2** If a resolution for the winding-up of the Association has been passed or if for any reason the Association is unable to continue to function, the following provisions shall apply:

**12.2.1** the last-appointed Chairman of the Association, or if he is not available, the available Members of the last-appointed Executive Committee of the Association shall forthwith appoint a liquidator to carry out the winding-up. The liquidator shall not be a Member of the Association and shall be paid such fees as may be agreed upon between him and the said Members of the Association's last-appointed Executive Committee.

**12.2.2** the liquidator so appointed shall call upon the last-appointed office bearers of the Association to deliver to him the Association's assets and liabilities together with the register of Members showing for the twelve (12) months prior to the date on which the resolution for

winding-up was passed or to the date as from which the Association was unable to continue to function as the case may be, hereinafter referred to as the date of dissolution, the payments received from each Member and his last known address.

The liquidator shall also call upon the said office bearers to hand over to him all unexpended funds of the Association and to deliver to him the Association's assets and the documents necessary in order to liquidate the assets.

**12.2.3** the Liquidator shall take the necessary steps to liquidate the debts of the Association from its unexpended funds and any other monies realised from any assets of the Association and if the said funds and monies are insufficient to pay all creditors after the liquidator's fees and the expenses of winding-up have been met, the order in which creditors shall be paid shall be the same as that prescribed in any law for the time being in force relating to the distribution of the assets of an insolvent estate and the liquidator's fees and the expenses of winding-up shall rank in order of preference as though he were a liquidator of an insolvent estate and as though the expenses were the costs of sequestration of an insolvent estate.

**12.2.4** after the payment of all debts the remaining funds, if any, shall be paid by the liquidator to any Association or body with similar comparable aims as this Association.

**12.2.5** the liability of Members shall for the purpose of Clause 12 be limited to the amount of contributions or subscriptions due by them to the Association in terms of this Constitution as at the date of dissolution.

**13. AMENDMENTS**

**13.1** Any of the provisions of this Constitution may be amended by resolution of a General Meeting of the Association provided that at least fourteen (14) days notice of any proposed alteration shall have been given to Members.

**14. REPRESENTATION**

**14.1** A Member shall be entitled to nominate another Member of the Association to represent him on the Association. The name and address of the person so nominated shall be communicated to the Secretaries, in writing, by the Member concerned. If a representative is withdrawn by a Member and another representative nominated, the name and address of the latter shall be similarly notified.