
CONSTITUTION OF THE DECIDUOUS FRUIT PLANT IMPROVEMENT ASSOCIATION

(As amended on 13 March 2025)

In case of a dispute, the Afrikaans version of the Constitution will be accepted as the official version.

1. NAME AND NATURE OF ASSOCIATION

- 1.1 The name of the Association is the Deciduous Fruit Plant Improvement Association, hereafter named the “Association”.
- 1.2 The name of the Association in Afrikaans is the “Sagtevrugteplant-verbeteringsvereniging”.
- 1.3 The abbreviation of the name of the Association is “DPA” in English and “SPV” in Afrikaans.
- 1.4 The Association is established during the founding meeting of the Association.
- 1.5 The Association may acquire rights in its own name, enter legal acts and act in law.

2. POSTAL ADDRESS AND REGISTERED OFFICE OF ASSOCIATION

- 2.1 The postal address of the Association to which all notices and communications may be addressed is:

Plant SA
Unit 9A, Riverside Industrial Park
25 Textile Street
PAARL
7646

- 2.2 The registered office of the Association to which all notices and communications may be addressed and where all documents may be served is:

Plant SA
Unit 9A, Riverside Industrial Park
25 Textile Street
PAARL

- 2.3 The Board of the Association as set out in Section 9, may from time to time change the postal address and the registered office of the Association as it deems fit.

3. OBJECTIVES OF THE ASSOCIATION

- 3.1 The objectives of the Association are to promote the maximum use of certified deciduous fruit plant propagation material by all sectors of the deciduous fruit industry.
- 3.2 The Association intends achieving its objectives by *inter alia*, the following activities -
- (a) exercising the powers and performing the activities of executing those duties that are entrusted to it in terms of the SA Deciduous Fruit Plant Certification Scheme under the Plant Improvement Act 2018, (Act 11 of 2018) (hereinafter referred to as the “the Scheme”).
 - (b) advising the responsible Minister on -
 - (i) the application of the Scheme, including the standards to which deciduous fruit propagation material should comply to be certified in terms of such a scheme; and
 - (ii) the minimum standards for deciduous fruit propagation material not certified in terms of the Scheme to be sold under the Plant Improvement Act.
 - (c) to advise the Registrar of Plant Improvement on-
 - (i) the acknowledgement of names of varieties of deciduous fruit for inclusion in the Variety List that needs to be updated according to article 24 of the Plant Improvement Act, or the deletion of names of varieties from the Variety List; and
 - (ii) the import of deciduous fruit propagation material and plants and matters relating to that.
 - (d) to compile and keep records relating to:
 - (i) the quantity, the pomological and the phytosanitary status of the deciduous fruit propagation material and plants produced by its members, the use of such material and plants by registered nurseries; and
 - (ii) the sale thereof to producers.
 - (e) to issue rules with regard to-
 - (i) the manner and procedure according to which its members shall undertake the selection, multiplication, evaluation and testing of deciduous fruit propagation material and plants as well as the making available thereof to the deciduous fruit industry.

- (ii) cultivation of nursery plants and the submission of records relating thereto.
- (f) to represent all producers of deciduous fruit propagation material and plants and act as representative for all plant improvement affairs.
- (g) liaison and co-operation with the Deciduous Fruit Producer's Associations, Canning Fruit Producer's Association and the South African Nursery Association for all plant improvement affairs.
- (h) co-operation with other similar organisations and liaison with any other body or organisation to promote the affairs of the Association and its members.

4. LEGAL POWERS OF THE ASSOCIATION

- 4.1 The Association is a body corporate independent of its members.

5. POWERS OF THE ASSOCIATION

- 5.1 The Association has the legal capacity -

- (a) (i) to acquire movable or immovable property.
- (ii) to manage, insure, sell, lease, alienate or deal in any other manner with any or all its goods and assets.
- (b) (i) to use funds in any way and for any purpose to the benefit of the Association and to achieve its aims.
- (ii) to invest money in any manner with registered financial institutions, as defined in Section 1 of the Financial Institutions Act, 2001 (Protection of funds), (Act no. 28 of 2001) and in shares which are noted on a licensed stock exchange as defined in the Management of Stock Exchanges Act, 1996 (Act no 71 of 1996).
- (c) to borrow money and to raise a loan of any kind and to supply such security as necessary.
- (d) to make or defend legal and arbitrary cases.
- (e) to open, operate and close bank accounts.
- (f) to give credit, guarantee and indemnify in any circumstances.
- (g) to draw up promissory notes, bills and any other kind of negotiable or transferable documents, to withdraw, issue, execute, accept, endorse and to discount.

- (h) to appoint a person or persons and to remunerate them for services rendered in the attainment of its goals.
 - (i) to act as principal, agent or contractor; and
 - (j) to claim and receive monies and to institute levies in respect of services rendered by the Association with the purpose of reimbursing the costs expended by the Association in providing such services; and
 - (k) to do anything else in general in the attainment of its goals, and the general purpose of the clause is not restricted by the above-mentioned paragraphs of this article.
- 5.2 Competencies of the Association are executed by the Board or its nominees or by the Executive Committee to the extent as such powers according to this Statute have been granted or been delegated by the Board, as stipulated in Article 9.
- 5.3 The Association does not have the power to pay out to any person any surplus or profit which might arise from its activities. The Association is obliged to utilize its funds solely for the execution of its objectives or for investments.
- 5.4 The Association may not engage in any ordinary commercial activities or other activities with a profit motive or participate in any business- or professional or occupational activities of any of its members, or supply financial aid, premises, continuing services or facilities to any members required by such members in their business, profession or occupation.

6. MEMBERSHIP OF THE ASSOCIATION

- 6.1 The members of the Association are: -
- (a) as Deciduous Fruit Plant Improvement members -
Individual Deciduous Fruit Plant Improvement Organisations.
 - (b) as Nursery members -
Individual registered nurseries as represented by the Deciduous Fruit Tree Nurserymen Association.
 - (c) as Producer members respectively-
 - (i) Hortgro Stone, representing individual stone fruit producers.
 - (ii) Hortgro Pome, representing individual pome fruit producers; and
 - (iii) the “Canning Fruit Producer’s Association”, representing individual canning fruit producers.

6.2 The Association may at its own discretion upon written application admit another association, individual or entity from the Deciduous Fruit Industry as member of the Association.

6.3 An association, individual or organisation that becomes a member of the Association is deemed to subscribe to the objectives thereof and he/she/it will be expected to promote the same.

7. FINANCING OF THE ASSOCIATION

7.1 The Association shall be financed as follows:

- (a) Membership fees with respect to the producer's organisations as determined annually by the Board.
- (b) Registration fees in terms of the Scheme as determined annually by the Board relating to the: -
 - (i) Plant Improvement Organisations registered in terms of the Scheme with the Association; and
 - (ii) Nurserymen registered in terms of the Scheme with the Association.
- (c) Services levy as determined by the Board in terms of section 14.1 regarding -
 - (i) The number of clones added to the clone register by Plant Improvement Organisations.
 - (ii) the quantity of trees planted by Plant Improvement Organisations in registered Foundation units and Mother units under the Scheme.
 - (iii) the quantity of plant material issued by Plant Improvement Organisations from registered nucleus units, Foundation units and Mother units under the Scheme; and
 - (iv) the quantity of certified nursery plants and Foundation nursery plants certified.

7.2 The financial commitments of each member are restricted to such membership fees or other monies as is due to the Association.

8. RIGHTS AND OBLIGATIONS OF MEMBERS

8.1 Every Plant Improvement member shall -

- (a) procure and maintain the facilities and employ personnel or procure the services of approved organisations as required for the evaluation, care,

development, improvement and propagation of deciduous fruit propagation material in accordance with the standards set by the Board as contemplated in Section 9.

- (b) undertake, independently of the Association or any other member of the Association, the management, administration and financing of its activities in the development, improvement and propagation of deciduous fruit propagation material for the benefit of all sectors in the Deciduous Fruit Industry.
 - (c) supply, at such times and in the manner determined by the Board as contemplated in Section 9, details of the quantity and pomological and phytosanitary status of the deciduous fruit propagation material, scions as well as rootstocks, at the disposal of that member or entity to which such member is related, and of the quantity of such deciduous fruit propagation material that can be made available to the Deciduous Fruit Industry;
 - (d) adhere to the rules of the Association made in terms of Section 3.2(e) (i); and
 - (e) adhere to the provisions of the Scheme relating to deciduous fruit propagation material as referred to in paragraph (c).
- 8.2 Only Plant Improvement Organizations are authorised to register Nucleus-, Foundation-, Foundation nursery- and Mother units under the Scheme.
- 8.3 The Nurserymen Association undertakes to ensure that every member adhere to this Constitution and in particular -
- (a) complies with the provisions of the Scheme relating to the propagation of certified nursery plants in terms of the Scheme.
 - (b) supply, at such times and in the manner determined by the Board as contemplated in Section 9, details of the quantity nursery plants at his disposal and of the quantity of nursery plants that can be made available to the Deciduous Fruit Industry; and
 - (c) adhere to the rules of the Association made in terms of Section 3.2(e)(ii).

9. EXECUTIVE BOARD

- 9.1 The affairs of the Association are managed by an Executive Board known as the Deciduous Fruit Plant Improvement Board consisting of:
- (a) one person each, designated for this purpose by the individual Plant Improvement Organisations.
 - (b) two persons designated for this purpose by the Deciduous Fruit Tree Nurserymen Association.

- (c) persons designated for this purpose by the Producers' Organisations whereby respectively:
 - (i) two persons designated for this purpose by Hortgro Pome.
 - (ii) two persons designated for this purpose by Hortgro Stone; and
 - (iii) one person designated for this purpose by the Canning Fruit Producers' Association; and
- (d) a maximum of three co-opted persons nominated by the Plant Improvement, Nurserymen and Producers' Board members, based on their specialised knowledge of plant improvement, plant certification or horticultural research.

9.2 The members of the Board -

- (a) designated as intended in sub-section 1(a) are hereinafter referred to as the PLANT IMPROVEMENT BOARD MEMBERS.
- (b) designated as intended in sub-section (1)(b) are hereinafter referred to as NURSERY BOARD MEMBERS.
- (c) designated as intended in sub-section (1)(c) is hereinafter referred to as the PRODUCER BOARD MEMBERS; and
- (d) designated as intended in Article 9.1(d), are hereinafter referred to as the CO-OPTED BOARD MEMBERS.

9.3 The Plant Improvement Board members combined have two votes on behalf of the Plant improvement Organisations.

9.4 The Nursery Board members combined have one vote on behalf of the Deciduous Fruit Nurserymen Association.

9.5 The Producer Board members combined have three votes on behalf of the producers.

9.6 The Chairman as appointed according to Article 15.1 has no voting rights.

9.7 Co-opted Board members as appointed according to Article 10.2 have no voting rights.

10. NOMINATION AND APPOINTMENT OF MEMBERS OF THE BOARD

10.1 Whenever it becomes necessary to nominate a member of the Board, the member of the Association responsible for the nomination must furnish the Secretary of the Board with the name of the nominee as soon as possible after the Secretary has requested it in writing.

- 10.2 The Board may co-opt any person who according to the Board seems suitable on grounds of specific knowledge or skills to promote the aims of the Association.

11. SUBSTITUTE MEMBERS OF THE BOARD

- 11.1 Whenever it becomes necessary to nominate a member of the Board, the member of the Association responsible for the nomination must also furnish the Secretary of the Board with the name of a substitute as soon as possible after the Secretary has, according to Article 10, requested it in writing.
- 11.2 A substitute Board member can in the absence of the Board member in which place he/she has been appointed attend any meeting of the Board and act as a substitute of the specific Board member.
- 11.3 The stipulations of this Constitution that is applicable to a Board member, is *mutatis mutandis* also applicable to the substitute Board member that has been appointed for that Board member.

12. TERM OF OFFICE OF BOARD MEMBERS

- 12.1 A Board member shall hold his office at the discretion of the member of the Association by whom he was nominated, for a maximum period of three years.

13. VACATION OF OFFICE AND FILLING OF VACANCY

- 13.1 A member of the Board will vacate his office if:
- (a) he/she is absent from four consecutive Board meetings without the consent of the Board.
 - (b) he/she has handed his written resignation to the Secretary of the Board.
 - (c) the member of the Association or the principle of the organisation who nominated the Board member notifies the Secretary of the Board in writing that the nomination or appointment of that member has been withdrawn.
 - (d) in the event of the nominating organisation contemplated in Section 27.1 ceasing to be a member of the Association, and
 - (e) as intended in Section 12.1, upon expiry of the term of office of such member,
- 13.2 A vacancy in the Board arising in terms of sub-section (1) or as the result of the death of a Board member is filled by the nomination and if applicable, the appointment in the same manner as was applicable for the vacating or deceased member.

14. OBLIGATIONS OF THE BOARD

- 14.1 Save for the provisions of sub-sections (2) and (3), the business of the Association will be managed by the Board and the Board is responsible for the following-
- (a) to exercise the powers of the Association to achieve the objectives of the Association.
 - (b) to account to members of the Association in respect of its management of the Associations' affairs.
 - (c) to take decisions from time to time on membership fees, provided that different membership fees may be determined in respect of different categories of members; and
 - d) to take decisions, from time to time but at least annually on registration fees and service levies payable by Nurserymen and Plant Improvement Organisations registered in terms of the Scheme.
- 14.2 At least two persons authorized thereto by the Board must sign any document wherein a financial obligation is entered into on behalf of the Association or whereby funds of the Association are withdrawn, provided that at least one of the persons must be a member of the Board.

15. CHAIRMAN AND VICE-CHAIRMAN

- 15.1 The members of the Board will elect by secret ballot, an independent chairman, and from amongst the enfranchised Board members a vice-chairman. Each member must cast one vote for each position.
- 15.2 The persons duly elected shall remain in office for a period of three years and may be re-elected upon completion of this term of office.

16. CONVENING OF MEETINGS

- 16.1 Standard meetings of the Board will be convened as often and at such time and place as may from time to time be determined by the Board.
- 16.2 The secretary of the Board must give each member of the Board at least fourteen days' notice of the date, time and place of each meeting.
- 16.3 The chairman may in his discretion convene an extra-ordinary meeting of the Board at a time and place determined by him, with the intention of dealing with special or urgent matters. He is obliged to convene an extra-ordinary meeting at the request of at least three enfranchised members of the Board.

17. CHAIRMAN AT MEETINGS

- 17.1 The chairman of the Board, or in his absence the vice-chairman, shall chair all meetings at which he is present.
- 17.2 If neither the chairman nor the vice-chairman of the Board is able to attend or to chair a meeting or part of a meeting, then the remaining enfranchised members present shall choose a person from their midst to chair the meeting for the period during which the chairman and vice-chairman are absent or unable to chair the meeting subject to Article 15.1.

18 QUORUM FOR MEETINGS

- 18.1 According to Article 10.3 a majority in number of the enfranchised members of the Board constitute a quorum for a meeting.

19 PROCEDURE AT MEETINGS

- 19.1 The Board determines the procedure followed at meetings or part of meetings.
- 19.2 Proper minutes must be kept of all meetings

20 DECISIONS OF THE BOARD

- 20.1 A majority of enfranchised members of the Board present at a meeting will constitute a decision of the Board.
- 20.2 . In the event of a tie, the deadlock shall be referred to an independent third party. The third party shall be appointed in accordance with the nature of the deadlock:
- (a) if the deadlock concerns a scheme-related matter, the matter shall be referred to the Registrar of Plant Improvement.
 - (b) if the deadlock concerns a legal matter, the matter shall be referred to the Provincial Director of the Western Cape Division of the Legal Practice Council.
 - (c) if the deadlock concerns a commercial matter, the matter shall be referred to the President of the South African Institute of Chartered Accountants.

The said independent third party shall determine the deadlock based on the best interests of the Deciduous Fruit Plant Improvement Association.

- 20.3 No decision taken by the Board or act performed on authority of a decision of the Board is invalid purely because of a temporary vacancy on the Board or because of the fact that a person who is not entitled to hold office as a Board member was in attendance at the meeting as a member of the Board at the time

when the decision was taken, provided that the decision was taken by the required majority of Board members present who were entitled to attend the sitting.

21. EXECUTIVE COMMITTEE OF THE BOARD

- 21.1 The Board may have an Executive committee consisting of the Chairman and two other members elected from the enfranchised members of the Board for this purpose.
- 21.2 The Executive committee exercises those powers and performs those duties assigned to it by the Board and report back to the Board and the Association on a Regular basis.

22. COMMITTEES OF THE BOARD

- 22.1 The Board may from time to time appoint such committees as it may deem necessary to exercise such powers and to perform such duties of the Board as the Board may delegate to them.
- 22.2 Such a committee shall consist of -
 - (a) at least one member of the Board; and
 - (b) such other persons as the Board may deem competent to serve as members of such a committee.

23. ACCOUNTING RECORDS

- 23.1 The Association shall keep in Afrikaans or English the accounting records which are necessary to reasonably reflect the state of affairs and business of the Association and to explain the transactions and financial state of the business of the Association.
- 23.2 Such accounting records shall be kept at the registered office of the Association, or any other place determined by the Board and shall always be available for inspection by members of the Association.

24. FINANCIAL YEAR OF THE ASSOCIATION

- 24.1 The financial year of the Association will end on 31 October of each year.
- 24.2 The Board may change the final date of a financial year to a date, which is not more than nine months earlier or later than the end of the financial year in which that decision was taken.

25. AUDITING

- 25.1 Within three months following the end of every financial year the accounting records of the Association must be submitted to an auditor as defined in the Act of Public Accountants and Auditors 1995 (Act no. 23 of 1995), and who is designated by the Board for this purpose, for the auditing thereof.

26. AMENDMENT OF THE CONSTITUTION

- 26.1 This constitution can be amended by a decision of the Board if a two-third majority of all enfranchised Board members present at a formal meeting vote in favour thereof.
- 26.2 Written notice of a proposed amendment of this constitution must be given to each member of the Board at least 21 days before the Board meeting during which voting on this proposal will take place.
- 26.3 The Commissioner of Inland Revenue shall be notified of all amendments to this constitution.

27. RESIGNATION

- 27.1 Any member of the Association can with 45 days' notice resign from the Association and his accountability for any actions of the Association shall terminate at the completion of the 45-day period. Such a member shall remain fully liable for his contribution to liabilities and costs incurred by the Association before the completion of the 45-day period. The member shall however not be accountable for any obligations or costs incurred after the completion of this period.
- 27.2 The Board may suspend or revoke a member of the Association if-
- (a) such a member's membership fees are in arrears for more than three months.
 - (b) the Board is of the opinion that such a member acted in a way detrimental to the Association or detrimental to the Associations' objectives or possibly detrimental to the Associations' objectives; and
 - (c) the Board is of the opinion that such a member has not fulfilled the obligations set in Article 7 or will probably not fulfil them anymore.
- 27.3 Any member, whose membership fees for a specific financial year are in arrears for a period of three months after the financial year has ended, will cease to be a member of the Association.

- 27.4 In accordance with Article 27.5, a person whose membership of the Association has been terminated can be readmitted as a member if he applies for membership. The re-admittance may be subject to conditions set by the Board.
- 27.5 Except in cases where membership was terminated due to negligence of paying membership fees, no person whose membership was terminated, will be readmitted before a period of one year has lapsed after the date of termination of membership.
- 27.6 Notwithstanding any other term contained in this Constitution, the resignation of a member of the Association or termination of membership of a member of the Association will not influence the continued existence of the Association or the functioning of the Board. The remaining members shall in the event of the resignation of a member perform the duties and the functions of the Members and their representatives on the Board.
- 27.7 Upon the resignation of a member of the Association the number of members of the Board shall be reduced in accordance with the number of representatives, which that member represented on the Board.

28. DISSOLUTION

- 28.1 The Association may be dissolved if at least two-thirds of all the enfranchised Board members of the Association are present at a formal meeting and each member votes in favour thereof.
- 28.2 Written notice of a proposed dissolution of the Association must be given to each member of the Association at least 30 days before the meeting during which voting on this proposal will take place.
- 28.3 Upon the liquidation or dissolution of the Association the assets which remain after the fulfilment of its obligations must be transferred by means of a division made in terms of and in accordance with a report of the auditor to another company, society or association with similar objectives to this Association and which is also exempted from the payment of income tax and tax on gifts.