

**CONSTITUTION OF THE  
SOUTH AFRICAN  
DIAMOND PRODUCERS ORGANISATION  
(SADPO)**

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1. **INTRODUCTION:**

The South African Diamond Producers Organisation comprises several stakeholders who want to serve and improve the diamond industry in general (as more fully set out in **clause**).

2. **INTERPRETATION:**

2.1 Unless a contrary intention appears from this Constitution:

2.1.1 any gender includes the other gender;

2.1.2 the singular includes the plural and *vice versa*; and

2.1.3 potential members include natural persons, entities (incorporated or unincorporated) and the State.

2.2 **Terminology:**

The following terms shall bear the meanings assigned to them and cognate expressions shall bear corresponding meanings:

2.2.1 **Diamonds Act** refers to the *Diamonds Act 56 of 1986* and as amended or replaced from time to time;

2.2.2 **Marketing Entities** refers to any legal entity that handles the marketing of producers' diamonds by way of the tender method;

2.2.3 **Members** refers to paid-up members of SADPO whose details appear in the register of members;

2.2.4 **Mine / Mining** as defined in Section 1 of the MPRDA;

2.2.5 **Mining activity** means exploitation of, prospecting and / or mining for diamond bearing material and the extraction of diamonds therefrom;

2.2.6 **Minister** as defined in the MPRDA;

2.2.7 **MPRDA** refers to the *Mineral and Petroleum Resources Development Act 28 of 2002* and the Regulations

promulgated thereunder and as amended or replaced from time to time;

2.2.8            **Organisation/SADPO** refers to the South African Diamond Producers Organisation;

2.2.9            **Producer** refers to a person who legally, as the holder of a mining right, mines diamonds and / or who, per commercial agreement, mines diamonds on behalf of the holder of a mining right; and

2.2.10          **Quorum** means 50% plus 1 of elected office bearers.

2.3            Where any number of days are prescribed in this Constitution, it will be calculated by excluding the first day, but including the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day will be the next day which is not a Saturday, Sunday or public holiday.

### 3.    **OBJECTIVES:**

3.1            SADPO has been established in order to:

3.1.1           promote the diamond industry with the help of those who are entitled to prospect and / or mine for diamonds, as well as the surface owners of land with diamond bearing gravel which may be exploited in terms of the laws of the Republic of South Africa;

3.1.2           take steps that are essential for the promotion of the exploitation and marketing of diamonds;

3.1.3           serve as a forum for discussion and interaction with other structures involved in diamond mining, including State structures and marketing structures, with the objective of promoting the diamond industry in general; and

3.1.4           serve as information channel through which vital information regarding the diamond industry can be communicated.

- 3.2 In order to achieve these objectives, SADPO will have the authority to:
- 3.2.1 strive for recognition by the various government departments and private organisations;
  - 3.2.2 strive for appointment as member of the Board of the South African Diamond and Precious Metals Regulator, formerly known as the Diamond Board;
  - 3.2.3 obtain premises for occupation from where the organisation can be properly operated and managed;
  - 3.2.4 where all parties to a dispute or disputes consent thereto, to attempt to resolve such disputes by mediation or to facilitate the resolution of such disputes by arbitration;
  - 3.2.5 affiliate with other organisations or to incorporate the latter with the objective of achieving the organisation's objectives;
  - 3.2.6 make proposals to the public and other organisations in the interest of the organisation and / or diamond industry, including state structures;
  - 3.2.7 take legal action to protect the collective interests of members, including litigation regarding an individual member, if such individual litigation is beneficial to all members; and
  - 3.2.8 take any steps the organisation regards as essential in order to directly or indirectly achieve the objectives set out in clause 3.1.
  - 3.2.9 Nothing in this constitution authorises the exchange of information between members, where such information is not part of the public domain and / or a competitive advantage may not be attained.

#### 4. **MEMBERSHIP:**

- 4.1 SADPO makes provision for four (4) categories of membership namely: diamond producers, surface owners, marketing entities and ordinary members.

4.2 Membership shall only include the following:

4.2.1 Diamond producers:

Any person who mines or recycles diamonds as defined in clause 2.2.9.

4.2.2 Surface owners:

Any person who owns immovable property on which prospecting and / or mining activity for diamonds is carried out, or may be carried out.

4.2.3 Marketing entities:

Any legitimate marketing entity.

4.2.4 Ordinary members:

Any person or structure that can make a positive contribution to the objectives of SADPO, as approved by the National Committee.

4.2.5 New members' membership applications in any of the four (4) categories must be according to the manner prescribed by the National Committee.

4.2.6 Each member must hold a membership certificate issued against a charge as determined from time to time by the National Committee. This certificate shall be renewed annually in a manner as determined by the National Committee from time to time and aims to keep the membership list up to date.

4.3 **Membership fees:**

4.3.1 Membership fees are payable to SADPO as determined from time to time by the National Committee.

4.3.2 Membership fees from producer members levied by marketing entities will be paid to SADPO on or before the last business day of the month following the month in which the membership fees were levied.

4.3.3 Marketing entities will pay their membership fees on or before the last business day of each month.

4.3.4 Non-producers, namely, surface owners and ordinary members will pay their membership fees to SADPO in the amount as determined from time to time by the National Committee.

4.4 **Members register:**

The chief executive officer / secretary of SADPO maintains a record of members' personal information (including but not limited to, name, address, identification number, e-mail address and telephone numbers).

4.5 **Membership numbers:**

Membership numbers are assigned to all members by the Chief Executive Officer or Secretary of SADPO. These membership numbers are linked to the identity number, entity number or trust number of the member concerned, and never change during the member's affiliation. Membership numbers may not be reallocated when the organisation is dissolved, the relevant member resigns, membership is suspended or cancelled or on the death of a natural person as a member.

4.6 **Suspension and cancellation of membership:**

4.6.1 Membership may be suspended by the National Committee if:

4.6.1.1 the member no longer qualifies for membership as stipulated in the clause under 4.2;

4.6.1.2 a member continues to be in arrears with the payment of his membership fees for a period of two (2) months after a request for such payment by means of a written notification addressed to his postal or e-mail address; and / or

4.6.1.3 the National Committee, in its sole discretion, is convinced that a member, through his actions, put SADPO in an embarrassing situation and / or brought the name of the organisation into disrepute.

4.6.1.4 In the case of suspension under clause 4.6.1, the National Committee will only be entitled to cancel the suspended membership after a proper process has been followed, including the opportunity for the concerned member to state his case before the National Committee.

**4.7 Resignation of membership:**

Any member may resign in writing and the resignation takes effect as soon as the National Committee receives it, provided that the former member remains liable for payment of membership fees until the date on which the resignation becomes effective.

**5. ORGANISATIONAL STRUCTURES:**

**5.1 Annual General Meeting**

5.1.1 SADPO must at least once per calendar year hold an Annual General Meeting of members. The Chairperson of the National Committee must convene Annual General Meetings.

5.1.2 At least thirty (30) days' notice must be given to all members of any proposed Annual General Meeting either by email and / or SMS and / or publication on SADPO's official website.

5.1.3 All members with voting rights and present at an Annual General Meeting or a Special General Meeting are entitled to vote at such Annual General Meeting or Special General Meeting. Members are only entitled to vote at an Annual General Meeting or Special General Meeting if the member's membership fees are not in arrears.

5.1.4 All decisions of an Annual General Meeting (except a decision to dissolve SADPO) requires an ordinary majority (50% plus one vote) of members with voting rights and present at the Annual General Meeting.

5.1.5 A decision to dissolve SADPO requires the votes of 75% of all members with voting rights and present at a constituted Annual General Meeting.

5.1.6 Members with voting rights present at an Annual General Meeting of which proper notice was given, constitutes a quorum.

**5.2 Annual General Meeting - Authority**

5.2.1 The Annual General Meeting has the authority to:

5.2.1.1 elect members of the National Committee (subject to clause 5.4.4);

5.2.1.2 accept and approve the annual financial statements submitted;



- 5.2.1.3 appont the auditors of SADPO for the coming year;
- 5.2.1.4 accept and approve the Chariman's Report submitted; and
- 5.2.1.5 amend, from time to time, the Constitution in accordance with clause 8.

### 5.3 **Special General Meetings**

- 5.3.1 The Chairperson of the Notional Committee may, on instruction from the National Committee, convene a Special General Meeting.
- 5.3.2 At least thirty (30) days' notice must be given to all members of any proposed Special General Meeting either by email and / or SMS and / or publication on SADPO's official website;
- 5.3.3 The authority of a Special General Meeting is the same as that of an Annual General Meeting, provided that a Special General Meeting may be convened to decide on matters that cannot wait until the next scheduled Annual General Meeting.
- 5.3.4 All decisions at a Special General Meeting requires an ordinary majority (50% plus one vote) of members of SADPO with voting rights present at the Special General Meeting.

### 5.4 **Division of Annual General Meeting and Special General Meeting**

- 5.4.1 Annual General Meetings and Special General Meetings may, in order to promote attendance by SADPO members, in the reasonable discretion of the Chairperson of the National Committee, be divided in separate meetings on a geographic basis, provided that each separate meeting has the same agenda and that the same proposals for decisions serve at each separate Annual General Meeting and Special General Meeting and provided further that provisional decisions taken at each separate Annual General Meeting or Special General Meeting be submitted to the National Committee to form part of the minutes of decisions of the SADPO Annual General Meeting or Special General Meeting. The geographic areas will be determined by the National Committee provided that such areas be identified for logistical reasons.
- 5.4.2 If the Annual General Meeting or Special General Meeting is so divided, the voting at each separate meeting will be taken into account to determine whether the

Annual General Meeting or Special General Meeting takes such decision. The Chairperson must inform all SADPO members of the result.

5.4.3 Any decision provisionally approved at an Annual General Meeting or Special General Meeting and confirmed as a decision of the the Annual General Meeting or Special General Meeting in terms of clause 5.4.2 and of which notice has been given to all SADPO memebtrs, will be deemed to be a decision of the the Annual General Meeting or Special General Meeting and will be binding and enforceable as if approved at a joint Annual General Meeting or Special General Meeting.

5.4.4 If the Annual General Meeting is divided, the right to elect members of the National Committee also be divided, as far as possible, between the relevant meetings so that each separate meeting shall be entitled to elect a proportionate number of members of the National Committee to comply, as far as possible, with clause 6.1.3.

## 6. THE NATIONAL COMMITTEE:

6.1 The National Committee will be composed as follows:

6.1.1 The Chairperson of SADPO will be elected from the producer members of the National Committee.

6.1.2 A nominated auditor from the auditors of SADPO is *ex officio* a member of the National Committee and will serve as treasurer and is a voting member of the National Committee

6.1.3 A maximum of fifteen (15) producer members will be elected by the Annual General Meeting. If the Annual General Meeting is divided as set out in clause 5.4 the election of members of the National Committee will be divided between the separate meetings as set out in clause 5.4.4. Each region elects a proportionate number of members of the National Committee provided that if there are not a sufficient number of members who are prepared to be elected to the National Committee, the shortfall may be supplemented from another region or regions.

6.1.4 Each Marketing Entity with voting rights at an Annual General Meeting may appoint one representative as a member of the National Committee.

- 6.2 The National Committee will elect a Chairperson and Vice Chairperson from elected producer members.
- 6.3 The re-organisation meeting immediately after the Annual General Meeting(s) will be a joint meeting of the National Committee in order to satisfy clause 6.2.
- 6.4 All meetings of the National Committee may, in the discretion of the day to day management of the National Committee be divided into separate meetings on a geographic basis. The geographic areas will be determined by the day to day management of the National Committee provided that such areas are determined for logistical reasons and provided that each separate meeting has the same agenda and that the same proposals for decisions serve at each separate meeting and provided further that provisional decisions are referred to the National Committee to form part of the minutes of decisions of the SADPO National Committee meeting.
- 6.5 If the National Committee meeting is so divided, the voting at each separate meeting will be taken into account to determine whether the National Committee takes such decision. The Chairperson must inform all National Committee members of the result.
- 6.6 Any decision provisionally approved at a separate National Committee meeting and confirmed as a decision of the National Committee and of which notice was given to all National Committee members, will be deemed to be a decision of the the National Committee and will be binding and enforceable as if approved at a joint National Committee meeting.
- 6.7 All decisions of the National Committee requires an ordinary majority of 50% plus one vote of members of the National Committee with voting rights and present at a constuted meeting of the National Committee where a quorum is present.
- 6.8 At a stay of votes, the Chairperson shall have a casting vote.
- 6.9 **Election of National Committee Members**
- 6.9.1 If more than the proportionate number of members of the National Committee are proposed and seconded, the election will take place by way of closed ballots with an ordinary majority vote by the Annual General Meeting, unless the meeting on request and after proper secondment decides on another voting method. If only the proportionate number of members is proposed and seconded, they will be regarded as properly elected.

- 6.9.2 The term of office of the National Committee members starts on the first day of the month following the election (to provide an opportunity for the outgoing member to hand over to the incoming member).
- 6.9.3 All elected members' term of office will be three (3) years, with no limit on the number of consecutive terms of service.
- 6.9.4 The Chairperson will, during his term of office, be responsible to lead SADPO to achieving its goals and is responsible for official liaison to promote the interests of members.
- 6.9.5 If the Chairperson, during his or her term of office, resigns and / or is dismissed, the Vice-chairperson will be acting chairperson until the next National Committee meeting, where a new chairperson will be elected.
- 6.9.6 If the Vice-chairperson, during his / her term of office, resigns and / or is dismissed, the Chairperson will nominate a producer member to act as Vice-chairperson until the next National Committee meeting, where a new Vice-chairperson will be elected from its members.
- 6.9.7 If the Vice-chairperson is elected to Chairperson at the latter's exit of his term of office, a new Vice-chairperson will be elected from the serving producer members to the National Committee. This Chairperson will serve for the remaining term of the outgoing Chairperson, provided that this person is then immediately available for re-election, unless otherwise indicated by such office bearer in writing.
- 6.9.8 The Vice-chairperson stands in for the Chairperson when the latter is not available.
- 6.9.9 The National Committee may appoint sub-committees of its own, as well as other sources which may include non-members who act as consultants in such *ad hoc*-committees as determined by needs and circumstances. The National Committee will issue a clear mandate to each sub-committee and the relevant committee should perform according to the terms of this mandate. The chairperson of sub-committees, report to the National Committee and may be invited to attend National Committee meetings (without voting rights) as deemed necessary by the National Committee.

**6.10 Powers and functions of the National Committee:**

**6.10.1 The National Committee:**

- 6.10.1.1 must ensure that their powers and functions are carried out on behalf of SADPO in a proper manner;
- 6.10.1.2 shall be entitled to appoint sub-committees and delegate powers to conduct any research or carry out a task that is in the interest of the diamond industry;
- 6.10.1.3 will liaise with any other governmental and non-governmental structures, from time to time as deemed necessary;
- 6.10.1.4 must strive to promote the status and image of the diamond industry;
- 6.10.1.5 will pass appropriate / necessary information regarding the diamond industry and market conditions to its members;
- 6.10.1.6 must continuously liaise with the Department of Mineral Resources and Energy;
- 6.10.1.7 will make all necessary decisions on behalf of SADPO (for this purpose, the National Committee will take the recommendations of the sub-committees into account if applicable);
- 6.10.1.8 will meet quarterly at a time and place to be arranged in consultation with the Chairperson and Secretary (urgent and telecom meetings may be called as needed);
- 6.10.1.9 may appoint employees, and any other workers, where there is a need and can make decisions about their employment conditions, provided that there will always be a Chief Executive Officer or secretary appointment. The National Committee may in its discretion fill both positions;
- 6.10.1.10 will have its day to day management executed by the Chairperson, Vice-chairperson, Chief Executive Officer (when appointed), Secretary and one (1) member of the National Committee;

- 6.10.1.11 will decide on the administration of SADPO's finances and the allocation of funds for expenditure by the National Committee and payments may be authorised by any two (2) of the following:
- 6.10.1.11.1 the Chairperson; and / or
  - 6.10.1.11.2 the Vice-chairperson; and / or
  - 6.10.1.11.3 the Auditor or his alternate;
- 6.10.1.12 may take all necessary steps in order to generate income and is entitled to accept donations;
- 6.10.1.13 will ensure that SADPO's finances are audited annually and the auditor's report and statements will be submitted for notice and discussion by members at the Annual General Meeting (it will also be presented during the quarterly meetings of the National Committee);
- 6.10.1.14 shall, for all practical purposes, have an unambiguous mandate to act in the interests of the diamond industry, as set out in clause 3 of the constitution, unless otherwise decided by the Annual General Meeting;
- 6.10.1.15 will be entitled, in the name of SADPO, to participate in legal processes in any court of law or arbitration or mediation;
- 6.10.1.16 will be entitled to open bank accounts, make payments and issue receipts on behalf of SADPO:
- 6.10.1.16.1 all payments made on behalf of SADPO by members, must be accompanied by an invoice and proof of payment to the treasurer for reimbursement to the relevant member; and
  - 6.10.1.16.2 the National Committee will be responsible for the implementation and compliance with SADPO's constitution;
- 6.10.1.17 will also be entitled to deal with any other matter that the Constitution does not refer to, relevant and / or of interest to SADPO's objectives or in the interest of members; and

- 6.10.1.18 will be entitled to determine procedures and lay down rules to deal with any matter or aspect that is not contained in this Constitution.
- 6.10.2 If any office bearer is absent from two (2) consecutive National Committee meetings without a valid excuse or fails to send a representative in his place, he will vacate his office and the National Committee may co-op a substitute for the remaining term.
- 6.10.3 No decisions may be taken at National Committee meetings unless a quorum is present.
- 6.10.4 The Treasurer will submit an updated statement of income and expenditure of the financial affairs of the National Committee at each meeting, with specific reference to the income and expenses incurred since the last meeting.
- 6.10.5 All elected office bearers must declare in writing any private interests that could lead to conflict of interest in terms of their association with SADPO.
- 6.11 **Chief Executive Officer / Secretary:**
- 6.11.1 The National Committee may appoint a Chief Executive Officer / Secretary for SADPO on such terms and conditions as the National Committee may determine.
- 6.11.2 If only one of the positions is filled, the functions in clauses 6.11.4 to 6.11.6 will be handled by the applicable official. If both positions are filled the division of the functions in clauses 6.11.4 to 6.11.6 be determined by the Chariman of the National Committee.
- 6.11.3 The National Committee must draw up and provide a detailed list of employment conditions, as well as the minimum educational, academic or practical requirements for the position.
- 6.11.4 The Chief Executive Officer and/or Secretary will be responsible for the control and administration of SADPO's affairs. He / she will be obliged to carry out and implement the decisions and orders of the National Committee and the Chairperson.
- 6.11.5 During negotiations with other organisations and structures on behalf of SADPO, the Chief Executive Officer and/or Secretary must be accompanied by the

Chairperson of the National Committee or any other person designated for this purpose by the National Committee.

6.11.6 The appointed Secretary will also act as secretary at all meetings to the extent practicably possible provided that if he / she is not present at a meeting the Chairperson will appoint a secretary for the meeting.

**6.12 Arbitration:**

6.12.1 Any member in good standing involved in a dispute with another member, may apply to the National Committee to facilitate arbitration of the dispute.

6.12.2 The National Committee shall, upon receipt of such application, attempt to resolve the dispute through mediation.

6.12.3 If such mediation fails, the National Committee may engage the services of a person or association to act as arbitrator.

6.12.4 The decision of the arbitrator shall be final and binding on the parties involved.

6.12.5 The parties to the dispute will finance the arbitration, unless the National Committee decides otherwise.

**7. COMPLAINTS AGAINST OFFICERS AND MEMBERS:**

All complaints against an officer or member must be in writing and submitted to the Chairperson of the relevant committee, to be investigated and reported to the National Committee.

**8. AMENDMENT OF THE CONSTITUTION:**

8.1 The Constitution, including this clause, may only be amended by an Annual General Meeting or a Special General Meeting specifically called for that purpose, as set out above, provided that notice of such amendments is given together with the notice of the meeting and provided that such amendments are approved by 66% of the members present at the annual general meeting.

8.2 Any proposals to amend the constitution must be in writing (which include publication on SADPO's website) and must be circulated to all members at least 30 (thirty) calendar days before the meeting at which the proposed amendments will be discussed.



9. **INDEMNITY OF COMMITTEES AND OFFICE BEARERS:**

The members of the National Committee, all other office bearers, members and employees of SADPO, are indemnified and held harmless against any claim for damages or losses and expenses incurred in the interest of the organisation, unless it was caused by his own actions which contain an element of dishonesty or *mala fides*.

10. **DISSOLUTION:**

10.1 SADPO may be dissolved by a majority vote of at least 66% of the members present at the Annual General Meeting or Special General Meeting.

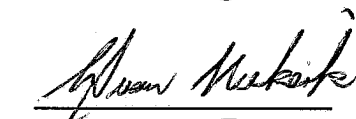
10.2 In the event of dissolution, the National Committee shall appoint a liquidator to take control of the assets and liabilities of SADPO and to liquidate it.

10.3 If there is a surplus available after payment of all administrative costs, liquidation costs and claims of creditors, the liquidator will pay such surplus to a charity organisation whose main purpose is nature conservation and as determined by the National Committee or alternatively the liquidator.

10.4 No member shall be liable for any shortfall with regard to the payment of SADPO's debts, but no member shall be entitled to receive payment of any portion of the surplus, simply because he / she was a member of SADPO.

11. **APPROVAL OF THE CONSTITUTION:**

This constitution is approved by die annual general meeting of SADPO held at Kimberley on this 20<sup>th</sup> day of November 2019.

  
\_\_\_\_\_  
**CHAIRPERSON**

  
\_\_\_\_\_  
**VICE-CHAIRPERSON**