

CONSTITUTION

GRAIN SA

As approved at the 2016 Congress

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CONSTITUTION OF GRAIN SOUTH AFRICA

1. NAME

- 1.1 The name of the association is GRAIN SOUTH AFRICA.
- 1.2 The abbreviated name of the association is GRAIN SA.

2. STATUS

- 2.1 GRAIN SA is an autonomous specialist organisation not for gain, functioning within the framework of this constitution for the furtherance of the interests of grain producers in South Africa.
- 2.2 GRAIN SA is a voluntary association of persons, established with the objects and powers and competencies set out herein. GRAIN SA is a legal entity, functioning independently from its members, and is an independent bearer of rights and obligations. GRAIN SA is competent to perform any legal act and may in its own name institute, conduct or oppose any legal proceedings in any court, and shall be represented by its Executive or by any person(s) duly authorised thereto by the Executive in any such legal act or legal proceedings.
- 2.3 The liability of members for the debts of GRAIN SA is limited to the amount of a member's unpaid membership fee and any other monies owing to GRAIN SA by the member.

3. OBJECTS

The objects of GRAIN SA are:

- 3.1 To gain recognition and to act as the sole mouthpiece of grain producers in South Africa in relation to all matters within their sphere of interest and promote the interests of grain producers and all branches of the grain industries.
- 3.2 To obtain a say in decision-making and other processes that affect the interests of grain producers, on behalf of its members.
- 3.3 To develop and promote unity and a spirit of collaboration and togetherness among grain producers and to act as a single interest group on behalf of grain producers, provided that all matters are treated strictly on merit and a business basis and under no circumstances on the basis of party-political

considerations.

- 3.4 To strive for the effective production and informed marketing of grain and grain products.
- 3.5 To bring about and promote the best mutual relationships among producers, consumers and processors of grain and grain products.
- 3.6 To conduct or to procure the conducting of any research that is directly or indirectly in the interest of grain producers or the grain industry.
- 3.7 To promote the storage, handling, processing and marketing of grain products and to bargain for the lowest possible prices and cost structures in relation to farming requisites for grain producers.
- 3.8 Notwithstanding the fact that all common interests of grain producers in South Africa are served by GRAIN SA, to recognise the necessity for specialised services with regard to specific commodities represented within GRAIN SA, and to provide for the servicing of such specialised needs.
- 3.9 To recognise the interests of developing grain producers of grain products by providing for representation of such producers' interests in the Executive of GRAIN SA.

4. **POWERS**

In order to achieve its objectives, GRAIN SA has the power to:

- 4.1 Buy or acquire in any manner movable and immovable assets of any kind or description.
- 4.2 Manage, insure, sell, let, mortgage, alienate, exchange, exploit, develop, maintain, improve, beneficially utilise its undertaking and any part of its property and assets, or deal with it in any other manner.
- 4.3 Borrow money.
- 4.4 Lend money to organisations or bodies with the same or similar objectives as GRAIN SA.
- 4.5 Invest money in any manner.
- 4.6 Open banking accounts, operate on them and overdraw such accounts.
- 4.7 Enter into indemnities, guarantees and surety ships and secure payment in terms thereof in any manner.

- 4.8 Incorporate, found, support or obtain an interest in any company, organisation or body with objects similar to those of GRAIN SA, or transfer any of the assets, rights or obligations of GRAIN SA to such entity, and give instructions to it or to any person.
- 4.9 Participate in the management, supervision and control of the business or activities of any company or business or entity with the same or similar objects as GRAIN SA.
- 4.10 Appoint and dismiss employees and advisers.
- 4.11 Remunerate persons in cash for services rendered to GRAIN SA.
- 4.12 Make donations to anybody other than members of GRAIN SA.
- 4.13 Accept and receive donations and contributions of any kind.
- 4.14 Pay gratuities and pensions and establish pension schemes, profit-sharing plans and other incentive schemes with respect to its officials and employees.
- 4.15 Indemnify officials and employees with respect to any harm, damage or liability incurred in the course of their duty, and take out fidelity guarantee insurance for employees of GRAIN SA who handle money or goods of GRAIN SA.
- 4.16 Submit disputes to arbitration, participate in arbitration proceedings and sit in any commission of enquiry pertaining to the interests of the grain producer and the grain industry.
- 4.17 Subsidise, print or procure the printing of, publish and distribute newspapers, magazines, circulars and other publications for the promotion of the objects of GRAIN SA.
- 4.18 Present the co-ordinated view of grain producers on matters pertaining to their interests to governmental or other bodies, and cooperate with them towards solving problems and drafting legislation, and obtain representation on such governmental and other bodies.
- 4.19 Affiliate to such organisations on mutually acceptable conditions as approved by the Executive.
- 4.20 Make recommendations to governmental and other bodies pertaining to all levies on grain producers for purposes of research and extension services or such other purposes as the Executive may determine.
- 4.21 Institute, defend and conduct to finality legal proceedings, and appoint and

remunerate legal representatives for such purposes.

- 4.22 Do everything that may be necessary to give effect to the abovementioned powers and objects.
- 4.23 Employ the income and property of GRAIN SA, regardless of the source from which they were acquired, exclusively to promote its principal objects, and no part thereof may be paid or assigned to the members of GRAIN SA or to its controlled company(ies), either directly or indirectly, by way of dividend, bonus or otherwise; provided that nothing determined herein prohibits the payment in good faith of reasonable remuneration to an official or employee of GRAIN SA or to a member thereof for services actually rendered to GRAIN SA.
- 4.24 Identify development projects for developing grain producers, structure and implement them in consultation with the state or industry partners with the aim of empowering developing grain producers by transferring expertise, counselling and technology.
- 4.24.1 Development projects can be offered only in accordance with the availability of funds for the various projects.
- 4.24.2 Grain SA may provide no production credit, loans or bridging finance of whatsoever nature to developing grain producers from Grain SA's funds.
- 4.24.3 Grain SA may, in consultation with the state or industry partners, support developing grain producers with external flow-through funds for recapitalisation or other approved projects, provided that the necessary accounting systems are in place and are audited annually.

5. MEMBERSHIP AND MEMBERSHIP FEES

5.1 MEMBERS

GRAIN SA has the following members:

- 5.1.1 Ordinary members. Natural persons, trusts or any legal entities who:
- 5.1.1.1 produce grain for marketing; and
- 5.1.1.2 pay the stipulated membership fees and commodity levy to GRAIN SA; and
- 5.1.1.3 endorse the objects of GRAIN SA,
- qualify for ordinary membership of GRAIN SA. Ordinary membership is obtained in the manner set out in the Regulations. Ordinary members have the right to vote.

5.1.2 Support members. Natural persons, trusts or any legal entities who:

- 5.1.2.1 do not produce grain for marketing; and
- 5.1.2.2. want to be associated with GRAIN SA and endorse its objects; and
- 5.1.2.3 pay the stipulated membership fees to GRAIN SA,

qualify for support membership of GRAIN SA. Support membership is obtained in the manner set out in the Regulations. These members do not have the right to vote.

5.1.3 Study group members representing developing subsistence farmers and small farmers

Members of study groups who –

- 5.1.3.1 produce grain on a small scale and produce less than 250 tons; and
- 5.1.3.2 want to be associated with GRAIN SA and endorse the objects of the organisation; and
- 5.1.3.3 pay the stipulated fees for study group members as determined from time to time by the Executive, and actively participate in study group activities

qualify for study group membership of GRAIN SA.

- 5.1.3.4 Study group membership is obtained in the manner set out in the Regulations.
- 5.1.3.5 One study group representative per service area of regional offices is nominated annually during the regional meetings held before Congress to serve on the Farmer Development Working Group. The term of office for these study group representatives on the working group is one year, and these persons are eligible for re-election for a following term after the year term. Study group representatives who are nominated from their regions to serve in the working group have the power to vote in the working group. Study group members are not delegated to attend Congress.

5.1.4 250 Ton Club members (developing producers)

Members of the 250 Ton Club who:

- 5.1.4.1 produce more than 250 tons of grain for marketing,
- 5.1.4.2 pay the stipulated membership fees and commodity levy to GRAIN SA and

5.1.4.3 endorse the objects of GRAIN SA,
qualify for membership of GRAIN SA.

5.1.4.4 Membership is obtained in the manner set out in the Regulations.

5.1.4.5 Members of the 250 Ton Club may be delegated to attend Congress.

5.2 A member indicated in articles 5.1.1 (ordinary members), 5.1.2 (support members), 5.1.3 (study group members) and 5.1.4 (members of the 250 Ton Club) holds membership of GRAIN SA in only one of the membership categories mentioned in article 5.1.

5.3 **MEMBERSHIP FEES AND COMMODITY LEVY**

5.3.1 Membership fees and the commodity levy are determined by Congress and funds obtained in this manner serve as source of financing for GRAIN SA. If Congress does not change membership fees or the commodity levy for a particular year, the membership fees and commodity levy as determined in the previous year will continue to apply.

5.3.2 Membership fees and the appropriate commodity levy (if applicable) are paid annually before the end of February.

5.4 **TERMINATION OF MEMBERSHIP**

Membership of GRAIN SA is terminated –

5.4.1 if a member no longer qualifies for membership in terms of articles 5.1.1, 5.1.2, 5.1.3 or 5.1.4.

5.4.2 if a member does not pay the stipulated minimum membership fee and, where applicable, the commodity levy, on all grain the member produces; or

5.4.3 on receipt of a written notice of resignation from a member; or

5.4.4 if the Executive determines that a member's membership is terminated.

5.5 A member whose membership fees and commodity levy remain unpaid and in arrears is not entitled to exercise any of the rights and privileges of membership of GRAIN SA and may not attend Congress as a voting delegate.

5.6 The Executive may at any time require from a member to provide written proof that he, in terms of article 5.1, read with Regulation R1.2 of the Constitution, still complies with the requirements for membership of GRAIN SA. If a member fails to provide such written proof, the Executive may terminate his membership of GRAIN SA. As soon as a member whose membership was so terminated complies with the membership requirements again, he may, in

terms of the provisions of the Constitution, re-apply for membership of GRAIN SA.

6. ORGANISATIONAL COMPOSITION

GRAIN SA is organised and managed on a national basis by:

- 6.1 Local grain operating branches and study groups;
- 6.2 Regional management structures;
- 6.3 The Executive; and
- 6.4 Congress.

7. LOCAL GRAIN OPERATING BRANCHES AND STUDY GROUPS

7.1 Grain operating branches

- 7.1.1 Local grain operating branches are established in the area as defined in article 8.1. Each branch consists of at least 10 (ten) members who either reside in the area concerned or who produce grain for marketing in that area. A member may belong to one branch only.
- 7.1.2 If the members of GRAIN SA elect to conduct their local grain operating affairs through a farmers' association without establishing a separate local grain operating branch, the relevant farmers' association is for purposes of this Constitution deemed to be a local grain operating branch, provided that only paid-up members of Grain SA who are present may vote on grain matters.
- 7.1.3 Local grain operating branches may adopt their own house rules within the framework of this Constitution, subject to the approval thereof by the Executive.
- 7.1.4 The organisational functioning of local grain operating branches is determined in the Regulations.

7.2 Regional division of production regions for developing producers

- 7.2.1 The developing grain-producing areas in South Africa are divided into 4 (four) production regions by the Farmer Development Working Group, which division must be approved by the Executive, on the understanding that the regional division can be amended from time to time by the Executive at the recommendation of the working group. This regional division must be ratified by Congress.

- 7.2.2 In establishing the production regions for developing producers, as determined from time to time, the production areas as served by the various regional offices are taken into account, and not the payment of the commodity levy.
- 7.2.3 Study groups for developing producers are established within the production regions as determined in article 7.2.1. Every such study group comprises at least 10 (ten) study group members who produce grain in the region concerned. A study group member may belong to only one study group.
- 7.2.4 Study groups for developing producers compile their own house rules within the framework of the Constitution, subject to the approval thereof by the Executive.
- 7.2.5 The organisational functioning of study groups is determined in the Regulations.

8. REGIONAL MANAGEMENT STRUCTURES IN COMMERCIAL REGIONS (REGIONS 1 TO 27)

- 8.1 The commercial grain producing areas in South Africa are divided into 27 (twenty-seven) regions by the Executive in such a manner that each region as far as practically possible has the same number of delegates to Congress, which demarcation is confirmed by Congress, on the understanding that the number of regions and the demarcation of regions may from time to time be amended by Congress upon the recommendation of the Executive.
- 8.2 In determining the regional demarcation, the payment of commodity levies as well as geographical and state boundaries are taken into consideration.
- 8.3 The determination of the commodity levy payment of regions is conducted regularly in 3-year (three-year) cycles, but at least once every 6 (six) years. The redetermination of regions is based on the average levy payments for the preceding 3 (three) years. In the determination of levy payments, weights are awarded to grain commodities as resolved from time to time by Congress upon recommendation of the Executive.
- 8.4 The Executive has the discretion to, from time to time, recommend a rearrangement of regions, as contemplated in articles 7.2.1 and 8.1, to Congress, provided that notice of any intended rearrangement of regions must be given in writing to all study groups in developing regions, local grain operating branches and regional management structures at least 45 (forty-five) days prior to the date of Congress, provided that:
 - 8.4.1 The delegation to the first subsequent Congress after the new regional arrangement has been approved by Congress is determined in terms of the new regional arrangement.
 - 8.4.2 The election of Executive members for the new regions is also dealt

with at the first subsequent Congress in accordance with the procedure as determined in section 17.2.

- 8.5 A regional management structure is established annually for every region, as determined in article 8.1, comprising the relevant member of the Executive and a number of representatives elected by a meeting of the relevant local grain operating branches.
- 8.6 Regional grain structures may adopt their own house rules, subject to approval thereof by the Executive.
- 8.7 The organisational functioning of regional management structures is determined in the Regulations.

9. THE EXECUTIVE

Subject to the Constitution and in accordance with the Regulations, the management of the affairs and all executive powers of GRAIN SA vest in the Executive.

10. COMPOSITION AND ELECTION OF THE EXECUTIVE

The Executive consists of –

- 10.1 The chairperson and 2 (two) vice-chairpersons of GRAIN SA elected in terms of article 26, which persons also act as chairperson and vice-chairpersons of the Executive; and
- 10.2 One representative for each region as mentioned in articles 7.2.1 and 8.1. The member/members of the Executive of each region is/are nominated during Congress by the relevant region's delegates and elected by them electronically or by ballot on the basis of an absolute majority, as determined in accordance with the procedure in Regulation 7. For developing regions an secundus for each region is also elected in accordance with article 11.1.3.
- 10.3 The chairperson and 2 (two) vice-chairpersons of GRAIN SA are not regarded as regional representatives. If the chairperson and/or vice-chairpersons elected by Congress in terms of article 26 at that stage already represent a region on the Executive, the relevant region's delegates must elect another member to the Executive.

11. VACANCIES IN THE EXECUTIVE

11.1 Should vacancies occur in the Executive for whatever reason –

11.1.1 Commercial regions

The Executive must inform the regional structures concerned (identified in article 8.1) and request the region concerned to submit

a nomination to fill the vacancy for the remainder of the term of office of the retiring representative;

- 11.1.2 Should the required nomination in terms of article 11.1.1 not be received from the commercial region concerned within 45 (forty-five) days after the date of the notice, the Executive may at its discretion co-opt a substitute representative from the region concerned.
- 11.1.3 Developing regions
For developing regions (as indicated in article 7.2.1) a primarius and alternate (secundus) Executive member are elected for the various regions during Congress. If a vacancy arises in a region, the secundus of the region is appointed as Executive member by the Executive.
- 11.1.4 If a vacancy arises in the offices of the chairperson or vice-chairpersons, it must be filled in terms of article 27.
- 11.1.5 In the case of a vacancy occurring in the Executive as a result of the appointment of a person or persons from the Executive as chairperson or vice-chairperson in terms of article 27, such vacancy must be filled in terms of articles 11.1.1 and 11.1.3.

12. QUALIFICATIONS OF MEMBERS OF THE EXECUTIVE

Each member of the Executive:

- 12.1 must be a member of GRAIN SA;
- 12.2 must be an elected delegate to Congress;
- 12.3 must in the case of members mentioned in article 5.1.1 (ordinary members) and 5.1.4 (250 Ton Club members) earn a substantial portion of his farming income from the production and marketing of grain;
- 12.4 must by own written declaration not serve in an executive managerial capacity in any society, organisation or legal entity that, in the opinion of the Executive, promotes the interests of consumer(s), buyer(s) or processor(s) to the detriment of producers. When Executive members represent Grain SA in an official capacity on external entities, the person must endeavour to act in the best interests of producers as far as possible. If applicable, interests must be declared at Executive meetings and meetings of working groups of the Executive;
- 12.5 must sign the code of conduct for members of the Executive.

13 **CONSTITUENCY**

A member may make himself available in only 1 (one) region for nomination to the Executive or as Congress delegate, namely either the region in which his grain farming interests are situated, or the region where he resides.

14 **POWERS AND DUTIES OF THE EXECUTIVE**

The Executive is the highest authority when Congress is not in session, and, subject to the control and general policy of Congress, the Executive has, inter alia, the following powers and duties:

- 14.1 All the powers of GRAIN SA as set out in article 4, with the exception of those matters in relation to which Congress has exclusive powers.
- 14.2 To make and amend regulations for the effective management of the affairs of GRAIN SA and that are in accordance with the Constitution, and to present them to Congress for approval.
- 14.3 To determine nomination and report-back procedures for representatives of GRAIN SA in bodies in which GRAIN SA must nominate representatives.
- 14.4 To convene Congress annually and to report to Congress on the past year's activities, and to submit a financial report to Congress.
- 14.5 To appoint committees/working groups and to delegate powers (excluding executive powers) to such committees/working groups and the officials thereof.
- 14.6 To appoint technical and professional advisers and officials without voting rights to attend meetings of GRAIN SA, including Congress.
- 14.7 To make recommendations to Congress concerning the amendment of the Constitution and the Regulations.
- 14.8 To make recommendations to Congress concerning the conditions for affiliation with Agri SA or other organisations.
- 14.9 To make recommendations to Congress concerning membership fees and commodity levies.
- 14.10 To consider and approve or reject new membership applications and to terminate a member's membership.
- 14.11 To keep proper minutes of meetings, meetings of Congress, any Extraordinary Congress, the Management Committee, Executive and committees/working groups.
- 14.12 To determine the location of the head office of GRAIN SA, having considered the services to be rendered to members and the grain industry and the

commitments to be performed in this regard.

14.13 To appoint able officials to represent GRAIN SA on the councils or boards of directors of companies or organisations and to terminate their services.

14.14 To make recommendations on the name of GRAIN SA's magazine to Congress.

15. **MANAGEMENT COMMITTEE OF THE EXECUTIVE**

15.1 In order to conduct the day-to-day affairs of GRAIN SA, the Executive must elect from its ranks a Management Committee consisting of the chairperson and 2 (two) vice-chairpersons of the Executive and at least 3 (three) additional members, with such powers as the Executive may delegate from time to time.

15.2 The Management Committee exercises all the powers of the Executive when the Executive and Congress are not in session, subject to such limitations as the Executive and/or Congress may impose on it from time to time.

16. **MEETINGS OF THE EXECUTIVE**

16.1 The Executive convenes as and when necessary, but not less than 3 (three) times per annum.

16.2 A meeting of the Executive is convened when the Executive or the chairperson of the Executive so determines: provided that a special meeting of the Executive may be convened –

16.2.1 if the chairperson of the Executive so directs;

16.2.2 if any of the vice-chairpersons of the Executive so directs in his capacity as acting chairperson; or

16.2.3 if 4 (four) or more Executive members so request in writing; or

16.2.4 in the case of article 25.2 applying.

17. **TERMS OF OFFICE OF EXECUTIVE MEMBERS, CHAIRPERSON AND VICE-CHAIRPERSONS**

17.1 The term of office of Executive members is 2 (two) years, provided that a member of the Executive who is not an elected delegate to Congress for the following year must vacate his office as member of the Executive upon expiry of his first year in office.

17.2 Should Congress upon recommendation of the Executive approve a

rearrangement of regions in accordance with article 8.4, Executive members of the regions concerned must vacate their office during the first Congress following the Congress at which the new regional arrangement has been approved. Elections for Executive members of the newly arranged regions for evenly and unevenly numbered regions take place at this Congress.

17.3 The term of office of the chairperson and vice-chairpersons is 1 (one) year and they are elected in terms of the provisions of articles 28(1) and 28(2). A person may be nominated and elected as chairperson or vice-chairperson of Grain SA only if that person has been nominated as delegate to Congress by the region concerned.

17.4 A retiring member of the Executive is eligible for re-election.

18. VACATION OF OFFICE AS MEMBER OF THE EXECUTIVE

A member of the Executive must vacate his office if –

18.1 the Executive member concerned submits his resignation in writing;

18.2 the member concerned is declared insane or insolvent or otherwise legally unfit by any competent court, or is placed under administration or curatorship;

18.3 the member concerned makes himself available for election to any party-political office; or

18.4 the member concerned no longer qualifies for membership in terms of article 12.

19. TERMINATION OF MEMBERSHIP OF THE EXECUTIVE

19.1 Membership of the Executive may be terminated by the Executive if the member concerned –

19.1.1 is absent from 2 (two) consecutive meetings without good cause; or

19.1.2 fails to pay his membership fees and/or commodity levies by the end of February every year; or

19.1.3 is guilty of misconduct.

19.2 Misconduct includes a member intentionally frustrating or harming the realisation of the objects of GRAIN SA, or being found guilty of a criminal offence by a court.

19.3 Upon termination of membership of the Executive in terms of the provisions of section 19, the relevant member must resign from all offices in which he

represents GRAIN SA ex officio.

20. **COMMITTEES/WORKING GROUPS OF THE EXECUTIVE**

- 20.1 The Executive may appoint from its ranks one or more committees/working groups to assist the Executive in the execution of its duties and the execution of its powers, and may at any time increase or reduce the membership of such committee/working group and may fill a vacancy in such committee/working group.
- 20.2 The members of a committee/working group elect a chairperson from their ranks annually after Congress and the chairpersons of working groups are approved by the Executive. If the Executive does not approve the elected chairperson of a working group, the Executive may appoint an alternative chairperson for the working group concerned. The Executive may in its discretion delegate of its powers (excluding executive powers) to such a committee/working group, but is not deprived of a power that may be delegated to a committee/working group, and may at any time overrule or amend any decision of such committee/working group.

21. **LEGAL ACTS ON BEHALF OF GRAIN SA**

All documents in terms of which GRAIN SA acquires rights and incurs obligations and all negotiable instruments are signed on behalf of GRAIN SA by one of at least two members of the Management, duly authorised for that purpose by the Management Committee, in accordance with the mandates as set out in the Policy and Procedure of Grain SA.

22. **CONGRESS**

Congress is the annual general meeting of members and is the highest authority of GRAIN SA. All the other general meetings of members are Extraordinary Congresses. Congress must be convened annually on a date and at a place determined by the Executive.

23. **FUNCTION OF CONGRESS**

The function of Congress is –

- 23.1 the consideration, discussion and approval of the annual financial statements, auditor's report and the report of the Executive of GRAIN SA;
- 23.2 the election of the chairperson and 2 (two) vice-chairpersons;
- 23.3 the election of the Executive;

- 23.4 the appointment of an auditor and the approval of his fees; and
- 23.5 the transaction of any other matters that are deemed to be special matters.

24. **COMPOSITION OF CONGRESS**

The composition of Congress will be in accordance with the number of delegates as determined by Congress from time to time, provided that:

- 24.1 The production regions for developing grain producers in terms of article 7.2 are entitled to a congress delegation of 10% of the total number of delegates, regardless of the payment of commodity levies from the regions concerned.
- 24.2 The production regions for commercial grain producers in terms of article 8.1 are entitled to the number of delegates as determined by Congress from time to time in accordance with the payment of the commodity levy.
- 24.3 The number of delegates to Congress remains in effect until Congress has resolved on another composition of delegates.

25. **EXTRAORDINARY CONGRESS**

An Extraordinary Congress at which only business for which such Congress has been convened is transacted, may be convened in the following cases –

- 25.1 upon resolution of the Executive; or
- 25.2 upon written and motivated request of at least 1/3 (one-third) of the regional management structures, which request must be supported by the Executive: provided that an Extraordinary Congress to amend the Constitution may be called only with the approval of the Executive.

26. **CHAIRPERSON AND 2 (TWO) VICE-CHAIRPERSONS**

- 26.1 Congress must annually in the manner prescribed in the Regulations elect a chairperson and 2 (two) vice-chairpersons from the delegates to Congress, and they must remain in office until the conclusion of the Congress following the Congress at which they were elected. A person may be nominated and elected as chairperson or vice-chairperson of GRAIN SA only if that person has been nominated as delegate to Congress by the region concerned.
- 26.2 One of the two vice-chairpersons must be representative of developing grain producers and candidates for the office concerned are nominated by the delegates from the developing regions, as indicated in article 7.2.1. After nominations have been received, all delegates present elect the vice-chairperson concerned.
- 26.3 Any of the delegates may be nominated and elected as the second vice-chairperson.

27. VACANCIES IN THE OFFICES OF CHAIRPERSON AND VICE-CHAIRPERSON

- 27.1 In the event of a permanent vacancy in the office of the chairperson, 1 (one) of the vice-chairpersons must fill such vacancy until the conclusion of the next Congress. In this case the Executive elects the chairperson from the 2 (two) vice-chairpersons. In such event a replacement vice-chairperson must be elected in the manner determined in article 27.2.
- 27.2 In the event of a permanent vacancy with respect to 1 (one) of the 2 (two) vice-chairpersons, the Executive must nominate a member from its ranks to fill such vacancy.
- 27.3 The election procedure, vacancies, absence, rights and discretions of the chairperson and the vice-chairpersons are determined by the Regulations.

28. BORROWING POWERS AND SPECIAL AUTHORITY

28.1 BORROWING LIMITS

The borrowing powers of GRAIN SA are limited to the extent of the total assets of GRAIN SA, which include the aggregate of membership fees and producers' levies that may be payable to GRAIN SA from time to time, unless Congress or any Extraordinary Congress resolves otherwise.

28.2 ALIENATION OF IMMOVABLE PROPERTY

The alienation or encumbrance of any immovable property of GRAIN SA constituting more than half the value of the total assets of GRAIN SA is subject to the approval of a simple majority of Congress, or an Extraordinary Congress convened for such purpose.

29. FINANCES AND RECORD KEEPING

29.1 BANK ACCOUNT

The Management Committee must procure the opening of bank accounts and/or savings accounts with a bank or another financial institution in the name of GRAIN SA, and must procure that all funds of GRAIN SA be deposited therein without delay.

29.2 ACCOUNT RECORDS

The Management Committee must procure that all business transactions of GRAIN SA be duly and regularly entered in the account of records of GRAIN SA.

29.3 **ANNUAL FINANCIAL STATEMENTS**

The Executive must annually submit GRAIN SA's audited financial statements and the report of the Executive on the preceding financial year to Congress for discussion and approval. The financial year of GRAIN SA stretches from 1 October to 30 September.

29.4 **AUDITOR**

Congress must annually appoint an auditor and authorise their fees. The procedure to be followed for the appointment of an auditor is determined by the Regulations.

30. **INDEMNITY**

No action for damages may be instituted against the Executive, the Management Committee, any committee/working group or any member thereof in respect of anything done in good faith in terms of the provisions hereof.

31. **AMENDMENT OF CONSTITUTION AND DISSOLUTION**

This Constitution and the Regulations may at any time be amended and GRAIN SA may at any time be dissolved by Congress or an Extraordinary Congress specifically convened for that purpose: Provided that –

31.1 in the case of a proposed amendment to the Constitution and/or the Regulations –

31.1.1 the Executive must notify all study groups or regional management structures in writing of the proposed amendment at least 45 (forty-five) days prior to the date of the Congress or Extraordinary Congress;

31.1.2 at least 2/3 (two-thirds) of the delegates present must vote in favour of the proposed amendment to the Constitution or Regulations;

31.2 in the case of a proposal for dissolution –

31.2.1 the Executive must at least 45 (forty-five) days prior to the date of the Congress or Extraordinary Congress notify all members as well as all study groups, regional management structures and local grain operating branches of such proposal to dissolve, and must at the same time give written notice to such members and structures of the date and place of the meeting to consider the proposal for dissolution;

31.2.2 GRAIN SA is dissolved if at least 2/3 (two-thirds) of the delegates present at the Congress or Extraordinary Congress convened for

that purpose vote in favour of dissolution;

- 31.2.3 and after having resolved to dissolve, the Congress or Extraordinary Congress must appoint one or more liquidators to take possession of the assets of GRAIN SA and to liquidate its estate. The liquidator(s) must sell such assets by public auction or privately or by way of private treaty as may be necessary to settle the debts of GRAIN SA. The balance of the assets must then be paid and/or delivered to an organisation or association with the same or similar objects as GRAIN SA, which organisation or association must be determined by the Congress or Extraordinary Congress so resolving to dissolve.

32. INTERPRETATION

- 32.1 The headings in this Constitution and the Regulations have been inserted for reference purposes only and do not affect the interpretation of any of the provisions thereof. In interpreting the Constitution and the Regulations each word in the first column below has the meaning opposite thereto in the second column, unless the content or the context indicates that the word concerned has a different meaning.

WORD	MEANING
'Grain SA'	Grain South Africa;
'Congress'	the annual general meeting of delegated members;
'Extraordinary Congress'	an extraordinary general meeting of delegated members;
'Executive'	the Executive of GRAIN SA;
'Management Committee'	the Management Committee of the Executive;
'committee/working group'	a committee/working group of the Executive;
'chairperson and vice-chairpersons'	the chairperson and 2 (two) vice-chairpersons of Congress;
'Regulations'	the Regulations approved by Congress and that may from time to time be amended, repealed or supplemented by Congress or an Extraordinary Congress, as the case may be;

‘local grain operating branch’	a local grain operating branch of GRAIN SA constituted in terms of article 7;
‘regional management structure’	a regional management structure of GRAIN SA;
‘study group’	a study group established for developing grain producers;
‘quorum’	a majority of the members of Congress, the Executive, a working group of the Executive and/or the Management Committee constitutes a quorum;
‘clear majority’	50% plus one of the voting delegates present at Congress, in the Executive, a working group of the Executive and/or the Management Committee.
‘developing grain producers’	previously disadvantaged grain producers.

32.2 Unless the context reveals otherwise –

- 32.2.1 words in the singular include the plural and vice versa;
 - 32.2.2 words indicating the male gender also include the female gender;
 - 32.2.3 words indicating natural persons also include partnerships and legal entities.
-

REGULATIONS

These Regulations are issued in terms of article 14.2 of the Constitution and are numbered from R1.

R1 MEMBERSHIP

APPLICATION FORM

R1.1 Applicants for membership of GRAIN SA must complete the application form for membership as determined by the Executive.

R1.2 Among other things, in the case of applications for ordinary membership the application form contains a declaration by the applicant that he is a producer of grain for marketing, and in the case of applications for study group membership that he produces grain. In all categories of membership the application form contains a declaration by the applicant that he endorses the objects of GRAIN SA.

R1.3 CONSIDERATION

All applications for membership are considered and approved or rejected by the Executive.

R1.4 COMMENCEMENT

Membership of GRAIN SA only commences and the new member only acquires membership upon payment of his membership fees and commodity levies, if any (also see R3.1).

R1.5 MEMBERSHIP REGISTER

A register of the names and addresses of all members must be kept by the Executive at the head office of GRAIN SA, and information therefrom may be placed at the disposal of members: provided that such information is not used for commercial purposes.

R1.6 TERMINATION OF MEMBERSHIP

R1.6.1 When the Executive considers the termination of a member's membership, the Executive addresses a written notice by recorded mail to the member concerned, in which reasons for such consideration are furnished and in which the member concerned is afforded 21 (twenty-one) days' time to submit written reasons to the Executive why his membership should not be terminated.

R1.6.2 The Executive is entitled, but not obliged, to hear the member concerned, in which case the member is not entitled to legal representation.

- R1.6.3 The Executive must notify the member concerned of its decision in due course.

R2 NOTICES

R2.1 DESPATCH

All notices of GRAIN SA must be delivered by hand, or sent by post or electronically to members at their addresses as registered in the members' register of GRAIN SA. Any required period of notice includes the day upon which such notice was despatched.

R2.2 CONGRESSES

R2.2.1 A meeting of Congress must, subject to contrary provisions of the Constitution, be convened by at least 45 (forty-five) days' written notice to all study groups, regional management structures and local grain operating branches. Such notification must furnish the venue, day and hour of the meeting in the way determined by the Executive.

R2.2.2 An Extraordinary Congress is convened in the same manner as a Congress: Provided that in the case of an Extraordinary Congress such meeting may be convened by no less than 21 (twenty-one) days' written notice.

R2.3 FAILURE

Failure to give notice of any meeting of GRAIN SA to any particular member will not invalidate any proceedings at such meeting.

R3 MEMBERSHIP FEES AND LEVIES

R3.1 NOTICE OF MEMBERSHIP FEES AND COMMODITY LEVIES

All members of GRAIN SA pay such membership fees and commodity levies as may be determined by Congress. Members will be notified in writing/electronically of any change in membership fees or levies.

R3.2 TIME OF PAYMENT

Membership fees and commodity levies must be paid to Grain SA annually before the end of February.

R4 PROCEEDINGS AT MEETINGS

R4.1 POINTS FOR DISCUSSION AND AGENDA FOR CONGRESS AND APPOINTMENT OF AGENDA COMMITTEE

The agenda for meetings of Congress or an Extraordinary Congress must be posted to all study groups, regional management structures and local grain operating branches and delegates at least 14 (fourteen) days prior to the day of the meeting. Points for discussion at Congress are submitted by study groups, local grain operating branches and regional management structures to the Executive in accordance with a procedure determined by the Executive: provided that the Executive may appoint an agenda committee for the purposes of selecting points for discussion and compiling an agenda for Congress.

R4.2 QUORUM AND CONSTITUTION OF CONGRESS

R4.2.1 When Congress commences, it must be constituted and the number of delegates present must be confirmed to determine whether a quorum is present. At Congress or any Extraordinary Congress no legal resolutions may be passed unless a quorum of delegates is present. A majority of delegates nominated in terms of article 24 of the Constitution constitutes a quorum as determined in R4.7.1.

R4.2.2 If within thirty minutes after the time appointed for the commencement of the meeting no quorum is present, the chairperson must adjourn the meeting until the same day in the following week at the same time and venue, or if such day is a public holiday, a Saturday or Sunday, until the first day thereafter that is not a public holiday, Saturday or Sunday. If at such adjourned meeting no quorum is present within thirty minutes after the time appointed for the commencement of such meeting, the delegates present constitute a quorum.

R4.3 ADJOURNMENT OF CONGRESS

The chairperson may, with the approval of Congress or an Extraordinary Congress at which a quorum is present, adjourn the meeting from time to time and from place to place. No matters may be transacted at an adjourned meeting other than the matters that remained unfinished at the time of adjournment.

R4.4 VOTING AND DECISION-MAKING DURING CONGRESS

R4.4.1 All resolutions of Congress or an Extraordinary Congress that are put to the vote by the meeting are taken by a show of hands, unless a vote by ballot and/or an electronic voting process is demanded. A declaration by the Chairperson that a resolution has been adopted, either generally or with a particular majority, or that it has not been carried, and a note to such effect in the minute book, are conclusive

evidence thereof without the need to prove the number or ratio of votes brought out for or against such resolution.

- R4.4.2 Each delegate entitled to vote and present in person has one vote, whether voting takes place by a show of hands, by ballot or electronically.
- R4.4.3 Voting in electronic format or by ballot may be requested by any delegate. If a ballot is requested, it must be taken in the manner determined by the chairperson. The result of the ballot is deemed to be the resolution of the Congress or Extraordinary Congress at which the ballot was requested.
- R4.4.4 A ballot in relation to any matter must be taken at such time as the chairperson will determine. A request for a ballot does not preclude the meeting from proceeding and finishing any matters other than the matter in regard to which the ballot was requested.
- R4.4.5 Polling officers must be appointed in advance by the chairperson to determine the result of a vote, and their finding, which is announced by the chairperson, is deemed to be the resolution of such Congress or Extraordinary Congress.

R4.5 EQUALITY OF VOTES AND CASTING VOTE BY CHAIRPERSON

- R4.5.1 Should an equality of votes arise at a meeting of Congress or an Extraordinary Congress, the chairperson shall, in addition to his ordinary vote, also have a casting vote.
- R4.5.2 The chairperson of the Executive has a casting vote in the event of an equality of votes at an Executive meeting. The provisions of Regulations R4.4.1, R4.4.2, R4.4.3 and R4.4.5 apply mutatis mutandis to meetings of the Executive and committees/working groups.

R4.6 REPRESENTATION

Delegates may not represent other persons in Congress or at an Extraordinary Congress. A change in the members of a delegation to Congress or an Extraordinary Congress is accepted and registered only in the case of written notice thereof by the chairperson or secretary of the relevant study group, local grain operating branch or regional management structure, as the case may be, to the Executive.

R4.7 QUORUM FOR MEETINGS OF CONGRESS, THE EXECUTIVE, MANAGEMENT COMMITTEE AND COMMITTEES/WORKING GROUPS

- R4.7.1 A majority of the members of Congress, the Executive or the Management Committee or a committee/working group constitutes a quorum for such meetings.

R5 ORGANISATIONAL FUNCTIONING OF LOCAL GRAIN OPERATING BRANCHES, STUDY GROUPS AND REGIONAL MANAGEMENT STRUCTURES

R5.1 LOCAL GRAIN OPERATING BRANCHES AND STUDY GROUPS

The house rules of local grain operating branches and study groups make provision for –

R5.1.1 the annual election of a chairperson, vice-chairperson and secretary;

R5.1.2 at least one meeting of members per annum;

R5.1.3 the proper minuting of the proceedings at all meetings.

R5.2 Local grain operating branches and study groups reorganise annually. Upon establishment or after the relevant reorganisation, the secretary concerned must notify the head office of GRAIN SA, and in the case of local grain operating branches, the secretary thereof must also notify the secretary of the regional management structure concerned, of the names and addresses of the elected management.

REGIONAL MANAGEMENT STRUCTURES

R5.3 A regional management structure must annually at the first meeting after its constitution from its ranks elect a management committee consisting of a chairperson, vice-chairperson, secretary and 3 (three) additional members.

R5.4 A regional management structure is entitled to involve technical and professional advisers in its proceedings, which persons may participate in such proceedings, but are not entitled to vote.

R5.5 Regional management structures meet regularly, but not less than once per annum.

R5.6 A member may make himself available for election to one regional management structure only, namely either in the area within which he resides or the area within which he produces grain for marketing.

R6 PUBLICATIONS

MONTHLY PUBLICATION

R6.1 The official publication and mouthpiece of GRAIN SA is known as SA *GRAAN/GRAIN*.

COPYRIGHT

- R6.2 All literary and artistic material submitted to GRAIN SA is deemed to be submitted for the purposes of publication thereof by GRAIN SA. On receipt of such material and prior to publication thereof the introducer thereof must transfer in writing his copyright in such material to GRAIN SA and furnish GRAIN SA with such guarantees as GRAIN SA may determine that the publication of the material concerned does not breach any rights of third parties.
- R6.3 No person may without the consent of the Executive publish any material referred to in Regulation R6.2. If consent is granted in terms of this Regulation, the person to whom such consent has been given must procure that the necessary acknowledgements of such fact be published in the form and at the place as determined by the Executive.
- R6.4 Copyright in the material referred to in Regulation R6.2 is deemed to vest in GRAIN SA upon receipt of the written transfer referred to in Regulation R6.2 provided to GRAIN SA by the introducer of the material.
- R6.5 Notwithstanding the provisions of Regulation R6.3, extracts from the material in which GRAIN SA holds copyright may be reproduced without the prior consent of the Executive, provided that due acknowledgement is made to GRAIN SA.

R7 NOMINATION AND ELECTION OF CHAIRPERSON AND 2 (TWO) VICE-CHAIRPERSONS DURING CONGRESS

- R7.1 The chairperson and 2 (two) vice-chairpersons of Congress are elected by secret ballot by all the delegates present and entitled to vote at Congress.
- R7.2 The names of all persons, who must be nominated by at least 2 (two) delegates, are placed on a list of candidates.
- R7.3 No nomination for the office of chairperson or vice-chairperson will be valid unless the person nominated has signed a letter of nomination in order to confirm his acceptance of such nomination.
- R7.4 Should no person succeed in obtaining an absolute majority after the first round of votes, a maximum number of 5 (five) persons with the highest number of votes are placed on the list of candidates for a further vote, provided that –
- R7.4.1 should the difference in the number of votes between the person who obtained the second most votes and the person who obtained the third most votes be greater than the total number of votes brought out on the third person and on all further candidates lower down, only two candidates must be placed on the list of candidates, or only three candidates if a similar test is passed in relation to the difference between the third and the fourth person, or only four

candidates if a similar test is passed in relation to the difference between the fourth and fifth person;

- R7.4.2 should, during the election of the said five candidates for the second vote, two or more persons obtain an equal number of votes, so that more than five persons would appear on the list of candidates, the persons to be placed on the list of candidates among the persons with equal vote counts in order to complete the list of five candidates for the next vote must be determined by drawing of lots, subject to the test referred to in Regulation R7.4.1 above;
- R7.4.3 should, during the second vote, no candidate obtain an absolute majority of votes in order to be declared elected, the candidate with the least number of votes (equal counts of votes must be determined by drawing of lots) must be omitted from the list, or more candidates must be omitted if the test referred to in Regulation R7.4.1 above succeeds if applied to the difference between the second and third persons or between the third and fourth persons, and a further vote must be held;
- R7.4.4 votes must repeatedly be held as above until a candidate obtains an absolute majority, whereupon he must be declared elected; but if an equality of votes should occur between the last two candidates, the matter must be decided by drawing of lots.

R7.5 ABSENCE OF CHAIRPERSON FROM EXECUTIVE MEETINGS

In the absence of the chairperson, the vice-chairperson as nominated for this purpose by the Executive must act as chairperson. Should both be absent, the second vice-chairperson must act as chairperson of the meeting. Should all 3 (three) persons be absent, the Executive must elect a chairperson from its ranks for purposes of the meeting concerned.

R7.6 URGENT MATTERS TO BE HANDLED BY CHAIRPERSON

In all urgent matters the chairperson, and in his absence the vice-chairperson, as nominated for this purpose by the Executive, must act in his discretion in the interest of GRAIN SA, provided that he must report to the next meeting of the Executive or the Management Committee.

R7.7 GUESTS AT MEETINGS OF THE EXECUTIVE OR WORKING GROUPS OF THE EXECUTIVE

The chairperson may in his discretion of his own accord or at their request invite or allow representatives of other organisations or any other person or persons to attend any meeting of GRAIN SA and/or to participate in the discussions thereat. However, such persons are under no circumstances entitled to vote.

R7.8 CO-OPTING TO THE EXECUTIVE OR WORKING GROUPS OF THE EXECUTIVE

The chairperson of the Executive and the chairpersons of the various working groups of the Executive have the right to co-opt experts to the Executive or to working groups of the Executive, provided that:

- 7.8.1 Persons co-opted to the Executive on the basis of specialist expertise in terms of Regulation 9 (Servicing specialist interests) qualify for a vote in the Executive and in working groups of the Executive.
- 7.8.2 Persons co-opted to the Executive for their expertise (other than in terms of Regulation 9) do not qualify for a vote in the Executive.
- 7.8.3 Persons co-opted to the working groups of the Executive do not qualify for a vote in the working group concerned.

R8 COMMITTEES/WORKING GROUPS

Committees/working groups of the Executive must report to the Executive from time to time on their activities and proceedings in a manner determined by the Executive. The Executive appoints the chairpersons of such committees/working groups. Copies of all minutes of committees/working groups, including those of the Management Committee, as well as such documents as the Executive may determine from time to time, are furnished without delay to members of the Executive.

R9 SERVICING SPECIALIST INTERESTS

- R9.1 During Congress delegates will meet in commodity break-away sessions to inter alia compile from their ranks a priority list of five persons by means of ballot, where the name of the delegate with the highest number of votes appears first on the list.
- R9.2 After the election of the Executive, the Executive determines at its first meeting whether sufficient expertise and representation in relation to specific grain commodities exist among its own membership. If this is not the case, the Executive must co-opt from the list persons as specialist experts for the relevant commodity. One person may be co-opted for each of the following commodities, being sunflower, soya, groundnuts, sorghum and winter grain.
- R9.3 Working groups for all the grain and oilseed commodities that are represented by GRAIN SA must be activated and maintained to look after the operating interests of the producers concerned. Specialist working groups must meet on at least two occasions per annum.

R10 FINANCES AND RECORD KEEPING

R10.1 ACCOUNT RECORDS

The account records for recording financial transactions of GRAIN SA –

R10.1.1 must be kept in a safe place and maintained complete and up to date, and must annually be placed at the disposal of the auditor in order to be subjected to a comprehensive audit; and

R10.1.2 must at all reasonable times be available for inspection by the Management Committee and by other persons who may, in the opinion of the Executive, have an interest therein.

AUDITOR

R10.2 In the absence of the appointment of an official auditor for GRAIN SA, or if the thus appointed auditor for whatever reason fails to take up such appointment, the Executive must make the necessary appointment.

R10.3 Any proposal for the replacement of the existing auditor of GRAIN SA must be recommended as such to the existing auditor and Congress by the Grain SA audit committee.

R10.3.1 Congress must annually pass resolutions on the appointment of an auditor and authorise their remuneration in accordance with the provisions of article 23.4.

BUDGET

R10.4.1 The Executive must annually approve the budget for the GRAIN SA Group that indicates the proposed income and expenditure for the relevant financial year.

R10.4.2 The Executive must also annually compile a budget for the commodity levy and the budget for the commodity levy must be approved annually by Congress.

R11 VACATION OF OFFICES ON THE EXECUTIVE

R11.1 If any elected member of the Executive retires or resigns as Executive member for any reason, such member must also resign from any office held on behalf of GRAIN SA as Executive member, except in those cases where the Executive requests the person to complete a term of office at an external entity.

R11.2 However, if an Executive member must retire from the Executive in terms of article 19, the person must also resign immediately from all offices in which he represents Grain SA.

