

MEMORANDUM OF INCORPORATION

OF

POTATOES SOUTH AFRICA NPC REGISTRATION NUMBER 2005/034944/08

DEFINITIONS

Companies Act	means the Companies Act 71 of 2008.
Section	means the relevant Section in the Companies Act.
Transformation programme	means any programme aimed at transformation instituted by the Company from time to time.
Potato Producer	means a person or entity who produces potatoes for marketing: <ol style="list-style-type: none">1. in the fresh form (also called table for ware potatoes); or2. for processing; and/or3. for seeds.
Upcoming potato producer	means a potato producer who participates or qualifies for participation in the Transformation Programme of the Company.
Black person/s	means black person/s as defined in the Employment Equity Act of 1996.

ARTICLE 1 – INCORPORATION AND NATURE OF THE COMPANY

1.1 Incorporation

- (1) The Company is incorporated as a Non Profit company, as defined in the Companies Act.
- (2) The Company is incorporated in accordance with, and governed by –
 - (a) The unalterable provisions of the Companies Act that are applicable to Non Profit companies;
 - (b) The alterable provisions of the Companies Act, that are applicable to Non Profit Companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and

- (c) The provisions of this Memorandum of Incorporation.
- (3) The translated name of the Company is Aartappels Suid-Afrika.

1.2 Objects and Powers of the Company

- (1) The Object of the Company is to serve the interest of the Potato Industry in South Africa and includes, but is not limited to:
- (a) To achieve for the potato producer the best possible economic and social position in the South African economy by objectively serving as the link between the organisation (producers, their leaders and organization) and all bodies (authorities as well as private) exerting and influence on the potato industry;
 - (b) To serve as the mouthpiece of the South African potato producers;
 - (c) To participate in decision-making and other processes affecting the interest of the potato industry;
 - (d) To ensure by joint conduct the establishment of the necessary facilities and services for the potato industry and to organize the industry and to create the required types of services towards this end;
 - (e) To identify potential black potato producers and to encourage and assist such persons to enter the potato industry;
 - (f) To instigate transformation programmes for the benefit of the potato industry including, but not limited to, upcoming potato producers;
 - (g) to recognise the interest of Black potato producers (including Black upcoming potato producers) by providing for such potato producers' interest on the Board of Directors of this Company;
 - (h) to develop and promote solidarity and a spirit of co-operation and belonging amongst all interested parties in the potato industry;
 - (i) to strive towards the effective production and marketing of potatoes in South Africa;
 - (j) to limit any business activity or services to matters and services which promote the potato industry of South Africa;
 - (k) to structure any business activity or service in such a manner that financial interests and results are transparent and are made available to all interested parties independent of this Company;
 - (l) to convey the co-ordinated opinion of the potato producers to the Government or other authorities or other non-governmental organizations and to co-operate with them in all matters affecting the well-being of the potato industry, the solving of problems and to effect the required legislation;
 - (m) to strive for the systematic development of an environment friendly outlook of the potato industry, including, *inter alia*, the preservation of the soil and water resources, the maintenance and improvement of the fertility of the land and improvement of production and marketing methods;
 - (n) to establish, promote and maintain optimum understanding between the potato producers and other interest groups in the potato industry; and
 - (o) to deal with potato producers strictly on their merits and never from a party political point of view in the pursuit of the stated objects.

- (2) The Powers of the Company are not subject to any restriction, limitation or qualification, as contemplated in section 19(1)(b)(ii).
- (3) The Company is not subject to any provisions contemplated in section 15(2)(b) or (c).
- (4) Upon dissolution of the Company, its net assets must be handed over to another association, company or organization being a participant in organised agriculture with objects similar to those of this Company as determined by the Directors of this Company or, failing such appointment, by the Court.

1.3 Memorandum of Incorporation and Company rules

- (1) This Memorandum of Incorporation of the Company may be altered or amended only in the manner set out in section 16(3)(a); 17 or 152(6)(b).
- (2) The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15(3) to (5) is not limited or restricted in any manner by this Memorandum of Incorporation.
- (3) The Board must publish any rules made in terms of section 15(3) to (5) by delivering a copy of those rules to each director by way of registered post or electronic mail.
- (4) The Company must publish a notice of any alteration of the Memorandum of Incorporation or the Rules, made in terms of section 17(1) by delivering a copy of those rules to each director by registered ordinary mail or via electronic mail.

1.4 Enhanced accountability and transparency

This Company elects, in terms of section 34(2), to comply voluntarily with the provisions of Parts A and C of Chapter 3 of the Companies Act.

1.5 Company not to have members

As contemplated in Item 4(1) of Schedule 1 of the Companies Act, the Company has no members.

Article 2 – Directors and Officers

2.1 Composition of the Board of Directors

- (1) The Board of Directors of the Company comprises of at least fourteen directors, each of whom
 - (a) is to be appointed by the Potato Producers Organization; and
 - (b) serves an indefinite term until substituted by the Potato Producers Organisation.
- (2) In addition to be appointed directors there are no *ex officio* directors of the company, as contemplated in section 66(4).

- (3) In addition to satisfying the qualification and eligibility requirements set out in section 69, to become or remain a director of the Company, a person need not satisfy any further eligibility requirements or qualifications.

2.2 Authority of the Board of Directors

The authority of the Company's Board of Directors to manage and direct the business and affairs of the Company, as set out in section 66(1) is not limited or restricted by this Memorandum of Incorporation.

2.3 Board of Directors meetings

- (1) The authority of the Company's Board of Directors to consider a matter other than at a meeting, as set out in section 74 is not limited or restricted by this Memorandum of Incorporation.
- (2) The right of the Company's Directors to requisition a meeting of the Board, as set out in section 73(1), may be exercised by at least 25% of the directors, if the board has 12 or more members, or by 2 (two) directors, in any other case, as provided in that section.
- (3) The authority of the Company's Board of Directors to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) is not limited or restricted by this Memorandum of Incorporation.
- (4) The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meetings, as set out in section 73(4) is not limited or restricted by this Memorandum of Incorporation.
- (5) The authority of the Company's Board of Directors to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) is not limited or restricted by this Memorandum of Incorporation.
- (6) The quorum requirements for a Directors' meeting to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting, are as set out in section 73(5).

2.4 Indemnification of Directors

- (1) The authority of the Company's Board of Directors to advance expenses to a director, or indemnify a director, in respect of the defence or legal proceedings, as set out in section 78(4) is not limited or restricted by this Memorandum of Incorporation.
- (2) The authority of the Company's Board of Directors to indemnify a director in respect of liability, as set out in section 78(5) is not limited or restricted by this Memorandum of Incorporation.

- (3) The authority of the Company's Board of Directors to purchase insurance to protect the Company, or a director, as set out in section 78(7) is not limited or restricted by this Memorandum of Incorporation.

2.5 Officers and Committees

- (1) The Board of Directors may appoint any officers (including a Chief Executive Officer) it considers necessary to better achieve the objects of the Company.
- (2) The authority of the Company's Board of Directors to appoint committees of directors, including regional committees, and to delegate to each such committee any of the authority of the Board as set out in section 72(1), or to include in any such committee persons who are not directors, as set out in section 72(2)(a) is not limited or restricted by this Memorandum of Incorporation and any person such included who are not a director of a company, will have a vote on a matter to be decided by that committee.
- (3) The authority of a committee appointed by the Company's Board, as set out in section 72(2)(b) and (c) is not limited or restricted by this Memorandum of Incorporation.