

## **CONSTITUTION OF THE SOUTH AFRICAN RENEWABLE ENERGY COUNCIL ("SAREC")**

### **1 Interpretation**

In this document the following terms shall have the following meanings:

1.1 ADB

The African Development Bank

1.2 AGM

Annual General meeting

1.3 CEO/EC of SAREC

The Chief Executive Officer of SAREC or Executive Chair of SAREC, as the case may be

1.4 Elected Office Bearers

SAREC Chair, Treasurer and any other Office Bearers that the Board may elect from its ranks

1.5 IEA

The International Energy Agency

1.6 IRENA

The International Renewable Energy Agency

1.7 NEPAD

The New Partnership for Africa's Development

1.8 Office Bearers

The members of SAREC Board and Working Groups

1.9 SAREC

The South African Renewable Energy Council

1.10 Secretary of SAREC

The SAREC Administrative Officer

1.11 SGM

Special General Meeting

## **2 Name and Vision**

The name of the Organisation shall be the South African Renewable Energy Council, hereinafter referred to as "SAREC". SAREC is erected in pursuance of the Vision document attached hereto as "Annexure A".

## **3 Status**

3.1 SAREC is a voluntary, unincorporated association with legal personality under the common law of the Republic of South Africa.

3.2 Members and Office Bearers shall not become liable for any of the obligations and liabilities of the association solely by virtue of their status as members or office-bearers of the association.

3.3 Office Bearers shall not be personally liable for any loss suffered by any person as a result of an act or omission which occurs in good faith while the office bearer is performing functions for or on behalf of the association.

## **4 Objectives and Powers**

- 4.1 The main objective of SAREC shall be to promote the renewable energy sector in South Africa by acting as an umbrella body to its members, who will be Industry Associations representing specific renewable energy technologies.
- 4.2 Without derogating from its main objective SAREC shall have the following ancillary objectives in the furtherance of its main objective:
  - 4.2.1 To act as a collective custodian and voice for the renewable energy in South Africa.
  - 4.2.2 To work collectively towards optimising the regulatory and policy framework for renewables within the broader context of the best interests of the country.
  - 4.2.3 To collectively remove barriers to entry for renewable energy in South Africa.
  - 4.2.4 To provide expert resources that Government can draw on in the formulation and execution of energy policy.
  - 4.2.5 To liaise where required between international agencies promoting renewable energy and addressing climate change and the South African Government.
  - 4.2.6 To promote public and private sector coordination towards the cost optimisation of renewable energy generation and the localisation of the renewable energy industry - including manufacturing, technology development and other components of the industry.
  - 4.2.7 To seek to interact with all relevant international and multilateral entities like Sovereign Governments, the United Nations Development Programme, the United Nations Environment Programme, NEPAD, the ADB, the IEA and IRENA.
  - 4.2.8 To engage with other South African organisations active in the broader fields of climate change mitigation/adaptation and sustainable development, including the private sector and civil society, in order to facilitate common goals and interests.
  - 4.2.9 To make representations and submissions regarding renewable energy to relevant official and other bodies.
  - 4.2.10 To facilitate research on specific issues deemed important to renewable energy in South Africa and to publish the findings.

- 4.2.11 To liaise with local and international media regarding renewable energy in South Africa.
- 4.2.12 To promote excellence in renewable energy and related areas of business.
- 4.2.13 To provide information to government, media and the public on behalf of the industry.
- 4.2.14 To provide pertinent information to members.
- 4.3 In the pursuance of its objectives SAREC shall have such powers as are normally associated with an unincorporated legal entity under the common law.
- 4.4 The intention at all times shall be to be efficient in the utilisation of time and other resources spent on administering SAREC.
  - 4.4.1 In this regard the Elected Office Bearers and Office Bearers (as opposed to permanent personnel) shall serve without financial compensation. Reasonable costs incurred will be refunded on condition that such expenses are approved by the Treasurer prior to being incurred, or where the Treasurer is conflicted, by two other Board members.

## **5 Membership**

- 5.1 Criteria for membership.
  - 5.1.1 Membership of SAREC is open to any of the following:
    - a) Any Industry Association representing the majority of role players active in a specific renewable energy technology in South Africa. The decision of the SAREC Board on whether an applicant complies with these criteria shall be final.
- 5.2 Categories of membership and rights

SAREC shall have only one type of membership being ordinary membership. Each member shall have one vote at Board level and/or at an AGM or SGM.

### 5.3 Application for membership

5.3.1 Parties that comply with membership criteria and that are desirous of becoming members shall forward the required application form and ancillary documentation to the Secretary.

5.3.2 If no reasons exist to do otherwise, the applicant will upon payment of the applicable membership fee automatically become a member and be so informed by the Secretary.

5.3.3 The Board may decline an application for membership.

### 5.4 Membership Fee:

5.4.1 Membership fees will be paid equally by all members and will be determined by the Board from time to time.

5.4.2 Late payment of membership fees will incur a 10% penalty.

### 5.5 Cancellation of membership

5.5.1 Any member shall have the right to cancel their membership at any time.

5.5.2 Any member cancelling their membership in terms of 5.5.1 shall notify the Secretary of their decision in writing.

5.5.3 The cancellation will take effect one month after the notification has been received in writing by the Secretariat.

5.5.4 Membership fees shall not be refunded to members that cancel their membership.

### 5.6 Cessation of membership

5.6.1 Any member who ceases to be eligible for membership in terms of this Constitution shall be removed from the SAREC membership by the Secretary. One month's notice, in writing, shall be given by the Secretary of the intention so to remove the member.

5.6.2 Any member, who has been placed in final liquidation or is under business rescue/provisional liquidation, may be excluded from SAREC by resolution of the Board and shall thereupon cease to be a member. In the case of business rescue/provisional liquidation, should it be terminated and the member regain its previous status, its membership will automatically be restored.

- 5.6.3 Any member who has infringed the provisions of this Constitution or of any by-law pertaining to the operation of SAREC and the conduct of members of SAREC, in their capacity as members, approved by SAREC, or being, in the opinion of the Board, guilty of any practice or proceeding likely to bring discredit upon SAREC, may after having had a proper opportunity to defend/explain itself, be excluded from SAREC by resolution of the Board.
- 5.6.4 Any member who has been excluded from SAREC by resolution of the Board shall be notified immediately by the Secretary, in writing, of the Board's decision and the reasons therefore, providing such particularity as the Board may decide, on which such member has been excluded.
- 5.6.5 Cessation of membership in terms of this Constitution shall not release the member concerned from liability for any membership fee or other amount due by the member to SAREC or from any other obligation to SAREC.

#### 5.7 Liability of members

The liability of members shall be limited to the amount, if any, payable *in lieu* of membership, or otherwise, to SAREC.

#### 5.8 Appointment of representatives

5.8.1 Each member shall provide the names of its two representatives to the SAREC Board, which representation may be changed in writing by the member at any time.

5.8.2 There shall be two representatives per member.

#### 5.9 Register of members

There shall be kept a database of members in which there shall be recorded the:

5.9.1 full name or names and the address of each member, the renewable energy technology the member represents and the activities the member undertakes.

5.9.2 date on which each member is admitted to membership of SAREC and the date on which any member ceases to be a member and the reason therefor.

#### 5.10 Members' mutual respect and independence

5.10.1 All SAREC Members agree to mutually respect the other Renewable Energy technologies represented in SAREC and undertakes not to criticise or unfavourably compare the other technologies to its own.

- 5.10.2 SAREC shall at all times poll its members through the Board on aspects of policy and public utterances.
- 5.10.3 All members will endeavour at all times to align their policies and public utterances with those of SAREC.
- 5.10.4 No member shall however be precluded, by virtue of its membership of SAREC, from expressing an alternative view to that of SAREC on issues pertinent to the objectives and/or operation of SAREC.
- 5.10.5 SAREC shall not be precluded from expressing an alternative view to that expressed by a minority of its members on issues pertinent to the objectives and/or operation of SAREC.

#### 5.11 Use of SAREC intellectual property

Members may use the SAREC logo and other intellectual property under such conditions and in such circumstances as may be decided by the Board from time to time.

## **6 The Board**

### 6.1 Constitution of the Board

Each member will nominate two Board members upon becoming a member of SAREC.

- 6.1.1 Until such time as the Board elects a CEO, SAREC will have an Executive Chair whose position will fall vacant at the end of the financial year and be elected again by the Board. For this period the Executive Chair will be non-voting but another representative from the association represented by the Executive Chair may vote on behalf of that association.
- 6.1.2 Once a CEO is appointed, the Board will be led by a non-executive Chair who will have the right to vote on behalf of his/her association, but without the association having another vote. The position of Chair will rotate annually amongst the members at the end of the financial year, with an election taking place until such time as a sequential order is established amongst the SAREC members.
- 6.1.3 The CEO will also serve on the Board but not have a vote.
- 6.1.4 Subject to 6.1.1 above, the Board at the end of each financial year shall choose a Treasurer plus such further office bearers as the Board may decide.
- 6.1.5 The SAREC Administrative Officer will act as SAREC Secretary.

- 6.1.6 The SAREC Secretary shall have neither executive authority in respect of the business of SAREC, nor the right to vote at meetings of the Board.
  - 6.1.7 On the condition that at least four board members agree, one additional person may be co-opted onto the Board by the Board if it deems it necessary, which co-option shall lapse at the next Annual General Meeting, but may be renewed.
- 6.2 Members of the Board:
- 6.2.1 In addition to the ordinary duties of Board Members towards SAREC as an incorporated voluntary association, Board Members shall further observe all the duties of care towards SAREC ordinarily expected of directors of a private company towards the private company.
  - 6.2.2 Each member of the Board shall hold office for two years or until such time as the member s/he represents replaces him/her, whichever time is the shortest. In the former case the member is eligible for re-election. However, no Board Member will serve more than two consecutive terms. This clause will be deemed to have started at the adoption of this Constitution.
  - 6.2.3 A member of the Board may resign by giving notice in writing to the Secretary of such resignation.
  - 6.2.4 If the member the Board member represents ceases to be a member of SAREC, such Board member shall automatically cease to hold office.
  - 6.2.5 A member of the Board may be removed from office by majority vote of the Board upon the member or alternate within a specific board term being absent without excuse from three consecutive meetings of the Board. In such an event the SAREC Member affected may nominate a new Board Member.
- 6.3 Meetings of the Board
- 6.3.1 The Board shall meet at least four times per year on such dates, at such times and in such format as may be determined by the Board.
  - 6.3.2 At least 14 (fourteen) days' notice in writing of each meeting of the Board or such shorter period of notice as the Chairperson or the Board itself may decide shall be given to members thereof provided that such shorter period of notice, if given, shall not be less than is reasonably necessary to permit the members to attend the meeting concerned.



- 6.3.3 If the Chairperson is unavailable or not present ten minutes after the start of any such meeting, the members present shall elect one of their numbers to be Chairperson of that meeting.
- 6.3.4 Representation of two SAREC members by one or more Board members shall form a quorum at any meeting of the Board.
- 6.3.5 The Board shall post the minutes of its meetings on the website within 30 (thirty) days after the meetings.
- 6.4 Powers and decision making process of the Board
- 6.4.1 The general administration and management of SAREC shall be vested in the Board which in addition to the powers expressly conferred upon it by this Constitution may exercise all such powers and do all such acts and things in the name of and on behalf of SAREC as may be required by the aims of the organisation.
- 6.4.2 Without prejudice to its general powers or to the powers, acts and things which it may exercise or is required to do, the Board shall have the power:
- a) To elect from its ranks a Chair and Treasurer as well as other Office Bearers, should the latter be required;
  - b) to pass by-laws and codes of conduct for the regulation of the business of SAREC not inconsistent with the provisions of this Constitution or of any law;
  - c) to appoint Committees and/or Working Groups to act in an advisory and/or specialist capacity, and any other committees, sub-committees, *ad-hoc* committees and/or *ad-hoc* working parties which the Board in its discretion deems necessary, and to regulate the number of such committees, Working Groups, sub-committees, *ad-hoc* committees and/or *ad-hoc* working parties, the nature of the business to be conducted by each of them and their composition, and to establish procedural rules and guidelines to be followed by them;
  - d) To appoint such permanent personnel as the Board may think SAREC requires, providing the budget can carry same, on such terms as the Board may consider appropriate; and,
  - e) to delegate any of its functions or powers to any member of the Board or to any committee established by the Board.
- 6.4.3 At any normal meeting of the Board (clause 7.2 below excepted) a decision shall be taken by a majority of the members present voting by a show of hands.

- 6.4.4 The Board may make decisions by round-robin e-mail and may have meetings remotely on condition that all parties can be clearly heard.
- 6.4.5 Notwithstanding the above a decision approved unanimously by e-mail will not need to comply with any further formal requirements.
- 6.5 Communication and consultation with members
  - 6.5.1 The Board shall consult the members, during a general meeting or special general meeting, on any matters of substance.
  - 6.5.2 The Board shall ensure that each of its decisions is communicated appropriately to members through the SAREC website.

## **7 General Meetings**

- 7.1 SAREC will not have Annual General Meetings or Special General Meetings as all its members are corporate entities.
- 7.2 Any decision impacting on the Constitution or requiring the consideration of special business shall be convened with thirty days' notice of the agenda and decisions proposed and will require a quorum of three SAREC members present or voting by written proxy. The motion/s will be passed only if a 75% majority is attained.
- 7.3 General meetings

The Board will endeavour to host an annual meeting open to all people working for or associated with any SAREC member, where SAREC strategy will be discussed and work-shopped in an informal manner.

## **8 Working Groups**

- 8.1 Specialised Working Groups may be constituted by the Board. The aim of Working Groups is to utilise expertise within the ranks of members to address specialised topics pertinent to the business of SAREC, for example policy matters or public relations.
- 8.2 Each Working Group will be led by a Chair elected by the Working Group Members and will comprise of such members as the Chair in consultation with the CEO and Board may think fit.
- 8.3 Working Groups may develop codes of conduct for SAREC members and recommend these to the Board. If adopted by the Board, these codes of conduct will become binding on SAREC members.

- 8.4 Working Group Chairs and Members are required to display a high degree of care and good faith in representing SAREC, including a high degree of inclusiveness and transparency, regular communication, upkeep of the Working Group page on SAREC website and a clear separation of private/company interests, SAREC Members' interests and SAREC interests.
- 8.5 For new Working Groups the Board will appoint an initial Chair, whereafter the members will elect subsequent Chairs.
- 8.6 Each Working Group Chair will report periodically to the Board as the Board may direct.
- 8.7 The Board may discharge Working Group Chairs or members from their duties if it considers it to be in the interests of SAREC to do so.
- 8.8 Until such time as the Board may decide otherwise, all Working Group Members including Chairs will be non-paid volunteers.
- 8.9 Reasonable expenses incurred in the furtherance of Working Group activities may be compensated by SAREC on condition that such expense is pre-approved by the Treasurer or if the Treasurer is conflicted, two Board Members.

The Chair of Working Groups will rotate annually at the end of the financial year. The outgoing Chair will arrange timeously for decision-making on succession and inform the Secretary of changes no later than 7 (seven) days before the end of the financial year.

## **9 Financial year, funds and accounts**

- 9.1 The financial year of SAREC shall be the period **TBC**
- 9.2 A record shall be kept of the membership fees, if any, due by each member of SAREC and the periods to which such membership fees relate as also the membership fees paid by each such member and the periods to which such payments relate.
- 9.3 Proper accounts shall be kept of all moneys received and expended by SAREC, of all the matters in respect of which such receipts and expenditure take place and of the assets, credits and balances of SAREC.
- 9.4 All moneys received by SAREC shall, from time to time, be banked in the name of SAREC, within 7 (seven) ordinary business days of their receipt, with such bank as the Board shall, from time to time, appoint.
- 9.5 The Board may set such quantitative limit on the authorisation powers of the CEO/EO and Secretary as it sees fit. Above such amount the procedures as directed by the Board will need to be followed to authorise expenditure.

- 9.6 Any profits, gains, donations or sponsorship which may accrue to SAREC shall not be distributed to any person, but shall be employed solely for the purpose of investment or for the carrying out of SAREC's objectives.
- 9.7 SAREC's accounts shall be audited annually and reported upon by an auditor or auditors appointed in terms of Article 10.

## **10 Minutes and records**

Minutes shall be kept of proceedings of general meetings of SAREC, the meetings of the Board and the committees and/or working groups of SAREC, as also records of the correspondence and transactions of SAREC. Such minutes will be placed on the website in the restricted section.

## **11 Property**

Ownership rights in all property belonging to or acquired by SAREC shall vest in SAREC.

## **12 Notices**

- 12.1 Any notice, written notification or document required by this Constitution to be given or sent to any member shall be deemed to have been given or sent on the same day if it has been delivered by e-mail.
- 12.2 The notice convening any meeting of SAREC shall state the date, time and place of the meeting and the general nature of the business to be transacted.
- 12.3 In the case of a notice convening a special general meeting at which any amendment or alteration of or any addition to this Constitution is to be considered, the notice shall be accompanied by a copy of the proposed amendment, alteration or addition.

## **13 External Communication**

The Public Relations Working Group and/or CEO/Executive Chair will be responsible for the official external communications of SAREC.

- 13.1 No member shall make any external communication on behalf of SAREC.

## **14 Indemnity**

The Office Bearers and employees of SAREC shall be indemnified by SAREC against all costs, losses and expenses they may incur or become liable to by reason of any contract entered into or act or deed done by them in their capacity as such or in any way in the discharge of their duties.

## **15 Alteration of Constitution**

- 15.1 This Constitution shall not be amended, altered or added to except by resolution of a majority of not less than 75% of the representatives of members present and entitled to vote at a meeting of SAREC duly called for that purpose in terms of clause 7 above.
- 15.2 Upon any such alteration, amendment or addition being made, same shall be deemed to be incorporated in and form part of this Constitution in the same manner in all respects as though originally inserted herein, and shall be binding upon all members of SAREC without any further act of assent thereto.

## **16 Winding up**

- 16.1 SAREC shall be wound up if it is so decided by the Board in compliance with the procedures in clause 7 above.
- 16.2 SAREC shall be wound up in compliance with the law of the Republic of South Africa.

The constitution was approved and accepted by the members.

Signed at Johannesburg on 4 September 2013.



SAPVIA



SASTELA



SAWEA



SESSA

## **VISION STATEMENT ON THE CREATION OF A SOUTH AFRICAN RENEWABLE ENERGY COUNCIL**

### **Introduction**

It is the firm conviction of the Renewable Energy Community in South Africa that the renewables industry in our country is on the threshold of a significant expansion that if coordinated well could yield multiple benefits to the environment and the country.

In the belief that optimal coordination and alignment between important stakeholders in renewable energy does not exist as yet, the following organisations have come together to promote, in the pursuance of international best practice, an umbrella body provisionally called the South African Renewable Energy Council:

- Sustainable Energy Society of Southern Africa (SESSA)
- The South African Solar Thermal Industry Association (SASTELA)
- The South African Photovoltaic Industry Association (SAPVIA)
- The South African Wind Energy Association (SAWEA)

### **Background**

During 2011, the South African Government articulated and communicated a comprehensive, ambitious vision regarding the creation of a Green Economy. This was done through the NEDLAC structures and led to multi-lateral conversations between Government, Business (BUSA), Labour and Communities. The renewable energy community took part in these conversations and assisted in the development of the Green Economy Accord, which was signed in November 2011.

A copy is available at <http://www.economic.gov.za/publications/new-growth-path-series/123-accord-4-green-economy-accord>.

On page 19 of the Green Economy Accord, the following is said:

*"establish an organisation that will facilitate the renewable energy sector working in partnership with other social partners in the development of the sector."*

Subsequent to the above and after indications of support from government actors, the four mentioned industry associations issued a press release during which the intention to proceed was stressed and the outlines of the vision were given. News reports of the press release can be seen here:

- <http://www.engineeringnews.co.za/article/sa-renewable-energy-associations-to-launch-umbrella-body-2011-12-15>;

- <http://mg.co.za/article/2011-12-09-umbrella-body-becomes-sas-voice-on-renewable-energy>;
- <http://www.timeslive.co.za/local/2011/12/15/renewable-energy-sector-to-get-new-umbrella-body>;
- <http://www.esi-africa.com/Umbrella/body/SA/renewable/energy/associations>

## **Progress**

The four industry associations have met weekly in 2012 to progress the initiative. Three representatives of each association have been nominated to serve on the steering committee. The target date for the formal creation of the South African Renewable Energy Council has been June 2012.

On 14 May 2012, a workshop was held with the aim to bring together the steering committee, Government, NERSA and Eskom.

Representatives of the following Departments and bodies were invited:

- DOE
- DST
- DEA
- DED
- DTI
- National Treasury
- NERSA
- Eskom

The resolutions of the meeting were the following:

- That the South African Renewable Energy Council should be a standing Working Group that could at the appropriate time be infused with statutory status, should it be required;
- That Minister Ibrahim Patel as the facilitator of the Green Economy Accord in NEDLAC should be approached and requested to convene a first meeting between all stakeholders;
- That the stakeholders, in the opinion of the meeting, include the following:
  - DOE; DTI; DED; DEA; SAIPPA; IRP Task team; IEP team; Labour; PPC.E; Eskom Distribution;
  - DST; NERSA; DAFF; BYSA; NGO's; SANEDI



- The Presidency; the Planning Commission; GIZ; SARI; IDC; Banking Council of SA; EIUG; NEDLAC; UNIDO; CEF; SALGA; SETA's/Academia

## **Goals**

It is suggested by the Industry Bodies as promoters of the South African Renewable Energy Council that the Council should provisionally have the following goals:

- To act as a collective custodian and voice for the renewable energy in South Africa.
- To work collectively towards optimising the regulatory and policy framework for renewables within the broader context of the best interests of the country.
- To collectively remove barriers to entry for renewable energy in South Africa.
- To provide expert resources that Government can draw on in the formulation and execution of energy policy.
- To liaise where required between international agencies promoting renewable energy and addressing climate change and the South African Government.
- To promote public and private sector coordination towards the cost optimisation of renewable energy generation and the localisation of the renewable energy industry - including manufacturing, technology development and other components of the industry.

## **Operation**

It is a founding principle of the South African Renewable Energy Council that it will undertake the essential levels of activities as are required for the collective actions of its members. In principle the activities of member organisations will not be duplicated nor will the Council service the members of the member organisations. Each member organisation will continue executing its mandate as before. The aim is to have a lean, efficient and affordable Council.

## **Funding and support**

GIZ has been approached about funding and has indicated a willingness to consider same and also to provide access to human resources experienced in this field in Germany. GIZ now needs to be re-engaged to establish how the resolutions of the meeting will influence an application for funding and support