



**SAMAC**  
Macadamias South Africa NPC

**Macadamias South Africa NPC (SAMAC)**

**Collectives' Code of Conduct**

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## **1. Purpose of the Code**

- 1.1. Macadamias South Africa NPC (SAMAC) is an organisation that is dedicated to serving its members in a professional manner and with the highest standards of accountability. It subscribes to accepted standards of good corporate governance. This Code of Conduct (hereafter referred to as the Code) is adopted pursuant to Clause 6.1.1 of SAMAC's Memorandum of Incorporation (hereafter referred to as the Mol).
- 1.2. The Code of Conduct is intended to promote ethical behaviour and to prevent unethical behaviour by SAMAC's Board of Directors, non-directors serving as members on committees, staff, members and/or any person involved in SAMAC, hereafter refer to as "Collectives".
- 1.3. The Board will act against members that are contravening this Code when they become aware of it.

## **2. Governance of the Code**

- 2.1. The Board, elected from the Members, administers the Code and it is applicable to all Collectives.
- 2.2. The Code may be amended from time to time and is subject to a formal review every three years.
- 2.3. The Code recognises the fundamental and overriding responsibility of SAMAC's Collectives to maintain and enhance the integrity, competence and effectiveness of SAMAC.

## **3. Format and Limitations of the Code**

- 3.1. The Code is directional in nature. It is thus rules-based.
- 3.2. These rules however, rests on a foundation of ethical aspirations, such as integrity and fairness. A list of ethical rules can never be exhaustive though and Collectives therefore have an obligation to use their ethical discretion when confronted with ethical challenges that the rules may not provide for.

## **4. Inconsistency with Compliance Obligations**

- 4.1. This Code is not intended to conflict with any legal or professional obligations, or ethical standards set out in the Mol or the Companies Act, Act No. 71 of 2008 or other applicable legislation, or SAMAC Rules or Board of Directors' Directives, as well as all applicable industry standards (collectively known as "Compliance Obligations"). Where a provision of this Code is inconsistent

with a provision of any of the Compliance Obligations, such provision shall not be valid and the Companies Act, Act No. 71 of 2008 shall prevail.

- 4.2. A provision of the Code shall not be valid when a provision of the Code is inconsistent with a provision of any of the Compliance Obligations, where a provision of the Code establishes a degree of ethical conduct that is lower than is established by the Compliance Obligations. An inconsistency does not arise where a provision in this Code exceeds the degree of ethical conduct established by any of the Compliance Obligations.

## **5. Compliance requirement**

- 5.1. It is the policy of SAMAC to comply with the South African Constitution and the Company's Compliance Obligations.
- 5.2. Each Collective of SAMAC shall comply with all applicable laws, rules and regulations, and industry standards.
- 5.3. Members that are already members by the time that the Board approves this Code will also be required to sign as well as new and existing members

## **6. Consequences of violation of the SAMAC Code of Conduct**

- 6.1. As prescribed by Clause 8.6 of the MoI, the Board may consider suspension and/or termination if a Collective acted wilfully in contravention of any provision of the MoI or this Code.

## **7. Scope and Application of the Code**

- 7.1. The Code applies to all Collectives of SAMAC (as set out in Clause 6.1.1 of the MoI) of SAMAC.
- 7.2. The Code governs the conduct of Collectives from the commencement of their involvement of SAMAC.

## **8. General Principles**

- 8.1. Collectives have an obligation to comply with the duty of good faith and act impartially in the conduct of proceedings.
- 8.2. Collectives should conform to the purpose and goals of SAMAC as contemplated in the MoI.
- 8.3. Collectives must respect and honour contractual agreements entered into with their customers and suppliers.

- 8.4. Collectives are required to, at all times, apply ethical trading practices.
- 8.5. Collectives co-opted to working committees and sub-committees of SAMAC shall conduct themselves in the interest of SAMAC to enhance confidence of all Collectives in the independence, integrity, objectivity and impartiality of SAMAC. Such should commit the time and effort required for the work of SAMAC.
- 8.6. Collectives should maintain the high level of professional competence and knowledge necessary to discharge their obligations and duties.
- 8.7. Collectives should act with honesty, integrity and high ethical standards.
- 8.8. Collectives should remain current by participating in SAMAC's discussions and ongoing professional development.
- 8.9. Collectives shall not commit or condone an unethical or illegal act or invoke another to do so.
- 8.10. Any conflict between the private interests of a Member and his official SAMAC duties and responsibilities shall be resolved in favour of SAMAC's interest.

## **9. Ethical standards**

- 9.1. Every member of SAMAC will strive to maintain the highest ethical standards, including to behave ethically, acting with loyalty and honesty, and being prepared to express one's views;
- 9.2. In order to combat bribery and corruption in the Macadamia industry, all SAMAC Collectives are prohibited from offering, promising, giving, demanding or accepting any illegal payment or advantage to or from anyone in any government and/or the private sector in order to gain, retain or direct business or to secure any other improper or undue advantage in the conduct of business.

## **10. Conflict of Interest**

### **10.1. Conflict of Interest**

- 10.1.1. A conflict of interest is the risk that any interest, relationship, association or activity of a Collective may be incompatible with the Collective's obligations to SAMAC
- 10.1.2. Because SAMAC is committed to impartial business practices, all Collectives are required to:
  - 10.1.2.1. Remain objective and free from undue influence in all their decisions relating to SAMAC;

10.1.2.2. Avoid actual, perceived and potential conflicts of interest, and disclose to the SAMAC CEO or his/her nominated delegate when such conflicts emerge and update disclosures when circumstances change; and

10.1.2.3. Recuse themselves from SAMAC meetings if a conflict of interest exists or could arise.

## **10.2. General duty to disclose a conflict of interest**

10.2.1. Every Collective of SAMAC has a duty to declare direct or indirect interests or relationships which conflict with the interests of SAMAC. A conflict or the appearance of a conflict of interest may arise in many ways. The procedure set out below must be followed to address conflicts of interest or perceived conflicts of interests:

10.2.1.1. Each Collective must deal at arm's length with SAMAC and should disclose any conflict or suspected conflict of interest on his or her part by informing the Chairperson of the Board of Directors in writing. The Chairperson of the Board should disclose any conflict or suspected conflict of interest on his or her part by informing the Board in writing.

10.2.1.2. The Chairperson of the Board must refer such a matter to the Board.

10.2.1.3. If there is a potential conflict of interest involving a director of the Board, the matter must be referred to the Audit and Risk Committee.

10.2.1.4. The Board or the Audit and Risk Committee must assess the potential of a conflict of interest and then take a decision on the matter.

10.2.2. Should any Member of SAMAC provide services to SAMAC as an employee, officer, office bearer or director or in a similar capacity, it must be disclosed in the manner contemplated above.

10.2.3. Should a Member of SAMAC furthermore have any doubts as to whether any activity could constitute such a conflict, it must be reported in the manner set out above even if the Member terminates the conduct.

## **10.3. Duty to report a perceived conflict of interest**

10.3.1. Should another member of SAMAC become aware of a perceived conflict of interest which has not been so disclosed, or should it appear as if there is a conflict of interest which has not been disclosed, that member shall report the perceived conflict of interest to the Chairperson of the Board of Directors in writing.

- 10.3.2. All disclosures in terms of this clause shall be treated by the parties responsible for receiving such disclosures as confidential, and those parties shall exercise the utmost diligence to ensure that the disclosures remain confidential throughout the entire reporting process.
- 10.3.3. It is furthermore recorded that any Member of SAMAC who reports the appearance of a conflict of interest as envisioned above will not be victimised or prejudiced in any way because of the report and his identity will be kept confidential throughout as provided for in the Protected Disclosures Act, 26 of 2000.

## **11. Conduct of Business and Fair Dealing**

### **11.1. No SAMAC Collective shall:**

- 11.1.1. Personally profit, or assist others to profit directly or indirectly, from confidential information or confidential business opportunities that are available because of service to SAMAC. This clause needs to be read in conjunction with the clause dealing with a conflict of interest.
- 11.1.2. Improperly influence or attempt to influence any business transaction between SAMAC and another entity in which a Collective has a direct or indirect financial interest or acts as an employee, officer, office bearer, director or in a similar capacity.
- 11.1.3. Take unfair advantage of any customer, supplier, competitor or other person through manipulation, concealment, misrepresentation of material facts or other unfair-dealing practice.
- 11.1.4. Be involved in prohibited anti-competitive activities as provided for in the Competition Act, 89 of 1998.
- 11.1.5. Make public comments regarding matters of SAMAC. Each Collective shall abide by the protocol(s) regulating internal as well as external communication, as determined by the Board of Directors.

### **11.2. Use and Protection of SAMAC Information**

- 11.2.1. Each Collective shall protect information of SAMAC and shall not use such information to pursue personal opportunities or gain.
- 11.2.2. No information belonging to SAMAC shall be used for any unlawful purpose.

## **12. Discussions relating to Competitively Sensitive Information by Collectives of SAMAC**

- 12.1. No SAMAC Collective shall use any of the Company's meetings of Collectives as a means of discussing or otherwise communicating competitively sensitive information. Competitively Sensitive Information includes:
  - 12.1.1. Pricing information, which includes:
    - 12.1.1.1. Current or future prices;
    - 12.1.1.2. Pricing strategies; and
    - 12.1.1.3. Trading terms and/or conditions.
  - 12.1.2. Customer information, such as:
    - 12.1.2.1. Confidential customer specific information, including key contract terms, margins, discounts and rebates;
    - 12.1.2.2. Decisions whether or not to supply a particular customer (including selection or termination of customers); and
    - 12.1.2.3. Up-coming customer tenders (including whether to respond to a tender and details of any tender response).
    - 12.1.2.4. Sales information which is non-aggregated, specific and detailed.
    - 12.1.2.5. Current or future marketing strategies and plans.
    - 12.1.2.6. Restricting supply to particular customers, geographic territories or sales territories on terms not derived independently.
    - 12.1.2.7. Allocating customers, tenders or sales territories.
    - 12.1.2.8. Any form of collusive tendering.
  - 12.1.3. Other sensitive information, such as:
    - 12.1.3.1. Production costs and or production levels;
    - 12.1.3.2. Capacity and output levels; and



12.1.3.3. Profits and profit margins.

- 12.2. When a discussion occurs at a general meeting that any Collective present believes involves Competitively Sensitive Information or might raise issues under the Competition Act, that Collective should immediately and explicitly point out his objections and request that the discussion end. If the discussion continues, such Collective must immediately excuse himself or herself from the meeting and the minutes of the meeting must record his or her objection and withdrawal.
- 12.3. Where it is proposed to have a discussion on legitimate matters of relevance to the Macadamia industry and it is necessary to discuss any aspect that is suspected to be Competitively Sensitive Information, then Collectives must obtain legal advice prior to any discussion occurring and/or information being shared.
- 12.4. Competitively Sensitive Information should not be communicated on the basis that the discussion is “subject to legal advice” which will be subsequently obtained. Prior advice must be obtained.
- 12.5. Where potential Competitively Sensitive Market Information is to be discussed at a meeting of SAMAC Collectives, this information must be limited to historical data. Such data must be collated and aggregated by SAMAC staff and/or an independent party and must only be disclosed to Collectives on an aggregated basis so that individual Collectives’ data cannot be identified.

### **13. Ethical Trading practices by SAMAC Collectives**

- 13.1. A Member of SAMAC must commit himself to Ethical Trading practices, whereby the following labour practices will be prohibited on his farm or in his company:
- 13.1.1. Child Labour;
- 13.1.2. Discrimination, harassment or abuse;
- 13.1.3. Unfair wages, benefits or terms of employment;
- 13.1.4. Forced or bonded labour;
- 13.1.5. Lack of freedom of association or collective bargaining;
- 13.1.6. Unsafe and unhygienic working conditions; and
- 13.1.7. Excessive working hours.
- 13.2. All Collectives of SAMAC will in an effort to protect the environment:

- 13.2.1. Make use of healthy soil practices;
- 13.2.2. Improve water-use efficiency;
- 13.2.3. Prevent contamination to soil and water bodies;
- 13.2.4. Manage waste responsibly;
- 13.2.5. Control invasive alien plants;
- 13.2.6. Reduce greenhouse gas emissions; and
- 13.2.7. Restore natural ecosystems.

#### **14. Collectives' communication with the media on behalf of SAMAC**

- 14.1. No Collective of SAMAC will speak as a representative of SAMAC to the media or in a public forum.
- 14.2. Collectives will at all times uphold and protect the good name and reputation of SAMAC.

#### **15. Provision of information to SAMAC**

- 15.1. All Collectives will provide honest and accurate information to SAMAC on intervals as required by the Company.

#### **16. Protection of Macadamia Consumers**

- 16.1. All Collectives should be committed to complying with applicable consumer protection laws and regulations where they operate, and also to provide consumers with clear and accurate information about Macadamia products.

#### **17. Quality of Macadamia products and services**

- 17.1. All Collectives will ensure that they provide products and services that comply at least with local and export minimum quality standards.
- 17.2. All Collectives must be willing to participate in research and development initiatives of SAMAC to ensure continuous improvement in production yields, processing and quality.

## **18. Sanctions and Exports**

- 18.1. No Member is allowed to trade with any country, organisation or individual that appears on any sanctions list, which is issued by the United States' Specially Designated Nationals and Blocked Persons (SDN) List, and the consolidated lists used by the United Kingdom, the European Union, and the United Nations.
- 18.2. Failure to comply with Sanctions could constitute a breach of law and carries the risk of the Macadamia industry suffering significant reputational damage, therefore all Collectives must consult these lists prior to entering into a relationship with a foreign person or entity.

## **19. Procedure for complaints and investigations**

- 19.1. If any member believes that a prohibited act or omission under this Code has occurred, then he shall promptly report such allegation to the Chairperson of the Board of Directors or the Chief Executive Officer. All such disclosures will be treated as confidential by the relevant officials and Board of Directors of SAMAC.
- 19.2. The Board of Directors will review and investigate any such reported alleged prohibited act, without the participation of any member who may be the subject of such report. After this initial investigation, the member suspected of such alleged conduct, must be informed in writing of the complaint.
- 19.3. The member suspected of such alleged conduct must be given the opportunity to respond in person or in writing to the allegations.
- 19.4. The Board of Directors will then make a decision on the remedial action to be taken and it may include:
  - 19.4.1. Written warnings;
  - 19.4.2. Suspension of membership;
  - 19.4.3. Termination of a leadership position; or
  - 19.4.4. Disciplinary steps in terms of labour legislation against employees.
- 19.5. The Member who is the subject of the investigation will have a right to appeal against the findings of the Board of Directors to the Audit and Risk Committee.

- 19.6. The members of the Audit and Risk Committee, must in the event of an appeal apply their minds and make a final decision on the outcome of the case.
- 19.7. Notwithstanding above, SAMAC may take legal action against the individual concerned and recover damages as permitted in law.
- 19.8. All Collectives are expected to provide full assistance and disclosure to the Board of Directors, and the Audit and Risk Committee, in connection with any review of compliance with this Code.

## **20. Undertaking of SAMAC Collectives**

I, \_\_\_\_\_ (name and surname)  
hereby declare that I will adhere at all times to the Code of Conduct.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

Reviewed on 27 September 2021