

## AGRICULTURAL PRODUCE AGENTS COUNCIL

### CODE OF CONDUCT AND REGISTRATION PROCEDURE IN RESPECT OF EXPORT AGENTS

It is hereby made known –

- (a) that the code of conduct and registration procedure in respect of export agents set out in the Schedule were made by the Agricultural Produce Agents Council in terms of the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992); and
- (b) that the said code and procedure shall come into operation on the date of publication hereof.

**W. E. JOHNSON**

Registrar of Agricultural Produce Agents

#### SCHEDULE

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#### Definitions

1. In this Schedule, any word or expression to which a meaning has been assigned in the Act, unless the context otherwise indicates, shall have that meaning and –

"**export produce**" means agricultural produce of the kinds specified in Part A of Schedule 1 of the Act;

"**the Act**" means the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992); and

"**the Council**" means the Agricultural Produce Agents Council established by section 2 of the Act;

#### PART I: CODE OF CONDUCT

##### 2. Integrity, objectivity and independence

2.1 An export agent shall at all times –

- (a) act honestly and conscientiously in the practising of his occupation;
- (b) act in the best interest of his principals;
- (c) avoid entering into relationships or obtaining interests that, either directly or indirectly, impair or threaten his capacity to act in accordance with paragraphs (a) and (b).

2.2 An export agent shall maintain an impartial approach in practising his occupation, and for this purpose be free of any influence or relationship that, either directly or indirectly, could impair his judgement or independence.

2.3 An export agent shall maintain such integrity and objectivity in the practising of his occupation as is necessary to enable him to apply unbiased judgment and objective consideration in forming an opinion or arriving at decisions.

## WET OP LANDBOUPRODUKTE- AGENTE

### GEDRAGSKODE EN REGISTRASIEPROSEDURE TEN OPSIGTE VAN UITVOER AGENTE

Dit word hierby bekend gemaak –

- (a) dat die gedragkode en registrasieprosedure ten opsigte van uitvoer agente in die Bylae uiteengesit, deur die Raad vir Landbouprodukte-agente kragtens die Wet op Landbouprodukte-agente, 1992 (Wet No. 12 van 1992) uitgevaardig is; en
- (b) dat die genoemde gedragkode en prosedure op die datum van publikasie hiervan in werking tree.

**W.E. JOHNSON**

Registrateur vir Landbouprodukte-agente

#### BYLAE

##### Indeling van Gedragkode en Registrasie Prosedure

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#### Woordoms krywing

1. In hierdie Bylae, tensy uit die samehang anders blyk, dra woorde en uitdrukkings wat in die Wet gebruik is, dieselfde betekenis, en beteken –

"**die Raad**" die Raad vir Landbouprodukte-agente by artikel 2 van die Wet ingestel;

"**die Wet**" die Wet op Landbouprodukte-agente, 1992 (Wet No. 12 van 1992); en

"**uitvoer produkte**" landbouprodukte van die soorte in Deel A van Bylae 1 by die Wet vermeld wat vir uitvoer bedoel is.

#### DEEL I: GEDRAGSKODE

##### 2. Integriteit, objektiwiteit en onafhanklikheid

2.1 'n Uitvoer agent moet te alle tye –

- (a) eerlik en pligsgetrou in die beoefening van sy beroep optree;
- (b) in die beste belang van sy prinsipale optree; en
- (c) dit vermy om verwantskappe aan te gaan of belange te verkry wat, hetsy direk of indirek, sy vermoë om in ooreenstemming met paragrawe (a) en (b) op te tree, kan belemmer of bedreig.

2.2 'n Uitvoer agent moet 'n onpartydige benadering in die uitoefening van sy beroep handhaaf, en vir die doel vry van enige invloed of verwantskap wees wat, hetsy direk of indirek, sy oordeel of onafhanklikheid kan belemmer.

2.3 'n Uitvoer agent moet sodanige integriteit, objektiwiteit en onafhanklikheid in die uitoefening van sy beroep handhaaf as wat nodig is om hom in staat te stel om onpartydige oordeel en objektiewe oorwegings toe te pas om 'n mening te vorm of tot beslissings te kom.

### 3. Knowledge and skills

3.1 An export agent shall maintain his knowledge and skills at such a level that he is able to conduct his business in accordance with the applicable laws, regulations and rules as well as the technical and professional standards common to his occupation.

3.2 An export agent shall –

- (a) ensure that his employees comply with the laws, regulations and rules applicable to his occupation, and for that purpose-
  - (i) he shall provide the necessary training;
  - (ii) he shall adequately supervise his employees;
- (b) bring to the attention of the Council and other responsible authorities any non-compliance or suspected non-compliance of applicable laws, regulations or rules which are known to him.

### 4. Incompatible practices

4.1 An export agent shall not hold decision making positions, controlling interests or offices of whatever nature, or engage in any venture, business or occupation, which results or could result in a conflict of interest or an impairment of his independent judgement in the practicing of his occupation.

### 5. Undue discrimination

5.1 An export agent shall not unduly discriminate between principals.

### 6. Remuneration

6.1 No export agent may claim remuneration in an amount or at a higher rate or scale than agreed with his or her principal.

6.2 An export agent –

- (a) shall disclose to his or her principal that he or she is acting in a representative capacity, or as a purchaser, prior to acting as such, and if acting as a purchaser, the agreement of sale between the parties shall include provisions regarding –
  - (i) a description of the export produce to be purchased, including particulars as to cultivar, class and size;
  - (ii) particulars of place of delivery of the export produce;
  - (iii) purchase price, including particulars regarding manner of payment;
- (b) may not exploit his principal in any manner whatsoever;
- (c) may not charge remuneration or recover costs or expenses at an amount, rate or scale which in the view of the Council is unreasonably high, having regard to all relevant circumstances; and
- (d) may not present any remuneration as a cost or an expense which is not normally regarded as a cost or expense.

### 7 Acceptance of gifts

7.1 No export agent or a member of his family shall otherwise than in accordance with generally accepted business practices accept any goods, service or hospitality that results or could result in a

### 3. Kennis en vaardighede

3.1 'n Uitvoer agent moet sy kennis en vaardighede op sodanige vlak handhaaf ten einde hom in staat te stel om sy besigheid ooreenkomstig die tersaaklike wette, regulasies en reëls asook die tegniese en professionele standaarde eie aan sy beroep, te bedryf.

3.2 'n Uitvoer agent moet –

- (a) toesien dat sy werknemers die reëls en die wette en regulasies wat op sy beroep van toepassing is nakom, en vir daardie doel-
  - (i) moet hy die nodige opleiding verskaf;
  - (ii) moet hy behoorlik toesig hou oor sy werknemers; en
- (b) moet hy enige nie-nakoming of vermoedelike nie-nakoming van die tersaaklike wette, regulasies en reëls, onder die aandag van die Raad en ander verantwoordelike owerhede bring.

### 4. Onversoenbare bedrywighede

4.1 'n Uitvoer agent mag nie besluitnemingsposisies, behorende belange of ampte van enige aard hou of in enige onderneming, besigheid of beroep betrokke raak nie indien dit 'n botsing van belange of 'n belemmering van sy onafhanklike oordeel in die beoefening van sy beroep tot gevolg het of kan hê nie.

### 5. Onbehoorlike diskriminasie

5.1 'n Uitvoer agent mag nie op 'n onbehoorlike wyse tussen sy prinsipale diskrimineer nie.

### 6. Vergoeding

6.1 'n Uitvoer agent mag nie vergoeding in 'n bedrag of teen 'n koers of skaal vorder wat hoër is as wat met sy of haar prinsipaal ooreengekom is nie.

6.2 'n Uitvoeragent –

- (a) moet, alvorens hy of sy as sodanig optree, aan sy of haar prinsipaal openbaar dat hy of sy in 'n verteenwoordigende hoedanigheid of as 'n koper optree, en indien hy of sy as 'n koper optree, moet die verkoopsooreenkoms tussen die partye bepalings bevat betreffende –
  - (i) 'n beskrywing van die uitvoerprodukte wat gekoop word, insluitende besonderhede betreffende die kultivar, klas en grootte;
  - (ii) besonderhede van die plek van lewering van die uitvoerprodukte;
  - (iii) aankoopprys, insluitende besonderhede aangaande die metode van betaling;
- (b) mag nie sy prinsipaal op enige wyse uitbuit nie;
- (c) mag nie vergoeding van 'n prinsipaal vorder of uitgawes verhaal teen 'n bedrag, koers of skaal wat na die oordeel van die Raad (in die omstandighede) onredelikerwys hoog is nie; en
- (d) mag nie enige vergoeding as 'n koste of uitgawe inklee wat nie normaalweg as 'n koste of uitgawe beskou word nie.

conflict of interest or an impairment of his independent judgement in the practicing of his occupation.

#### 8. Financial obligations

8.1 An export agent shall at all times ensure that financial obligations incurred by him will not impair or cause to impair his independence.

#### 9. Publicity and advertisements

9.1 An export agent may by means of publicity and advertisements bring his business and the nature of the services rendered by him to the notice of the public, provided –

- (a) a due sense of responsibility towards the export industry and the public is displayed therein; and
- (b) the contents and presentation thereof in the opinion of the Council, bears testimony of good taste, and
- (c) he does not draw comparisons with or disparage the services of other export agents or markets.

#### 10. Canvassing and touting

10.1 An export agent may canvass for business on condition that he does not –

- (a) propagate any false or misleading or questionable information of any nature whatsoever;
- (b) interfere directly or indirectly with the sale, handling or inspection of export entrusted for sale to another export agent;
- (c) directly or indirectly influence purchasers not to buy certain export products, or export of a certain class, standard or type, or not to buy export from a certain export agent, or from a certain principal, unless he can show good cause therefore.

#### 11. Relations with other export agents, principals and the Council

11.1 The behaviour of an export agent towards other export agents, his principals and the Council shall be of such a nature that it will foster co-operation and good relations.

11.2 Subject to the provisions of rule 3.2 (b), an export agent shall not express any malicious or unfounded criticism on the activities of another export agent.

### PART II: REGISTRATION

#### 12. Applications for registration certificates

12.1 An application for a registration certificate shall be made on a form available from the Council for this purpose.

12.2 Such form shall –

- (a) be completed in full in accordance with the directions indicated thereon;
- (b) be accompanied by the applicable application fee determined by the Council for this purpose, as well as the other applicable particulars and documents indicated thereon; and
- (c) be forwarded by post to the Council to, or be delivered to the Council at, the address indicated thereon.

#### 7. Aanvaarding van geskenke

7.1 Geen uitvoer agent of lid van sy familie mag anders as ooreenkomstig algemeen-aanvaarde sake-praktyke, enige goedere, dienste of oormatige gasvryheid aanvaar wat kan lei tot 'n konflik van belange of 'n belemmering van sy onafhanklike oordeel in die beoefening van sy beroep nie.

#### 8. Finansiële verpligtinge

8.1 'n Uitvoer agent moet te alle tye verseker dat finansiële verpligtinge deur hom aangegaan, nie sy onafhanklikheid aantas of kan aantas nie.

#### 9. Publisiteit en advertensies

9.1 'n Uitvoer agent mag sy besigheid en die aard van die dienste deur hom gelewer, deur middel van publisiteit en advertensies onder die aandag van die publiek bring, mits –

- (a) 'n behoorlike verantwoordelike teenoor die varsproduktebedryf en die publiek daarin geopenbaar word;
- (b) die inhoud en aanbieding daarvan na die oordeel van die Raad van goeie smaak getuig; en
- (c) die betrokke uitvoer agent nie vergelykings trek met of die dienste van ander uitvoer agente of markte afkraak nie.

#### 10. Werwing en lokking

10.1 'n Uitvoer agent mag besigheid werf op voorwaarde dat hy nie –

- (a) enige vals of misleidende of twyfelagtige inligting van welke aard ookal verskaf nie;
- (b) direk of indirek inneng by die verkoping, hantering of inspeksie van uitvoer produkte wat vir verkoop aan 'n ander uitvoer agent toe-vertrou is nie; of
- (c) kopers direk of indirek beïnvloed om nie sekere uitvoer produkte te koop nie, of om nie uitvoerprodukte van 'n sekere klas, standard of tipe te koop nie of om nie by 'n sekere uitvoer agent te koop nie, tensy hy 'n goeie rede daarvoor kan aandui.

#### 11. Verhoudings met ander uitvoer agente

11.1 'n Uitvoer agent se optrede teenoor ander uitvoer agente, sy prinsiplae en die Raad moet sodanig wees dat dit samewerking en goeie verhoudings bevorder.

11.2 Behoudens die bepalinge van reël 3.2 (b), mag 'n uitvoer agent nie enige kwaadwillige of ongegronde kritiek oor die werksaamhede van 'n ander uitvoer agent uitspreek nie.

### DEEL II: REGISTRASIE

#### 12. Aansoek vir registrasiesertifikaat

12.1 'n Aansoek om 'n registrasiesertifikaat moet gedoen word op 'n vorm wat vir die doel by die Raad verkrygbaar is.

12.2 So 'n vorm moet –

- (a) volledig in ooreenstemming met die instruksies daarop, ingevul word;

12.3 In the case of a partnership, separate forms shall be submitted by each of the partners.

### 13. **Payments of application fee**

13.1 An application for registration referred to in rule 12 shall be accompanied by the application fee determined by the Council.

### 14. **Maintenance of registration certificates**

14.1 The Council shall annually not later than 30 April in writing notify each export agent who is the holder of a registration certificate, of the amount determined in terms of section 16 (9) (a) of the Act, that is payable for the maintenance of such certificate.

14.2 Such payment shall reach the Council on or before 30 June first following the date of the relevant notice referred to in rule 14.1.

## **PART III : MISCELLANEOUS**

### 15. **Payment of amounts**

15.1 Any amount payable to the Council in terms of the Act or this Schedule shall be paid by cheque, postal order or money order made out in favour of the Agricultural Produce Agents Council.

### 16. **Address of Council**

16.1 The address of the Council shall –

- (a) for the purposes of documents forwarded by post, be Private Bag X17, Brooklyn Square, 0075; and
- (b) for the purposes of documents delivered by hand, be Ground Floor, Momentum Park, 105 Nicolson Street, Brooklyn, Pretoria.

### 17. **Title**

17.1 This Schedule shall be called the Code of Conduct and Registration Procedure in respect of Export Agents, 2005.

(b) vergesel gaan van die toepaslike aansoekgelde deur die Raad vir die doel bepaal, sowel as die ander toepaslike besonderhede en dokumentasie daarop aangedui; en

(c) aan die Raad gepos word, of by die Raad afgelewer word, by die adres daarop aangedui.

12.3 In die geval van 'n vennootskap moet afsonderlike vorms vir elke vennoot voorgelê word.

### 13. **Betaling van aansoekgelde**

13.1 'n Aansoek om registrasie in reël 12 na verwys moet vergesel gaan van die aansoekgelde deur die Raad bepaal.

### 14. **Instandhouding van registrasie sertifikate**

14.1 Die Raad moet jaarliks nie later as 30 April elke uitvoer agent wat die houer is van 'n registrasiesertifikaat in kennis stel van die bedrag wat ingevolge artikel 16(9)(a) van die Wet vir die instandhouding van die sodanige sertifikaat bepaal is.

14.2 Sodanige betaling moet die Raad voor of op 30 Junie eersvolgende die datum van die kennisgewing in reël 14.1 bedoel, bereik.

## **DEEL III: DIVERSE BEPALINGS**

### 15. **Betaling van gelde**

15.1 Enige bedrag wat ingevolge die Wet of hierdie Bylae betaalbaar is, moet per tjek, posorder of poswissel wat ten gunste van die Raad vir Landbouprodukte-agente uitgemaak is, betaal word.

### 16. **Adres van Raad**

16.1 Die adres van die Raad is –

- (a) vir die doeleindes van stukke wat per pos gestuur word, Privaatsak X17, Brooklyn Square, 0075,
- (b) vir die doeleindes van stukke wat per hand afgelewer word, Grondvlak, Momentumpark, Nicolsonstraat 105, Brooklyn, Pretoria.

### 17. **Titel**

17.1 Hierdie Bylae heet die Gedragskode en Registrasieprosedure ten opsigte van Uitvoer Agente, 2005.