

*Constitution*

*of*

*Arid Zone Ecology*

*Forum*

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**1. NAME**

1.1 The name of the Association is:

**Arid Zone Ecology Forum**

(hereafter referred to as “the Association”)

1.2 The shortened name will be:

**AZEF**

**2. OBJECTS**

The Association is a public, non-profit organisation established to focus attention on problems and possible solutions to environmental degradation in southern African semi-arid and arid systems, and, without limiting the general nature thereof, the objects of the Association shall include more specifically:

- 2.1 To foster and coordinate multi-disciplinary and multi-institutional research activities
- 2.2 To help identify research priority areas and scarcity of skills and expertise at national and regional levels;
- 2.3 To facilitate information transfer; and
- 2.4 To develop a network of expertise which integrates insight, information, goals and problems of resource managers with those of researchers and educators
- 2.5 Performing all tasks reasonably incidental to the achievement of the objectives

**3. LEGAL STATUS**

The Association is a body corporate with its own legal identity which is separate from its individual members. The Association shall continue to exist even if the members change. The Association may own property, enter into contracts, and sue or be sued in its own name.

**4. NON-PROFIT DISTRIBUTING CHARACTER**

4.1 The income and property of the Association shall be used solely for the promotion of its stated objectives. The members and the office-bearers shall have no rights to the property or other assets of the Association solely by virtue of them being members or office-bearers. No portion of the income or property of the Association shall be paid or distributed directly or indirectly to any person (otherwise than in the ordinary course

of undertaking any public benefit activity) or to any member of the Association or Management Committee, except as:

- 4.1.1 reasonable compensation for services actually rendered to the Association;
  - 4.1.2 reimbursement of actual costs or expenses reasonably incurred on behalf of the Association.
- 4.2 Upon the dissolution of the Association, after all debts and commitments have been paid, any remaining assets shall not be paid to or distributed amongst members, but shall be transferred by donation to some other non-profit organisation which the Management Committee (and failing which any division of the High Court) considers appropriate and which has objectives the same or similar to the objectives of the Association; and should the Association become an approved public benefit organisation:
- 4.2.1 a similar public benefit organisation which has been approved in terms of section 30 of the Income Tax Act, or
  - 4.2.2 any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA), which has as its sole or principal object the carrying on of any public benefit activity, or
  - 4.2.3 any department of state or administration in the national or provincial or local sphere of government of the Republic contemplated in section 10(1) (a) or (b).
- 4.3 The Association intends to apply to the Commissioner for the South African Revenue Service for exemption from appropriate taxes and duties. In compliance with the provisions of the Income Tax Act, the provisions set out in the attached **Schedule A** shall bind the Association and qualify this Constitution.

## 5. POWERS

The Association, acting through its Management Committee, shall have all the powers necessary for it to carry out its stated objectives effectively. Such powers shall include, but not be limited to, the General Investment and Administrative Powers set out in the attached **Schedule B**.

## 6. MEMBERS

- 6.1 The initial membership shall be those persons whose names and signatures appear on the attached **Schedule C**.

- 6.2 The Management Committee may admit further members subject to due compliance with any conditions of membership (including payment of any membership fees) which the Management Committee may stipulate from time to time.
- 6.3 The Management Committee may suspend or terminate the membership of any member provided that:
- 6.3.1 At least (14) fourteen days prior written notice is given to all members of the Management Committee of the intention to terminate a membership; and
- 6.3.2 At least (14) fourteen days prior written notice is given to the member concerned. The notice shall invite the member to make written or verbal representations to the meeting as the member may consider appropriate.

## **7. STRUCTURE OF THE ASSOCIATION**

### **7.1 The Management Committee**

#### **7.1.1 Powers**

The affairs of the Association shall be controlled and managed by the Management Committee subject to the terms of this constitution.

#### **7.1.2 Election**

- 7.1.2.1 The members of the first Management Committee shall be elected at the General Meeting at which this Constitution is adopted, and shall hold office until the first Annual General Meeting held after their appointment. At such first Annual General Meeting and at every subsequent Annual General Meeting held thereafter, Management Committee members will stand down but can stand to be re-elected or co-opted.

- 7.1.2.2 Management Committee members shall be members of the Association.

#### **7.1.3 Composition**

- 7.1.3.1 The Management Committee shall comprise at least six [6] members but no more than eight members [8]. The Management Committee shall elect and appoint from amongst its membership persons to fulfill the responsibilities associated with managing the following portfolios:

- 7.1.3.1.1 the Chairperson;

- 7.1.3.1.2 the Vice-Chairperson;

- 7.1.3.1.3 the Treasurer;

- 7.1.3.1.4 the Secretary;
- 7.1.3.1.5 The Management Committee may co-opt up to four [4] additional non-voting members as it may consider appropriate from time to time. The co-opted members shall serve for such period as the Management Committee considers appropriate.
- 7.1.3.1.6 The role of Secretary will be held by one person who may be paid to carry out administrative and other duties as stipulated in a written contract between the secretariat and the Association; all other posts are voluntary.
- 7.1.3.1.7 The Committee will decide by vote on whether the secretariat is allowed voting power upon his/her election (this will be dependent on whether the secretariat has a salary and/or other concerns).
- 7.1.4 Management Committee Member Vacating Office
- 7.1.4.1 The office of a Management Committee member shall be vacated if a member:
- 7.1.4.1.1 resigns; or
- 7.1.4.1.2 becomes unfit and/or incapable of acting as such; or
- 7.1.4.1.3 would be disqualified, in terms of the Companies Act or equivalent legislation in force from time to time, from acting as a Director of a Company; being either:
- (a) a body corporate,
- (b) a minor or any person under legal disability,
- (c) unless ordered by Court, is an unrehabilitated insolvent or removed from an office of trust on account of misconduct, or has at any time been convicted of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), or any offence involving dishonesty or in connection with the promotion, formation or management of a company, and has been sentenced therefore to imprisonment without the option of a fine or to a fine exceeding one hundred rand; or
- 7.1.4.1.4 is removed by the Management Committee, by resolution adopted by at least three-quarters (3/4) of its members in office from time to time, being not less than the required minimum of five [5].
- 7.1.4.2 Should a position on the Management Committee fall vacant, the Management Committee, by resolution adopted at least two-thirds (2/3) of its members, may (and if the vacancy reduces the number of members to less than five [5], shall) co-opt a member/s to fill the vacancy/ies.
- 7.1.5 Procedure at Management Committee Meetings

The Management Committee shall conduct its meetings and regulate its proceedings as it finds convenient, provided that:

- i. The Chairperson, or in his or her absence, the Vice-Chairperson, shall chair all meetings of the Management Committee which he or she attends. In the absence of the Chairperson and the Vice-Chairperson, the remaining members of the Management Committee shall elect a chairperson from those attending.
- ii. The Chairperson shall convene a meeting of the Management Committee, annually and/or at the written request of any two (2) members of the Management Committee and may convene such a meeting at any other time.
- iii. The quorum necessary for the transaction of any business by the Management Committee shall be two-thirds (2/3) of the Management Committee members serving at any given time.
- iv. At meetings of the Management Committee each committee member shall have one (1) vote.
- v. Questions arising shall be decided by a majority of votes. Should there be an equality of votes the Chairperson shall have a casting or second vote.
- vi. Proper minutes shall be kept of the proceedings of the Management Committee, and a record of the persons present at each meeting. The minutes shall be signed by the member who chairs the meeting, and shall be available at all times for inspection or copying by any member of the Management Committee, and on two (2) days' notice to the Secretary or his or her deputy, by any member of the Association.
- vii. A resolution signed by all members of the Management Committee shall be as valid as if passed at a duly convened meeting of the Management Committee.

#### 7.1.6 Appointment of Committees

The Management Committee may delegate any of its powers to any of its members, or to a special purpose committee. The member, committee, employee or agent to whom such delegation is made shall conform to any regulations and procedures that may be stipulated by the Management Committee from time to time.

#### 7.1.7 Appointment of Officers

The Management Committee may appoint a Chief Executive and other officers and employees as it may consider necessary from time to time upon such terms and conditions as it may consider appropriate.

## **7.2 Annual General Meetings**

- 7.2.1 An Annual General Meeting of the Association shall be held within a period of fifteen (15) months of the adoption of this Constitution. Subsequent Annual General Meetings shall be held annually at a time determined by the timing of the Annual Congress organized by the Association, or by the Chairperson.
- 7.2.2 Annual General Meetings shall be convened by the Chairperson on not less than twenty-one (21) days prior written notice to all committee members and Association members entitled to attend the meeting. This notice shall state the date, time and place of the meeting and in broad terms the business to be transacted at the meeting.
- 7.2.3 The business of an Annual General Meeting shall include:
- 7.2.3.1 the presentation and adoption of the Annual Report of the Chairperson;
  - 7.2.3.2 the consideration of the Annual Financial Statements;
  - 7.2.3.3 the election of members to serve on the Management Committee for the following year;
  - 7.2.3.4 the appointment of Auditors;
  - 7.2.3.5 other matters as may be considered appropriate.
- 7.2.4 Annual General Meetings of the Association shall be conducted and regulated in accordance with the procedures provided for in terms of clause 7.1.5 above

## **8. FINANCIAL MATTERS**

### **8.1 Bank Account**

The Management Committee shall open a bank account in the name of the Association with a registered Bank. The Management Committee shall ensure that all monies received by the Association are deposited in the abovementioned bank account as soon as possible after receipt.

### **8.2 Signatures**

All cheques, promissory notes and other documents requiring signature on behalf of the Association shall be signed by at least two (2) of the three Management Committee members with signatory power: Chair, Secretariat, Treasurer.

### **8.3 Financial Year End**

The Association's financial year-end shall be the last day of December.

### **8.4 Financial Records**

The Management Committee shall ensure that the Association keeps proper records and books of account, which fairly reflect the affairs of the Association.

### **8.5 Annual Narrative Report and Financial Statements**

8.5.1 The Management Committee shall ensure that the Association prepares an annual narrative report describing the Association's activities and an Annual Financial Statement for each financial year. The Annual Financial Statements shall conform with generally accepted accounting principles and shall include a statement of income and expenditure and a balance sheet of assets and liabilities.

8.5.2 Within two (2) months after drawing up the Annual Financial Statements, the Management Committee shall ensure that the books of account and financial statements are audited and certified in the customary manner by an independent practising chartered accountant.

8.5.3 A copy of the Annual Financial Statements and annual narrative report shall be made available to all members as soon as possible after the close of the financial year.

## **9. AMENDMENTS TO THE CONSTITUTION AND DISSOLUTION**

The terms of this Constitution may be amended, the name of the Association may be changed and the Association may be dissolved by resolution of sixty six per cent (66%) of the committee members present at a Committee or Annual General Meeting: provided that proper notice of the meeting is given not less than twenty-eight (28) days prior to the date of the Meeting and such notice states the nature of the resolution to be proposed.

## **10. INDEMNITY**

10.1 Subject to the provisions of any relevant statute, members of the Management Committee and other office bearers shall be indemnified by the Association for all acts done by them in good faith on its behalf. It shall be the duty of the Association to pay all costs and expenses which any such person incurs or becomes liable for as a result of any contract entered into, or act done by him or her, in his or her said capacity, in the discharge, in good faith, of his or her duties on behalf of the Association.

- 10.2 Subject to the provisions of any relevant statute, no member of the Management Committee and or other office bearer of the Association shall be liable for the acts, receipts, neglects or defaults of any other member or office bearer, or for any loss, damage or expense suffered by the Association, which occurs in the execution of the duties of his or her office, unless it arises as a result of his or her dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

**REQUIREMENTS OF THE COMMISSIONER FOR THE SOUTH AFRICAN  
REVENUE SERVICE FOR  
EXEMPTION FROM TAXES AND DUTIES**

As provided for in Clause 4.3 of this Constitution, the Association intends to apply to the Receiver of Revenue for the exemption from appropriate taxes and duties. In compliance with section 30 of the Income Tax Act, the following provisions shall bind the Association:

1. The Association shall carry out all its public benefit activities (or substantially the whole thereof) in the Republic, unless the Minister of Finance ("the Minister"), having regard to the circumstances of the case, directs otherwise.
2. No activity of the Association is intended to directly or indirectly promote the economic self-interest of any fiduciary or employee of the Association, otherwise than by way of reasonable remuneration payable to that fiduciary or employee
3. The Association shall carry on its activities in a non-profit manner.
4. Comply with such conditions, if any, as the Minister of Finance may prescribe by way of regulation to ensure that the activities and resources of the Association are directed in the furtherance of its objects.
5. Submit to the Commissioner a copy of and a copy of any amendment to this Constitution.
6. Be required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Association and no other single person directly or indirectly controls the decision making powers relating to that organisation.
7. In the event of the Association investing funds, invest such funds:
  - 7.1 with a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990); and/or
  - 7.2 in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985) ; and/or

- 7.3 in such other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations;

provided that the provisions of this sub-paragraph do not prohibit the Association from retaining any investment (other than any investment in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance.

8. Be prohibited from carrying on any business undertaking or trading activity, otherwise than to the extent that:

- 8.1 the gross income derived from such business undertaking or trading activity does not exceed the greater of :

8.1.1 fifteen percent (15%) of the gross receipts of the Association; or

8.1.2 twenty five thousand Rand (R25 000,00);

- 8.2 the undertaking or activity is:

8.2.1 integral and directly related to the sole object of the Association; and

8.2.2 carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost, and which would not result in unfair competition in relation to taxable entities;

- 8.3 the undertaking or activity, if not integral and directly related to the sole object of the Association as contemplated in clause 8.2.1, is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation; or

- 8.4 the undertaking or activity is approved by the Minister by notice in the Gazette, having regard to:

8.4.1 the scope and benevolent nature of the undertaking or activity;

- 8.4.2 the direct connection and interrelationship of the undertaking or activity with the sole purpose of the Association;
- 8.4.3 the profitability of the undertaking or activity; and
- 8.4.4 the level of economic distortion that may be caused by the tax-exempt status of the Association carrying out the undertaking or activity.
9. Be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on or any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
10. Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy, which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other Act administered by the Commissioner.
11. Has not and will not pay any remuneration as defined in the Fourth Schedule, to any employee, office bearer, member or other person, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.
12. Comply with such reporting requirements as may be determined by the Commissioner.
13. Take reasonable steps to ensure that the funds which it may provide to any association of persons as contemplated in section 30(b)(iii) of the Act are utilised for the purpose for which they are provided.
14. Become registered in terms of section 13(5) of the Non-Profit Organisations Act, 1997 (Act No. 71 of 1997), within such period as the Commissioner may determine, and

comply with any other requirements imposed in terms of that Act, unless the Commissioner in consultation with the Director or Nonprofit Organisations designated in terms of section 8 of the Nonprofit Organisations Act, 1997, on good cause shown, otherwise directs.

15. Has not and will not use its resources directly or indirectly to support, advance or oppose any political party.
16. Ensure that any books of account, records or other documents relating to its affairs are:
  - 16.1 where kept in book form, retained and carefully preserved by any person in control of the Association, for a period of at least four years after the date of the last entry in any such book; or
  - 16.2 where not kept in book form, are retained and carefully preserved by any person in control of the Association, for a period of four years after the completion of the transaction, act or operation to which they relate.

**GENERAL ADMINISTRATIVE AND INVESTMENT POWERS**

1. To employ staff and hire professional and other services.
2. To institute or defend any legal or arbitration proceedings and to settle any claims made by or against the Association.
3. To open and operate accounts with registered banks and building societies.
4. To make and vary investments and re-invest the proceeds of such investments on condition that any investments made by the Association shall be with Financial Institutions as defined in Schedule A Clause 7 above.
5. To accept donations made to the Association and retain them in the form in which they are received, or sell them and re-invest the proceeds.
6. With regard to movable and immovable property and tangible and intangible assets of whatsoever nature:
  - 6.1 to purchase or acquire property and assets;
  - 6.2 to maintain, manage, develop, exchange, lease, sell, or in any way deal with the property and assets of the Association;
  - 6.3 to donate and transfer the property and assets of the Association to organisations with the same or similar objectives and the same exemptions from taxes and duties to those of the Association.
7. To borrow and to use the property or assets of the Association as security for borrowing;
8. To guarantee the performance of contracts or obligations of any person on condition that any such person is primarily engaged in activities which further the objectives of the Association.
9. To execute any act or deed in any deeds registry, mining titles or other public office.
10. To work in collaboration with other organisations and to amalgamate with any organisation with the same or similar objectives and the same exemptions from taxes and duties to those of the Association.
11. To exercise all the management and executive powers that are normally vested in the Board of Directors of a Company.
12. To exercise all the powers and authority of the Association not only in the Republic of South Africa but in any other part of the world.

## SCHEDULE OF INITIAL MEMBERS

	<b>NAME</b>	<b>ADDRESS</b>	<b>DATE</b>	<b>SIGNATURE</b>
<b>1.</b>	Simon Todd (Chair)	86 Goedehoop str Nieuwoudtville 8180	6 June 2011	
<b>2.</b>	Christy Bragg (Treasurer)	86 Goedehoop str Nieuwoudtville 8180	6 June 2011	
<b>3.</b>	Noel Oettle	1 Neethling Street, Nieuwoudtville 8180	9 June 2011	
<b>4.</b>	Wendy Paisley	c.o. SANBI, Prvt Bag X7, Claremont 7735	9 June 2011	
<b>5.</b>	Clement Cupido	5 Adams Street Newton Wellington 7655	22 June 2011	
<b>6.</b>	Igshaan Samuels	62 Selbourne Place Monte Carlo Street Uitzicht 7550	22 June 2011	
<b>7.</b>	Schalk Louw	Department of Zoology & Entomology, University of the Free State, Bloemfontein	22 June 2011	
<b>8.</b>	Ute Schmiedel	Lornsenplatz 4, 22767 Hamburg / Germany	21 June 2011	
<b>9.</b>	Mandy Schumann	Nassau street, Nieuwoudtville, 8180	20 June 2011	
<b>10.</b>	Shahieda Davids	PO Box X7, Claremont, 7735	15 June 2011	