

CONSTITUTION of
STAKEHOLDERS IN METHYL BROMIDE REDUCTION (STIMBR)

October 2013 effective 1 January 2014

24 November 2015 amended by AGM – refer 10.2

1 NAME OF THE ORGANISATION

1.1 The full name of the organisation will be “Stakeholders in Methyl Bromide Reduction Incorporated”.

1.2 The organisation will be known by the short name of “STIMBR”.

2 OBJECTS

2.1 The objects of STIMBR are to lead, promote, support and co-ordinate initiatives aimed at enhancing market access and biosecurity clearances for goods and products while reducing the release of methyl bromide into the atmosphere and seeking long term reduction in its use.

2.2 In furtherance of these objects STIMBR may:

2.2.1 Act as a forum for the discussion of stakeholder interests and activities.

2.2.2 Inform government and the wider public as to the unique needs of New Zealand’s situation with regard to methyl bromide and the need for urgent action in the development of alternatives to methyl bromide, recapture technologies and other matters related to achievement of the aim of the organisation.

2.2.3 Seek funding to support its objectives.

2.2.4 Commission, co-ordinate, promote and publish research undertaken on alternatives to methyl bromide, recapture technologies and other initiatives to enhance the achievement of the aim of the organisation.

2.2.5 Develop and implement agreed outcomes for research activity into commercial activities used by industry.

2.2.6 Allocate and manage funds from subscriptions, levies and other contributions, to priority areas.

2.2.7 Undertake any other activities which from time to time are seen by STIMBR to be in the interests of the organisation and achievement of its aim.

3 MEMBERSHIP

3.1 Membership will comprise:

- 3.1.1 organisations with aims and objectives that are consistent with the objects of STIMBR (organisational membership as defined in clause 3.3) and
 - 3.1.2 individuals and overseas organisations that have an interest in furthering the aim of STIMBR (associate membership as defined in clause 3.4).
- 3.2 Application for membership either organisational or associate is to be made to the Board which shall have complete discretion to allow any organisation or individual to become a member. The Board's decision on membership applications shall be final.
- 3.3 Organisational membership
- 3.3.1 Each organisation on applying to join or renew its membership is required to select from the following groups the group that organisation wishes to be associated with for liaison and electoral purposes.
 - a) Consultants
 - b) Forest owners
 - c) Fumigant applicators and methyl bromide importers
 - d) Log exporters
 - e) Other importers and exporters
 - f) Ports
 - g) Researchers
 - h) Sawn timber exporters
 - i) Wood processors
 - 3.3.2 Government agencies may be invited by the Board of STIMBR to attend meetings as observers. Observers may be invited by the Chair to address meetings. Observers are not entitled to vote.
 - 3.3.3 Each member organisation on joining or renewing its membership will be entitled to nominate one person (the "representative") who will represent that organisation as a voting member of STIMBR for that financial year and will be the contact point between STIMBR and that organisation.
 - 3.3.4 Each organisational membership shall be entitled to one vote in any general meeting exercised by that member organisation's representative or proxy notified under clause 7.1. Other members of the member organisation may attend general meetings but will not be entitled to a vote.
 - 3.3.5 The Chair will determine the extent to which any non-voting individual may be extended speaking rights at a general meeting.

3.4 Associate membership

- 3.4.1 Associate membership shall be open to individuals in New Zealand and to members of overseas organisations that are interested in supporting the aim of STIMBR.
- 3.4.2 Subject to sub-clause 3.4.3, associate members will not be entitled to a vote on STIMBR matters, other than election of the Secretary/Treasurer and one other Board member at an AGM or SGM.
- 3.4.3 Associate members who are elected to hold office or be on any committee or working party of STIMBR will be entitled to a vote in that capacity.
- 3.4.4 An associate member's entitlement to vote remains only as long as they are an office holder or a member of a committee or a working party.

3.5 Subscription

- 3.5.1 The membership year of STIMBR shall be its financial year, which begins on 1 July of each calendar year.
- 3.5.2 Annual subscriptions for both categories of membership shall be determined by the Annual General Meeting (AGM) in respect of the membership year following that AGM and shall become payable for that membership year on 1 June and overdue for payment from 1 July.
- 3.5.3 Members whose subscription is overdue shall not be eligible to vote at any general meeting and if an organisational member's representative holds office in STIMBR or is a member of a committee that representative will be ineligible to participate in the affairs of STIMBR while the member's subscription is overdue.

3.6 Modes of ceasing to be a member

- 3.6.1 Organisations or individual members may resign at any time by notifying in writing the Secretary/Treasurer of STIMBR or any such person who may be designated by the STIMBR Board. Refund of any subscription paid in advance will be at the discretion of the Board.
- 3.6.2 Membership may be cancelled by the STIMBR Board where an organisation or individual fails to pay the annual subscription within four months of the due date.
- 3.6.3 Membership may be cancelled by the STIMBR Board where the STIMBR Board, after appropriate investigation (including providing the member an opportunity to respond to any allegation) believes that the member organisation or individual has brought STIMBR into disrepute or where their behaviour does not support the aim of STIMBR. No refund of membership subscription will be paid in these circumstances.

- 3.6.4 A non-exclusive list of examples of behaviour that may lead to membership being cancelled would include:
- (a) The proven or substantiated influencing of a decision affecting personal benefit in contravention of clause 18.
 - (b) The unreported declaration of a conflict of interest in contravention of clause 8 that materially affected or will affect the objectives/outcome of a decision-making process or the financial situation of STIMBR.
 - (c) Breach of any confidentiality agreement.

4 ANNUAL GENERAL MEETING

- 4.1 The Annual General Meeting shall be held no earlier than 1 September or later than 30 November in every year. Notice of the meeting and papers related to the business of the meeting shall be sent to all members at least three weeks prior to the date set.
- 4.2 All financial members of STIMBR shall be eligible to attend the Annual General Meeting.
- 4.3 Observers may be permitted to attend the Annual General Meeting at the discretion of the Chair.
- 4.4 With the exception of votes for election of the Secretary/Treasurer and one Board member to represent the membership generally, which shall be open to any associate member attending the meeting, only organisational members shall be entitled to vote at the Annual General Meeting unless the Chair and/or Secretary/Treasurer is an associate member in which case they shall be entitled to vote.
- 4.5 Group liaison selection and liaison committee.
- 4.5.1 Each of the groups set out in 3.3.1 above is requested to determine one person (who must be a representative of an organisational member) to be liaison person for their group prior to the Annual General Meeting and forward this name to the Secretary/Treasurer or other nominated person at least one week prior to the Annual General Meeting.
- 4.5.2 Where any of the groups above do not advise the Secretary/Treasurer or other nominated person of their liaison person in advance of the Annual General Meeting, the members of that group present at the Annual General Meeting shall elect a liaison person for that area from amongst the members of that group present.
- 4.5.3 Where there is disagreement at the Annual General Meeting as to who is the liaison person for any particular group, members present from that group will be offered the opportunity to withdraw and select a liaison person to represent their group. If this process does not result in an agreed representative then the members of that group present at the

Annual General Meeting shall elect a liaison person for that area from amongst the members of that group present.

4.5.4 The liaison person of each group will be responsible for ensuring good communication of the activities of STIMBR with all member organisations belonging to that group, including appropriate consultation on matters advised in advance for determination at an Annual General Meeting or Special General Meeting.

4.5.5 Each group liaison person, together with the Chair and Secretary/Treasurer, shall constitute the liaison committee which shall convene as required by the Board.

5 CONDUCT OF THE ANNUAL GENERAL MEETING

5.1 The Chair, or a person designated by the Chair, shall chair the Annual General Meeting.

5.2 The quorum shall be 25% of organisational members whose subscriptions are paid at the date of the AGM.

5.3 Proposals relating to changes in policy, membership subscription, or the constitution may be given effect by a simple majority of the Annual General Meeting provided all such proposals are circulated with the notice of meeting.

5.4 Every motion properly put to the meeting shall be decided in the first instance by the person holding the chair on the voices. If, after any motion has been put, the chair considers it desirable or any person present entitled to vote demands that the motion be decided by a ballot, a ballot shall be taken on the motion and the chair shall declare the result accordingly.

5.5 Business to be conducted at the Annual General Meeting shall include:

- (a) Consideration of the Chair's report on the activities of STIMBR in the previous financial year;
- (b) Consideration of the financial statements of STIMBR for the previous financial year;
- (c) Election of officers for the subsequent calendar year (such appointments to be for a period of one year);
- (d) Election of representatives to the liaison committee as necessary in terms of clause 4.4.2 and election of representatives to any working or focus groups for which a representative structure has been agreed;
- (e) Appointment of financial reviewer for the current financial year;
- (f) Establishment of the level of subscriptions for the next membership year;
- (g) Consideration of other such matters as have previously been circulated to all members of STIMBR in accordance with clause 4.1;

- (h) Such other business as may normally be expected to be conducted at an Annual General Meeting.

6 SPECIAL GENERAL MEETINGS

- 6.1 Special General Meetings of STIMBR may be called by the Board and held at such time and place as the Board determines for the purpose of considering, and if necessary, taking action with reference to any motion or business of which due notice has been given which may include election of replacement officers if a vacancy has occurred; changing the rules of STIMBR; determining or ratifying levies or fees.
- 6.2 A Special General Meeting shall be convened and held without delay other than the necessary time required to arrange and notify the meeting in terms of this constitution if not less than 25% of financial members so require by signed requisition delivered to the Secretary/Treasurer and stating in writing the matters required to be put before the meeting.
- 6.3 At least three weeks' notice in writing of the time and place so fixed for any Special General meeting of STIMBR and of the motions or business to be considered at such meeting shall be given by the Secretary/Treasurer to all financial members.
- 6.4 All financial members of STIMBR shall be eligible to attend any Special General Meeting of STIMBR.
- 6.5 Observers may be permitted to attend a Special General Meeting at the discretion of the Chair.
- 6.6 With the exception of votes for election of Secretary/Treasurer or Board member representing the membership generally, which shall be open to any associate member attending the meeting, only organisational members shall be entitled to vote at any Special General Meeting unless the Chair and/or Secretary/Treasurer is an associate member in which case they shall be entitled to vote.

7 PROXY VOTING

- 7.1 Where an organisational member representative is unable to attend any Annual General Meeting or Special General Meeting they shall be entitled to a proxy to represent the member organisation and exercise that member organisation's vote. Such proxy is to be notified in writing to the Secretary/Treasurer no later than two working days in advance of the General Meeting.

8 OFFICERS AND BOARD

- 8.1 The officers of STIMBR shall be a Chairperson (Chair) appointed by the Board for a term not exceeding two years who may be an independent person (not required to be an associate member of STIMBR) and a Secretary/Treasurer

elected at the annual general meeting of members to hold office for the calendar year following that general meeting or, if elected by special general meeting to fill a vacancy arising during the year, to hold office for the remainder of that year and the subsequent year. The maximum duration of successive terms by one person in either office will be 3 terms.

- 8.2 The Board will comprise the 2 officers together with one member elected by the membership at an AGM or SGM and representatives of the following member groups:

Wood processors – 1	(Clause 3.3.1(b))
Log exporters – 2	(Clause 3.3.1(c))
Other importers and exporters – 1	(Clause 3.3.1(e))
Forest owners – 1	(Clause 3.3.1(f))

all holding office for a term of one calendar year.

- 8.3 Elections for the representatives of member groups to the Board shall if more nominations are received than places available be held by ballot of those groups organised by the Secretary/Treasurer to conclude no later than 30 November for vacancies arising in the following calendar year.
- 8.4 The Board shall appoint a Vice-Chair from within its members. If this appointee represents an organisational member this shall not entitle that organisation to another representative or vote.
- 8.5 The Board shall have the right to co-opt up to two members of STIMBR who, subject to clauses 3.4.2 and 3.4.3, shall have the same rights and privileges as its other members. Such co-option will normally be utilised only to obtain specialist expertise that is not currently within the Board and will expire at the next Annual General Meeting.
- 8.6 Any casual vacancy occurring among members of the Board other than the Secretary/Treasurer may be filled by the Board.
- 8.7 The Board may delegate to any member or to any employee, contractor or agent of STIMBR implementation of a matter that has previously been agreed by the Board.

9 POWERS AND RESPONSIBILITIES OF OFFICERS AND BOARD

- 9.1 The Board shall be responsible for the efficient and effective management of the affairs of STIMBR in line with its objects.
- 9.2 The role of the Chair shall be to:
- (a) chair each meeting of the Board and the Annual General Meeting or any Special General Meeting;
 - (b) provide an annual report to the Annual General Meeting on the activities of STIMBR for the previous financial year;

- (c) act as spokesperson for STIMBR unless otherwise determined by the Board.
- 9.3 The Vice-Chair shall be responsible for chairing meetings of the Board and of members in the absence of the Chair.
- 9.4 The role of the Secretary/Treasurer shall be to ensure the following matters are attended to accurately and in timely fashion:
 - (a) keep the record of members;
 - (b) record and distribute the minutes of meetings of the Board and of members;
 - (c) maintain a Register of Conflicts of Interest;
 - (d) hold STIMBR's documents and records;
 - (e) receive and reply to correspondence as required by the Board;
 - (f) maintain the schedule of agreed levies, fees and subscriptions;
 - (g) prepare and issue invoices for levies, fees and subscriptions;
 - (h) receive levies, fees and subscriptions and other forms of income related to the activities of STIMBR;
 - (i) maintain accurate financial records of all STIMBR transactions;
 - (j) prepare and arrange for scrutiny by the financial reviewer of the annual financial statements for each financial year at the end of which the Secretary/Treasurer holds office;
 - (k) provide a set of financial statements and report from the financial reviewer to members at the Annual General Meeting.
 - (l) Undertake reporting required under the Incorporated Societies Act 1908 or any substituted enactment.
- 9.5 The Board may employ staff and/or engage contractors to expedite the business of STIMBR.
- 9.6 The Board shall have such other powers as may be necessary for the efficient and effective administration of STIMBR.
- 9.7 The Board shall have power to establish such committees comprising members of STIMBR as shall appear to it to be desirable and to delegate to such committees responsibilities including allocation of funding to programmes and projects, but so that any such committees remain accountable to the Board and are required to report their decisions to the Board in writing. Decisions if made within the scope of the committee's delegation may not be overturned by the Board.

- 9.8 The Board shall have power to appoint representatives of STIMBR (who may include employees of or contractors to STIMBR) to working parties or external committees in which STIMBR has an interest and such representatives may be required to provide reports to the Board on their participation in such working parties or external committees.
- 9.9 The Board may initiate and support working parties or committees which include non members of STIMBR for purposes which the Board judges to be in the interest of achieving STIMBR's objects.

10 MEETINGS OF THE BOARD

- 10.1 The Board shall meet at least 4 times a year. Meetings may be by teleconference or videoconference.
- 10.2 A quorum of the Board shall consist of ~~5~~ 4 members **one of whom must be one of the Log Exporter members or their nominated proxy. [Amended; 24 November 2015 AGM].**
- 10.3 Decisions shall, in the first instance, be taken by a simple majority of those present and voting.
- 10.4 At meetings the Chair (or Vice-Chair if presiding) shall have both a casting and deliberative vote.
- 10.5 Resolutions may also be circulated to all members of the Board and if signed by a majority shall be considered to have been decided by the Board as effectively as if at a meeting.
- 10.6 Expenses of members of the Board in attending meetings of the Board may be paid by STIMBR on provision of appropriately supported expense claims, shall not be considered to be in breach of the rule concerning personal benefit.

11 CONFLICTS OF INTEREST

- 11.1 Members elected or appointed to office or the Board or to any committee or working party established by the Board shall declare to the Secretary/Treasurer relevant interests known to them that are or may become conflicts of interest and those interests shall be recorded in the Register of Conflicts of Interest.
- 11.2 An office holder or member of any committee or working party who has a conflict of interest or potential conflict of interest in respect of a transaction entered into, or to be entered into must, prior to the relevant discussion(s):
- (a) remind the committee or working party concerned of the interest or if not already recorded, declare that interest to the Secretary/Treasurer and have it recorded in the Register of Conflicts of Interest and in the minutes of the particular meeting.
 - (b) refrain from voting on the matter.

- 11.3 The committee or working party concerned shall have the ability to decide by a simple majority on a case-by-case basis whether it is appropriate that the conflicted or potentially conflicted member takes part in any discussion and/or elaboration of a particular related motion.

12 FINANCES

- 12.1 The financial year of STIMBR shall end on 30 June.
- 12.2 The funds of STIMBR shall be held and managed in accordance with generally accepted financial practices, including regular reconciliation of accounts.
- 12.3 Accurate and up to date statements of account shall be made available to each Board member at least two days before each scheduled meeting of the Board. Should a financial member request access to the accounts in writing to the Secretary/Treasurer. The latest such statement of account shall be provided to that member as promptly as practicable following receipt of the request.
- 12.4 A financial reviewer who shall be a chartered accountant independent of the officers and Board members shall be appointed by the Annual General Meeting. The Board may fill any casual vacancy in the office of financial reviewer.
- 12.5 It shall be the duty of the financial reviewer to report annually to the members of STIMBR whether the financial statements present a true and fair view of the state of STIMBR's financial affairs.
- 12.6 It shall be the responsibility of the Secretary/Treasurer to provide annually a reviewed financial statement for the previous financial year together with a budget for the following year. These documents shall be presented to the Annual General Meeting after their circulation to all members.

13 COMMON SEAL AND EXECUTION OF DOCUMENTS

- 13.1 The Common Seal shall be in the custody of the Secretary/Treasurer or held by an agent or appointee of STIMBR authorised by the Secretary/Treasurer.
- 13.2 Any document requiring execution under seal shall be approved by the Board and signed by two members of the Board as witness to the application of the seal.
- 13.3 Other written agreements with third parties shall be signed by at least two members of the Board.

14 CONFIDENTIALITY

- 14.1 All members shall be bound by such confidentiality agreements as may be approved by the STIMBR Board in relation to any research or other publications as may evolve from STIMBR activities.

- 14.2 Should a person or organisation cease to be a member of STIMBR whether by resignation or cancellation of their membership, all rights and obligations prior to such resignation or cancellation will not be affected. In particular, all confidentiality obligations of the member shall survive their resignation or cancellation of membership.

15 **DISPUTE RESOLUTION**

- 15.1 If a dispute arises out of or in relation to this Constitution (other than a dispute which is to be resolved in accordance with express provisions set out elsewhere in this Constitution) ("the Dispute") no party may commence any court or arbitration proceedings relating to the Dispute unless it has complied with the following paragraphs of this clause, except where the party seeks urgent interlocutory relief.
- 15.2 A party claiming the Dispute has arisen under or in relation to this Constitution must give written notice to the Chair and Secretary/Treasurer specifying the nature of the Dispute.
- 15.3 On receipt of that notice, the Chair and the parties involved in the Dispute will use all reasonable endeavours to resolve the Dispute by discussion, consultation, negotiation or other informal means.
- 15.4 If the Chair and the relevant parties are unable to resolve the Dispute by negotiation within ten working days of the notice being given pursuant to clause 15.2 (or within such further period agreed in writing by the parties) then the relevant parties shall refer the Dispute to mediation. The mediator shall be appointed by the parties involved in the Dispute but where the parties cannot agree within a period of five working days of first attempting to do so, then the chairperson of the New Zealand chapter of LEADR (Leading Edge Alternative Dispute Resolvers) shall appoint a mediator.
- 15.5 If the Dispute is not resolved within ten Working Days of being referred to mediation in accordance with clause 15.4 (or within such further period agreed in writing by the parties involved in the Dispute) any party involved in the Dispute may, by giving written notice to the other parties involved, require the Dispute to be determined by the arbitration of a single arbitrator. The arbitrator will be appointed by the relevant parties or, failing agreement within five working days of the notice requiring arbitration, by the President of the New Zealand Law Society on application of any party involved in the Dispute. The arbitration will be conducted as soon as possible and in accordance with the provisions of the Arbitration Act 1996.

16 **GOVERNING LAW**

- 16.1 This Constitution shall be governed by the law of New Zealand and all members will submit to the non-exclusive jurisdiction of the courts of New Zealand.

17 **PERSONAL BENEFIT**

- 17.1 No member of STIMBR or any person associated with a member shall participate in or materially influence any decision made by STIMBR in respect of the payment to or on behalf of the member or associated person of any income, benefit or advantage whatsoever.
- 17.2 It shall be open to STIMBR to engage a member or person associated with a member to perform services required by STIMBR for remuneration (subject to the above restriction). Any such remuneration paid shall be reasonable and relative to that which would be paid in an arms length transaction (being the open market value). The provisions of this clause shall not be removed from these rules and shall be included and implied into any rules replacing these rules.

18 **WINDING UP**

- 18.1 If upon the winding up or dissolution of STIMBR there remains after the satisfaction of its debt and liabilities any property or funds whatsoever, the same shall be distributed between those members of STIMBR which have paid levies to STIMBR in either or both of the two years preceding the winding up, in proportion to the amount of levies paid over that period.
- 18.2 In the event that a levy payer described in 18.1 has at the time of winding up ceased business without a legal successor, the proportion due to that levy payer shall be transferred forthwith to the Environmental Protection Authority (EPA) or to such other organisation with aims similar to that of STIMBR as may be approved by a general meeting of STIMBR. Once distributed, such property or funds are to be used towards the advancement of knowledge or other activities in such a way as the governing body of the EPA or the other organisation may decide.

19 **ALTERATIONS TO RULES**

- 19.1 This Constitution may be altered and amended from time to time with the exception of clause 17 (Personal Benefit) and 18 (Winding Up) which may be amended only with prior approval of the Inland Revenue Department. Such alterations or amendments shall be made only at the Annual General Meeting or Special General Meeting after the giving of due notice as required by this Constitution subject to the following conditions:
- 19.2 Notice stating the general tenor of any proposed alterations or additions to this Constitution shall be given to each member as part of the notice of meeting.
- 19.3 The meeting may amend any such proposals provided such amendments do not materially change the intent of the proposal. Decisions on whether the proposal has been materially changed or not will rest with the Chair.
- 19.4 Proposals relating to changes in this Constitution may be given effect by a simple majority of the members present at the Annual General Meeting or Special General Meeting and entitled to vote.