

**CONSTITUTION**

**OF THE**

**KWAZULU NATAL EVENTING**

**ASSOCIATION**

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## 1. CONSTITUTION, NAME AND CORPORATE PERSONALITY

- 1.1. This is the Constitution of the body known as the "KWAZULU NATAL EVENTING ASSOCIATION" (*herein after referred to as KZNEA – KZN EVENTING*), which Association is the Provincial body duly recognised by the South African Equestrian Federation.
- 1.2. **KZNEA** is a voluntary Association having a corporate identity separate from that of its Members and is entitled to own property, whether movable or immovable or otherwise, and is entitled to sue and to be sued in its own name and, notwithstanding any change in the composition of its Members from time to time, shall have perpetual succession. Its Members cannot be held responsible individually for any action taken by the Association i.e. a Member cannot sue or be sued on behalf of, or in the name of the Association.
- 1.3. The provisions of this Constitution are founded upon and shall be implemented and administered in the recognition of human dignity, equality and the advancement of human rights and freedoms, non-racialism, non-sexism and the right of freedom of association and the supremacy of the Constitution of the Republic of South Africa (1996), the rule of law and good corporate governance.

## 2. DEFINITIONS AND ABBREVIATIONS USED

For the purposes of this Constitution, the following words and expressions shall have the following meanings unless the subject or context indicates otherwise:

- 2.1 "Act of Parliament" refers to the National Sport and Recreation Act, (Act No 110 of 1998) and the National Sport and Recreation Amendment Act (Act No 18 of 2007), also referred to as "The Act".
- 2.2 "A.G.M." means the Annual General Meeting of Members held in accordance with the provisions of this Constitution.
- 2.3 "Appeal Board" means a body of appeal appointed by the Council in terms of this Constitution.
- 2.4 "Associate Members" means all those associations or organisations having the same or similar objectives as **KZNEA** and having their National Office within the area of jurisdiction of **KZNEA**, which bodies have made application and have been accepted as Associate Members of **KZNEA** in terms of the provisions of this Constitution.
- 2.5 "Annual Financial Statements" means the annual audited balance sheet, income and expenditure account, Treasurer's report and Auditor's report.
- 2.6 "Club" means any Equestrian club, which caters for the discipline of Eventing in a district, as contained in this Constitution
- 2.7 "Compliance" means that the member Province, club and individual has fulfilled the necessary provisions of this Constitution in regard to specific requirements as contained herein, and as such is regarded as being in good standing with **KZNEA**.

- 2.8 "Constitution" means this Constitution.
- 2.9 "**KZNEA** Council" means the executive committee as constituted in terms of this constitution
- 2.10 "ESA" means the sport of Eventing – Eventing South Africa.
- 2.11 "ESA" means the body recognised by the SAEF as the organisation responsible for Eventing in the Republic of South Africa, and as referred to in this Constitution.
- 2.12 "Day" means a calendar day. "Working day" means a calendar day excluding Saturdays, Sundays and Public Holidays.
- 2.13 "Event" means an Eventing event held under the auspices of **KZNEA & ESA** & affiliated to SAEF & FEI.
- 2.14 "Event Organizer" means a person duly authorised to manage an event on behalf of **KZNEA** either directly or indirectly through its members.
- 2.15 "FEI" means the *Fédération Equestre Internationale*
- 2.16 "Honorary Life Members" means all those persons bestowed with this honour by the General Council of ESA, and shall include any persons to whom this honour was bestowed prior to the acceptance of this Constitution.
- 2.17 "KZNEA" shall mean the Western Cape Eventing Association
- 2.18 "Levies" means the monies levied and due by the membership to ESA, which shall include the SAEF Membership fee, and as approved and agreed to by membership at each Annual General Meeting of ESA.
- 2.19 "Member" shall mean an Ordinary Member, Special Member or an Associate Member.
- 2.20 "Month" means a calendar month.
- 2.21 "National Sport Federation" means the national governing body of the Sport in membership of SASCOC, and recognised by the Department of Sport and Recreation in the Republic of South Africa.
- 2.22 "National Office" means the head office of ESA as defined in this Constitution.
- 2.23 "Ordinary General Meeting" means a meeting convened in terms of this Constitution.
- 2.24 "Ordinary Members" means those members duly accepted as members in terms of the geopolitical demarcations as set out in this Constitution.
- 2.25 "OC or Organising Committee" shall mean those persons who have been duly authorised by ESA &/or KZNEA either directly or through their provincial membership to stage an ESA event inclusive of the hosting, managing, organising, planning, and supervision of such an event.

- 2.26 "Patrons" shall mean a person duly appointed as such in terms of this Constitution.
- 2.27 "Person" means a natural or legal person.
- 2.28 "President" means the President of KZNEA, duly elected in terms of this Constitution.
- 2.29 "Province" means one of the nine (9) geopolitical areas as defined in Section 103 of the Constitution of the Republic of South Africa 1996 (as amended).
- 2.30 "**KZNEA** district" shall mean a district **KZNEA** body established in its designated Province or part of a Province for the purpose of organising and coordinating activities in a particular district within its respective Province.
- 2.31 "Provincial ESA member" means a duly constituted body consisting of more than one club within a Province associated with each other for the special and specific purpose of liaison and communication with the sporting codes of that Province, and the Department of Sport and Recreation in that Province.
- 2.32 "Athlete" shall mean the individual, together with his horse which shall be regarded as one competitor.
- 2.33 "Rules & Regulations" means the rules and regulations of EVENTING SOUTH AFRICA.
- 2.34 "S.A.E.F" means the South African Equestrian Federation.
- 2.35 "S.A.I.D.S." means the South African Institute for Drug-Free Sport.
- 2.36 "S.A.S.C.O.C." means the South African Sport Confederation and Olympic Committee duly recognized and approved by the Department of Sport and Recreation as the governing body of Sport in the Republic of South Africa.
- 2.37 "Special General Meeting" means a meeting convened in terms of this Constitution.
- 2.38 "Special Member" shall mean a body of persons representing current KZNEA, coaches or officials in the discipline of Eventing under the auspices of ESA, irrespective of age category.
- 2.39 "S.R.S.A.", means the Department of Sport & Recreation in South Africa.
- 2.40 "Treasurer" means the person either elected or employed in terms of the provisions of this Constitution.
- 2.41 "Vice-President" means the Vice-President of KZNEA as defined in this Constitution.
- 2.42 "W.A.D.A" means the World Anti-Doping Agency.
- 2.43 "Year" means a calendar year.

2.44 Any words purporting one gender includes the other.

2.45 “Secretary” means the person either elected or employed in terms of the provisions of this Constitution.

### **3. INTERPRETATIONS**

3.1 The headings to the clauses or paragraphs of this Constitution are for descriptive purposes only and shall not be used in the interpretation hereof.

3.2 Unless the context indicates a contrasting intention, the singular shall include the plural and vice versa.

### **4. HEADQUARTERS**

The Provincial Office Headquarters shall be at the residential address of the duly elected Secretary of KZNEA, in the Republic of South Africa, and shall remain at that place until the Council shall decide that the KZNEA Office shall be moved to another place, provided that the KZNEA Office shall always be at a place within the Province of KwaZulu Natal.

### **5. AREA OF JURISDICTION OF KZNEA**

The geographical area of jurisdiction of KZNEA shall be the Province of KWAZULU NATAL in the Republic of South Africa and any country outside of South Africa where KZNEA Riders are competing.

### **6. OBJECTIVES OF KZNEA**

The objectives of KZNEA are:

6.1 To be and to operate and function as the autonomous controlling and administrative body of the sport of Eventing within the area of its jurisdiction.

6.2 to direct, develop, promote and administer the Sport of Eventing, within the area of its jurisdiction in accordance with sound business and financial principles;

6.3 to ensure that the encouragement, promotion, development and administration of the Sport of Eventing, whether same be at National Provincial, District or Local level, is carried out in accordance with the principles of non-racism, by which it is meant that race ethnicity and nationality shall not be a basis for discriminating against or of affording privileges to any one person or group of persons, such principles are more fully set out in the Rules and Regulations of ESA.

6.4 To promote sportsmanship and fair play at all levels of the sport, free of any interference.

6.5 to apply annually to be a member of SAEF and to abide by their Constitution, Rules and Regulations.

6.6 To advance the objects of the sport of Eventing.

- 6.7 To uphold and enforce the rules of EVENTING and to encourage and promote the highest standard of sporting behaviour within Eventing.
- 6.8 To uphold and enforce any code of conduct pertaining to the sport of Eventing approved by the FEI.
- 6.9 To encourage the development, training and appointment of coaches at all levels within the Equestrian community.
- 6.10 To select representative Athletes at all levels for participation in any Events whether same be local or international.
- 6.11 To award Provincial Colours, and to approve National/International Colours to SAEF, who in their turn submits the recommendations to SASCOC, in terms of the criteria laid down in the Rules and Regulations.
- 6.12 To recognise and accept the jurisdiction, rules and regulations of the South African Institute for Drug-free Sport (“SAIDS”) as well as the code of the World Anti-Doping Agency (“WADA”) and the Equine Anti-Doping and Controlled Medication Regulations as may be amended from time to time.
- 6.13 To promote the appointment, training and education of Officials.

## **7. MEMBERSHIP**

- 7.1 KZNEA consists of three categories of members, and one category of Athletes, namely:
  - 7.1.1 Ordinary Members, shall be those members as defined by their geopolitical areas and made up of their Provincial Club structures as set out in this Constitution, and as such they shall be obliged to promote, develop and participate in the sport of Eventing, as well to ensure the development of Athletes through constructive coaching and capacity building. Each Eventing Provincial Structure in South Africa that complies with the principles as set out in this constitution will be accepted as an Ordinary Member.
  - 7.1.2 The Athletes Commission means a body representative of active athletes/ participants known as the Athletes’ Commission, and established from individual athletes participating in ESA, as defined in this Constitution.
  - 7.1.3 Associate Member(s) shall comprise those bodies who have made application and been accepted as Associate Members to the Sport of Eventing, and are recognised as a body specifically catering for their membership within a confined organisation and/or area, namely the Defence Force, Police Force, Schools and Tertiary Education and any other body duly accepted. An application may be made to the ESA Council in the form determined by the Council from time to time, enclosing a copy of its duly adopted Constitution, a declaration that it will adhere to the Constitutions of SASCOC, the SAEF, ESA & KZNEA a complete membership list and such other information as may be required by the ESA Council. The Application shall be submitted for affiliation to the next ESA Council meeting for consideration and the ESA Council shall in turn submit all such applications, with a recommendation, to the next Annual General Meeting.

- 7.1.4 Athlete(s) shall mean each individual participant in the sport, who together with his horse shall make up one competitor. It is a requirement for such an Athlete to be a member of an Equestrian Club after which the Athlete will be allowed to join ESA by way of filling out the required application form as may be produced by ESA and amended from time to time. ESA may levy a fee against such Athlete, (inclusive of SAEF fees) at its discretion and such Athlete, whether or not a fee was levied and / or paid but upon acceptance of such application, shall be subject to this Constitution and any Rules and Regulations of ESA. The aforesaid fees shall be collected directly by ESA by way of any mechanism that it may establish for such purpose.
- 7.1.5 ESA may, by a majority vote taken at an Annual General Meeting or a Special General Meeting convened inter alia for this purpose, grant associate membership status to any other association operating on a national level provided that no associate membership shall be granted to an association with the same aims and objectives as ESA.
- 7.1.6 ESA may, by a two-thirds majority vote taken solely for this purpose, withdraw its recognition of any associate member contemplated in this Constitution, in which event; the relevant association will cease, forthwith, to be an associate member of ESA.
- 7.1.7 In matters of mutual interest, ESA and any members may, if the need arises, enter into a written agreement covering specific issues for the benefit of the Sport and its members.

7.2 The current Ordinary Members shall be the Clubs in these geopolitical areas:-

- Ugu (Port Shepstone)
- Umgungundlovu (Pietermaritzburg)
- Uthukela (Ladysmith)
- Umzinyathi (Dundee)
- Amajuba (Newcastle)
- Zululand (Ulundi)
- Umkhanyakude (Mtubatuba)
- UThungulu (Richards Bay)
- iLembe (Kwa Dukuza)
- Sisonke (Ixopo)
- Ethekewini (Durban)

7.3 The jurisdictions of Ordinary Members shall be limited by the boundaries of the provinces, in compliance mutatis mutandis with SASCO, they presently represent but shall, within a period of two years from adoption of their Provincial Constitution, fall within the above mentioned geo-political Districts.

## **8. POWERS OF KZNEA TO CARRY OUT ITS OBJECTIVES**

- 8.1 KZNEA shall have all such powers and authorities as shall be necessary or desirable or conducive of achieving any and all of the objects of KZNEA. These powers and authorities shall be exercised by the KZNEA Council and/or by the CEO and/or by any duly constituted sub-committee in accordance with and subject to the provisions of this Constitution and the Act. Without in any way limiting the generality of the aforementioned, the powers and authorities of KZNEA shall include those set out in Clauses 8.2 to 8.18 below.
- 8.2 To acquire by purchase, exchange, hire, sub-lease, donation or otherwise movable and/or immovable property of any kind.



- 8.3 *To sell, let, mortgage, dispose of, give in exchange, turn to account or otherwise deal with all or any part of the property or rights of KZNEA.*
- 8.4 To enter into contracts of any and all kinds necessary to carry out, give effect to or secure the objects of KZNEA.
- 8.5 From time to time, in accordance with sound business and financial principles to invest the funds of KZNEA in such property or assets or other security as may be deemed advisable.
- 8.6 To employ, suspend or dismiss and remunerate employees, professional assistants and experts.
- 8.7 To arrange allowances, gratuities and bonuses to employees or ex-employees of KZNEA or the dependants of such persons, and to support or subscribe or make donations to any charities or other institutions, clubs, societies and funds.
- 8.8 To regulate relations between its Members and KZNEA or its members or individual Eventing Athletes.
- 8.9 To invite the patronage of any person or persons as it may consider advisable.
- 8.10 To insure against losses, damage, risk and liability of all kinds.
- 8.11 To draw, make, accept, endorse, execute, negotiate and issue cheques, promissory notes, bills of exchange, warrants and other negotiable or transferable instruments.
- 8.12 To institute, conduct, defend, compound or abandon any legal proceedings by and against KZNEA or its officers or otherwise concerning the affairs of KZNEA, or the action of its Members, and also compound and allow time for payment or satisfaction of any debts due or any claims or demands made by or against KZNEA.
- 8.13 To raise money whether by subscription or levies which are to be paid to KZNEA by the 1<sup>st</sup> day of January of each year from its Members inclusive of clubs, tertiary institutions, and or any other associations or organisations which are affiliated directly or indirectly to KZNEA on behalf of ordinary Eventing Athletes who are members of the bodies referred to above, as well as to obtain funding from any other source, and to recover by legal process monies due by any of the above.
- 8.14 To contribute or subscribe to bodies with aims similar to the aims of KZNEA and invest monies upon such security and in such manner as it may from time to time determine.
- 8.15 To borrow and guarantee or otherwise secure the repayment of money in such manner and in such terms as it may think fit.
- 8.16 To take all such action as may be required or necessary to enforce fully and effectively all obligations of whatsoever nature and howsoever arising which may be owed to KZNEA by its Members, former Members or any other persons or body.

## **9. VOTING RIGHTS**

- 9.1 The voting rights set out in this clause shall apply in respect of any and all meetings of the Council.
- 9.2 Ordinary Members shall each have 1 (one) vote.
- 9.3 Athletes Representative shall have 1 (one) vote.
- 9.4 Associate Members shall each have 1 (one) vote.
- 9.5 Honorary Life Members may only vote in connection with any motion to terminate the Membership of any Honorary Life Member, and shall each have 1 (one) vote.
- 9.6 Only Members whose representatives are personally present at the meeting concerned shall have the right to vote.
- 9.7 Each Special Member, Ordinary Member or Associate Member will be entitled to nominate one representative to attend and to vote at any general meeting. Such nominations shall be in writing and must be received by the National Office not less than 72 (seventy-two) hours prior to the time for the commencement of that meeting.

## **10. ANNUAL GENERAL MEETING ("A.G.M.")**

- 10.1 An A.G.M. shall be held once in every year provided that not more than fifteen months shall elapse between one A.G.M. and the next.
- 10.2 The KZNEA Council shall decide the date, time and place on which each A.G.M. shall be held, provided that unless there is good reason to the contrary, it shall be held at a venue to be determined by the KZNEA Council at such other place as the Council may determine and that the A.G.M. must be held within 4 (four) months from the end of the financial year.
- 10.3 The following persons shall be entitled to attend and speak at the A.G.M.:
  - 10.3.1 All members of KZNEA Council
  - 10.3.2 Not more than 1 (one) representative of the Special Members, and not more than 1 (one) representative of the Associate Members.
  - 10.3.3 The Patrons.
  - 10.3.4 All Honorary Life Members
  - 10.3.5 Any other person who may be invited by the KZNEA Council to do so.

- 10.3.6 A Representative of the SAEF
- 10.4 The business to be transacted at an A.G.M. shall be:
  - 10.4.1 To read the notice convening the Meeting
  - 10.4.2 To read and confirm the Minutes of the previous A.G.M., Special General and General meetings, and to consider any matters arising therefrom
  - 10.4.3 To receive and consider the Annual Report of the President, for the period since the date of the previous A.G.M.
  - 10.4.4 To adopt with or without modification, the audited Annual Financial Statements for the period since the date of the previous A.G.M., provided that if not so adopted the Annual Financial Statements shall stand for consideration and adoption, with or without modification, or rejection by the Council at an Ordinary General Meeting or by the KZNEA Council as per the decision of the A.G.M. .
  - 10.4.5 To appoint the auditors of KZNEA for the period until the next A.G.M.
  - 10.4.6 To consider and to adopt with or without modification, or to reject any recommendations of the KZNEA Council
  - 10.4.7 To consider all nominations by the ESA Council of persons to be Patrons or Honorary Life Members and to accept or to reject any such recommendation or nomination
  - 10.4.8 To elect the KZNEA Council in terms of clause 15 as read with clause 16
  - 10.4.9 To discuss and consider any matter of which 30 (thirty) days written notice has been given.
- 10.5 Notice of each A.G.M. shall be sent to all the Members, Members of the KZNEA Council, Patrons and Honorary Life Members not less than 30 (Thirty) calendar days prior to the date of the A.G.M.
- 10.6 Not less than 14 (fourteen) calendar days prior to the date of any A.G.M., copies of the Agenda for that A.G.M. and the Annual Financial Statements for the financial year preceding the date of the A.G.M. shall be disseminated to all Members, Patrons and Honorary Life Members by post, and/or by hand, and /or by fax, and/or by electronic mail.

## **11. ORDINARY GENERAL MEETINGS ("O.G.M'S")**

- 11.1 Subject to the terms of this Constitution the KZNEA Council shall be the highest authority of KZNEA and shall determine its policy, decide upon its budget and give directives to the Management Committee.
- 11.2 The following persons shall be eligible to attend and speak at meetings of the Council:
  - 11.2.1 All the persons referred to in clause 10.3 save those referred to in sub-clauses 9.

- 11.3 Notwithstanding anything to the contrary herein, no Honorary Life Member shall be entitled to attend or speak at the Ordinary General Meeting but may do so upon the invitation of the KZNEA Council.
- 11.4 Notice of any Ordinary General Meeting of the Council shall be sent to Ordinary, Special and Associate Members not less than 21 (twenty-one) calendar days before the date of such meeting which notice shall be accompanied by a proposed agenda as recommended by the KZNEA Council.
- 11.5 The text of any motion which any Member wishes to be put to and be considered by any Ordinary General Meeting shall be received not less than 14 (fourteen) calendar days prior to the date of such meeting by the National Office who shall disseminate it by post and /or by hand, and/or by fax, and/or by electronic mail, together with the final agenda to all Ordinary Members, Special Members and Associate Members, not less than 10 (ten) calendar days prior to such date.
- 11.6 The business to be transacted at the O.G.M. shall be:
- 11.6.1 to read the notice convening the meeting;
  - 11.6.2 to read and confirm, with or without amendments, or to reject the minutes of the previous Ordinary General Meeting as the case may be, as well as the minutes of any S.G.M. held in the interim, and to consider any matters arising there from;
  - 11.6.3 to consider and to adopt, with or without modification, or to reject, any Resolution of which due notice has been given;
  - 11.6.4 to consider and to adopt with or without modification or to reject the budget for the ensuing year which shall have been prepared by the Treasurer and considered and recommended by the KZNEA Council;
- 11.7 no resolution which has the effect of creating, amending or repealing a by-law, regulation or standing rule shall be binding unless the notice thereof has been given in terms of 11.6 hereof or such resolution has been ratified at the next Ordinary Council meeting.

## **12. SPECIAL GENERAL MEETINGS ("S.G.M.'s")**

- 12.1 An S.G.M. of Members shall be convened:
- 12.1.1 By resolution of the KZNEA Council, or
  - 12.1.2 Upon the written requisition of not less than 5 (five) Members, delivered to the National Office provided that such written requisition shall state the exclusive purpose for which the S.G.M. is to be called and the text of the motion to be put to the meeting.
- 12.2 Within 14 (fourteen) days after receipt of the resolution or requisition, the General Secretary shall send written notification to all Members, which notice shall specify the date, time and place of the

S.G.M., (which date, time and place shall have been determined by KZNEA Executive Council) provided that the date shall not be more than 21 (twenty-one) days and not less than 7 (seven) days after the date of posting the notice, together with written notification of the purpose of and measures to be transacted at the S.G.M. and the text of the motions to be put to and considered by the meeting

- 12.3 No business other than that stated in the notification, referred to in sub-clause 12.2, shall be transacted at the S.G.M.
- 12.4 Only the persons referred to in 11.3 excluding those referred to in sub-clause 11.3.5 shall be entitled to attend and speak at S.G.M.'s.

### **13. GENERAL PROVISIONS RELATING TO A.G.M.'s, ORDINARY GENERAL MEETINGS & S.G.M.'s.**

- 13.1 The following provisions shall apply to all A.G.M.'s, O.G.M.'s and S.G.M.'s:
- 13.1.1 A.G.M.'s, O.G.M.'s and S.G.M.'s shall, subject to the terms of this constitution, be held at such time and place as shall be decided by the KZNEA Council.
- 13.1.2 The chairperson of any A.G.M., O.G.M., or S.G.M. shall be the President or in his or her absence the Vice-President, or in his or her absence such other person as shall be elected for that purpose by the representatives of Members present at the Meeting and entitled to vote.
- 13.1.3 Each member of the KZNEA Council shall have 1 (one) vote and the Chairperson of any general meeting shall have 1 (one) vote, in that capacity, and a second or casting vote in the event of an equality of votes.
- 13.1.4 A quorum shall consist of 50% (fifty per centum) plus 1 (one) of the Ordinary Members in good standing.
- 13.1.5 If a quorum shall not be present at the place of the meeting within 30 (thirty) minutes after the time set for commencement of the meeting, or the Member is not present during the meeting, until the proceedings have been duly declared to have been concluded so by the President, the meeting if convened upon the requisition of Ordinary Members, shall be dissolved; in any other case, it shall stand adjourned to a date not earlier than 5 (five) calendar days and not later than 15 (fifteen) calendar days after the date of that meeting, and, at such adjourned meeting the representatives of Ordinary, Special and Associate Members present and entitled to vote, shall constitute a quorum and may transact the business of that meeting.
- 13.1.6 Where a meeting has been adjourned as aforesaid, the Secretary shall, upon a date not later than 3 (three) calendar days after the adjournment disseminate a written notice to each Member stating:

- 13.1.6.1 the date, time place to which the meeting is adjourned;
- 13.1.6.2 the matter before the meeting, when it was adjourned;
- 13.1.6.3 the grounds for the adjournment; which notice shall have been settled by the President.

13.1.7 Voting shall be on a show of hands unless a poll be demanded by representative of not less than 40% (forty per centum) of Members represented and entitled to vote, and in such event, the poll shall be conducted in such manner as the Chairperson of the meeting shall decide.

## **14. THE KZNEA COUNCIL**

14.1 The KZNEA Council shall consist of the following persons:

- 14.1.1 The President,
- 14.1.2 The Vice-President,
- 14.1.3 The Treasurer,
- 14.1.4 The Secretary,
- 14.1.5 A Representative of the Athletes commission

14.1.6 Provided that at no stage shall there be less than 2 (two) women who shall occupy any of the positions referred to above.

14.1.7 Minimum of 5 (five) and Maximum of 8 (Eight) members holding the following portfolios.

These members will not have any voting rights on the KZNEA Council. The Provincial Presidents may not hold one of the following portfolios.

- 14.1.7.1 Development and Transformation
- 14.1.7.2 Technical and Coaching Portfolio
- 14.1.7.3 Judges' and Officials'
- 14.1.7.4 International Affairs
- 14.1.7.5 Venue and Schedules
- 14.1.7.6 Marketing and Advertising
- 14.1.7.7 Liaison, Public Relations and Communications
- 14.1.7.8 Veterinary and AHS

- 14.1.8 The KZNEA Council shall have the right to appoint, where needed, the following sub-committees, or distribute the portfolio among the members of the Council.
- 14.1.8.1 Provincial Selection Committee
  - 14.1.8.2 Provincial Technical Committee
  - 14.1.8.3 Provincial Disciplinary Committee
  - 14.1.8.4 Provincial Appeal Board
- 14.1.9 Any individual who is a Provincial President of SAEF may not at the same time be a member of the KZNEA Council. (***they may but without a vote***)
- 14.2 The KZNEA Council Meetings shall only be deemed to be validly constituted depending on fact that at all times there are no fewer than 2 (two) women as members thereof.
- 14.3 The KZNEA Council may co-opt other persons as members in order to discharge specific functions provided that no co-opted member shall have a vote and provided further that although the predominant criteria for co-option shall always be merit, the KZNEA Council shall, as far as possible, seek to preserve a balance of men and women members.
- 14.4 Members of the KZNEA Council shall vote on all resolutions by a show of hands.
- 14.5 Members of the KZNEA Council shall decide on all matters by a simple majority vote.
- 14.6 Each member of the KZNEA Council shall have 1 (one) vote, (excluding the members of portfolio committees as mentioned in 14.1.8), and the President of any meeting of the KZNEA Council shall have a deliberate and a casting vote, in the event of an equality of votes, save and except at an Elective Annual General Meeting where the President and Vice President may not vote.
- 14.7 The chairperson of any meeting of the KZNEA Council shall be the President, or in his or her absence the Vice-President, or in his or her absence such other Member of the KZNEA Council as shall have been appointed at that meeting by the Members of the KZNEA Council present and entitled to vote.
- 14.8 The positions of President, Vice - President, Treasurer must be voted for every 3 (three) years. No person may serve for more than 6 consecutive years as President, Vice President, Treasurer or Secretary-
- 14.9 The KZNEA Council shall meet not less than 4 (four) times per annum provided that it shall not be necessary for the Council to meet in those months in which one of the two bi-annual general meetings are held.
- 14.10 A quorum of Members of the KZNEA Council shall consist of not less than 7 (seven) such Members with a minimum of 5 (five) ordinary members referred to in clause 7.2, and if there is not a quorum present at the appointed time and place for any meeting of the KZNEA Council or if there is not a quorum present during the whole of the meeting until proceedings have been duly concluded and declared by the chairperson of that meeting to have been concluded, such meeting shall stand adjourned until a date, time and place to be determined by those members of the Council who are

present at that meeting provided that such date shall not be more than 10 calendar days after such meeting; and at such adjourned meeting those members of the Council present and entitled to vote shall constitute a quorum and may transact the business of that meeting.

- 14.11 The Secretary shall, by such means as is most expedient and by such means as appears most appropriate in the circumstances, inform those members of the KZNEA Council who were not present at the meeting, of the date, time and place to which the meeting has been adjourned.
- 14.12 Except where otherwise stated herein and subject to the provisions of this constitution, the KZNEA Council shall be vested generally with all such powers and authorities as are necessary to promote and attain the objectives of KZNEA and, without in any way limiting the generality of the foregoing, the Council shall have all such powers and authorities as are necessary to carry out the duties and functions referred to in 14.16.
- 14.13 The KZNEA Council shall control all expenditure of the funds of the Association and shall not incur any liability nor enter into any commitment which cannot be discharged out of the funds of the Association.
- 14.14 No funds may be transferred on behalf of KZNEA unless authorised by any 2 (two) of the President, the Vice-President, the Treasurer, the Secretary, or any other employee of KZNEA, who has been authorised by the Council to have signing powers.
- 14.15 The KZNEA Council shall be entitled to make any and all by-laws or regulations necessary to promote the aims and objectives of the Association and such by-laws and/or regulations shall be binding upon members. Such regulations shall be ratified at the next Ordinary General Meeting.
- 14.16 The KZNEA Council may delegate the exercise of any of its powers and functions to one of its Members or to a sub-committee of KZNEA.
- 14.17 In addition to the foregoing, the KZNEA Council shall:
- 14.17.1 undertake and perform all such duties and functions as shall be decided by the Council;
  - 14.17.2 consider and, if thought fit, approve the separate constitutions, by-laws, rules and regulations of each Member, and any amendments or alterations thereto;
  - 14.17.3 generally undertake and perform all such duties and obligations as are reasonably required to achieve the objectives of KZNEA, and to implement the policies to be followed by KZNEA;
  - 14.17.4 formulate recommendations and resolutions for the consideration of the Council and to prepare the agenda for Council meetings;
  - 14.17.5 subject to the provisions of the Constitution, make, amend, vary, repeal and enforce rules, by-laws and regulations;



- 14.17.6 conduct disciplinary proceedings in respect of any infringement of this constitution or the by-laws, rules or regulations or any agreement between any participant and KZNEA or the rules of the sport and to impose sanctions whether by way of fines, a Yellow Card, suspension or banning/exclusion from participating in any championships event or event held or being conducted under the auspices of ESA or the activities of KZNEA, or by way of withdrawing monies for which any person would otherwise be eligible. For the purposes of this Constitution, all events and championships of whatsoever nature organised and/or run by Members of KZNEA shall be deemed to be under the auspices of ESA.
- 14.17.7 arrange, control, regulate and promote events, championships and any other forms of competition;
- 14.17.8 employ any person upon such terms and conditions as shall be decided and, when considered necessary or desirable, terminate the employment of any such person
- 14.17.9 decide upon and resolve any dispute between any Members, and/or Club, and/or persons who are members of such clubs;
- 14.17.10 subject to 7.3 above, determine the area/s or jurisdiction of Members and vary or alter such areas from time to time when necessary;
- 14.17.11 co-opt any person to the KZNEA Council as may be required to achieve the objectives of KZNEA or fulfil any purpose incidental thereto;
- 14.17.12 form sub-committees, consisting of one or more persons, for any purpose incidental to the objectives and powers of KZNEA and, subject to the constitution, by-laws, rules and regulations, delegate such of its powers to such sub-committees as may be required;
- 14.17.13 appoint special advisers and consultants, for any purposes, and terminate such appointment/s;
- 14.17.14 open accounts with any recognised commercial banking or financial institution and invest any funds of KZNEA and pay any such funds to any person (natural, corporate or otherwise) who has a valid claim for payment against KZNEA;
- 14.17.15 decide upon the criteria for the award of Provincial Colours and appoint Provincial Selectors for the selecting of teams to whom Colours may be awarded;
- 14.17.16 ensure that full and proper books of accounts are kept in accordance with sound accounting principles;
- 14.17.17 ensure that the said books of account and all records of KZNEA's finances and assets are duly audited each year within 3 months after the financial year end of KZNEA which shall be 31 December of each year and that annual financial statements are prepared; (on approval of the Audited Financial Statements, the AFS will be submitted to the SAEF)

- 14.17.18 deal with any question or issue arising out of or relating to or incidental to non-racialism as described in the schedule one hereto;
- 14.17.19 deal with any question or issue arising out of or relating to or incidental to non-sexism or discrimination on any grounds as referred to in this Constitution.
- 14.17.20 address any question or issue or matter concerning or incidental to development including budgeting for and expenditure on development;
- 14.17.21 approve the employment and termination of employment of staff by KZNEA including all matters incidental thereto and the review from time to time of all existing contracts of employment of staff and all matters incidental thereto;
- 14.17.22 make recommendations on any question or issue relating to the affiliation to or disaffiliation from any macro or other body;
- 14.17.23 decide any question or issue relating to the use of KZNEA facilities and/or other facilities incidental thereto and/or the standard thereof;
- 14.18 The KZNEA Council's jurisdiction shall not be limited to dealing with such matters as are referred to it but shall include the power and capacity to be pro-active and initiate such enquiries and/or take such steps as the Council seems fit.
- 14.19 It is recognised that it is desirable for all provincial bodies themselves to negotiate and achieve unified provincial bodies. Notwithstanding this, the ESA Council shall have the right and power to be pro-active and to take such steps as it may to facilitate unity as may seem fit to ensure that any difficulties or problems in the way of unity in any province shall be overcome.
- 14.20 Any member of the KZNEA Council who, without having first obtained leave of absence from the Council, shall otherwise than in circumstances beyond his or her control, not attend 3 (three) consecutive meetings of the Council, of which meetings due notice has been given, shall be deemed to have resigned from the KZNEA Council.
- 14.21 No member of the KZNEA Council shall be entitled to any remuneration, but all members of the Council shall be entitled to be refunded any disbursement incurred by any such member in fulfilling any duties or functions as shall be approved by the Council. The Secretary, however, maybe a salaried person under contract to KZNEA.
- 14.22 The Secretary shall:
- a. Represent as a member of the KZNEA Council Committee;
  - b. Send to all Members, and to all members of the KZNEA Council and the ESA Council:
    - a) Written notification of all meetings of the KZNEA Council (excluding emergency meetings), and the proposed Agenda, not less than 21 (twenty one) calendar days prior to the date of the proposed meeting.
    - b) Copies of the minutes and resolutions of all meetings of the Council, within 15(fifteen) calendar days after the relevant meeting.

- 14.23 Any Member, of any classification, shall be entitled to have a representative attend and speak, but not vote, at any meeting of the KZNEA Council, provided such Member shall have submitted written notification to the Secretary of such intention and the full details of any matter such Member is desirous of raising at such Meeting, not less than 10 (ten) calendar days prior to the date of such meeting.

## **15. ELECTION OF THE PRESIDENT, VICE-PRESIDENT, TREASURER AND THE OTHER MEMBERS OF THE KZNEA COUNCIL**

- 15.1 Each Member shall be entitled to nominate 1 (one) person for election as President, 1 (one) person for election as Vice-President, 1 (one) person for election as Treasurer, and 1(one) person for election for each portfolio as referred to in clause 14.1.8
- 15.1.1 Each ordinary member as referred to in clause 7.2 shall appoint one representative to serve on its respective Association on the ESA Council, which person shall preferably be the Chairman of the ESA Provincial Association.
- 15.1.2 The KZNEA Representative of the Special Member shall be elected at a meeting of the Special Member.
- 15.2 Each nomination shall be in writing, shall be seconded by any Member and shall be signed by the nominee to indicate his or her acceptance of the nomination.
- 15.3 It shall be permissible for the same person to be nominated for more than one office/position. The nomination for any alternative post is conditional upon him or her not being elected to the first post for which he or she is nominated.
- 15.4 A valid nomination for any of the posts referred to in sub-paragraphs 14.1.1 to 14.1.3 shall, in the event of the nominee being defeated in an election for the post concerned, be deemed to be a valid nomination for election as a member without portfolio in terms of sub-paragraph 14.1.4.
- 15.5 In the event of the nominee being elected to one of the posts referred to in paragraph 14.1 and appointed as a representative of an ordinary member, the nominee shall be entitled to 1(one) vote on the KZNEA council. *Cannot be an ordinary representative and the president or vice president of KZNEA.*
- 15.6 All such written nominations shall be received by the National Office not less than 30 (thirty) calendar days prior to the date of the next A.G.M.
- 15.7 If no nominations are received for the election of the President or the Vice-President, or both, the President or the Vice-President, shall continue in office, if available, until the next A.G.M.; failing which at the first meeting of the KZNEA Council after that A.G.M., the members of the Council shall elect a person to act as the President or the Vice-President, or both until a President or Vice-President, as the case may be, is duly elected at a meeting of the Council.
- 15.8 The retiring President, the retiring Vice-President and the retiring Treasurer shall be eligible for re-election without nomination, provided the Secretary shall have received written notification from such persons of their willingness to continue in office, if re-elected.

- 15.9 If there is more than one nomination for any of the posts of President, Vice-President and Treasurer then such posts shall be elected separately by ballot, such elections to be held in the sequence aforesaid.
- 15.10 If the number of men thus nominated plus those elected to one or more of the posts referred to in sub-paragraphs 14.1.1 to 14.1.3 and 14.1.6 inclusive and 14.1.7 is two or fewer, then the men thus nominated shall be deemed to be elected and there shall be a ballot only in respect of the remaining vacancies. *(The President cannot hold any other position)*
- 15.11 If the number of women thus nominated plus those elected to one or more of the posts referred to in sub-paragraphs 14.1.1 to 14.1.3 inclusive and 14.1.7 is two or fewer, then the women thus nominated shall be deemed to be elected and there shall be a ballot only in respect of the remaining vacancies.
- 15.12 If the number of persons thus nominated is such that, together with those elected to the specific posts referred to in sub-paragraphs 14.1.1 to 14.1.3 inclusive, the number of men exceeds two and the number of women exceeds two, then there shall be a ballot in respect of all nominees *(President cannot hold any other position)*
- 15.12.1 until there is a total of three men elected to the KZNEA Council, those men who receive the highest number of votes amongst the men candidates shall be deemed to be elected;
- 15.12.2 likewise, until there is a total of two (2) women elected to KZNEA Executive Council those women who receive the highest number of votes amongst the women candidates shall be deemed to be elected;
- 15.12.3 thereafter the remaining positions on the Council shall be filled by the candidates who have received the highest number of votes irrespective of the gender of the candidates.
- 15.13 Each person who votes shall record a vote for not more and not less than the number of vacancies.
- 15.14 All members of the Council shall hold office until the next A.G.M., subject to the provisions of clause 15.4.

## **16. ASSOCIATE MEMBERS**

- 16.1 Any association or organisation which wishes to become an Associate Member of ESA shall apply in writing to the Council to be admitted as such and shall furnish a copy of its constitution and all such information as the ESA Council may require in order to decide upon its application.
- 16.2 The Council may in its discretion admit any such association or organisation as an Associate Member upon such terms and conditions including terms and conditions as to the payment of subscriptions as the Council may consider fit.

16.3 Any decision by the Council in respect of an application for Associate Membership shall be referred to the next Ordinary General Meeting of the Council for ratification and shall not be binding until so ratified.

## **17. HONORARY LIFE MEMBERS**

17.1 The KZNEA /ESA Council shall, from time to time, nominate any person who has rendered notable and meritorious service to ESA/ KZNEA and/or in the promotion of the sport of Eventing and whom it wishes to recognise and honour as an Honorary Life Member which nomination shall be presented to the Council for ratification at the next A.G.M. and, if ratified by the Council, such person shall become an Honorary Life Member and shall enjoy the rights and privileges namely to attend the A.G.M., to receive advance notice and to make preferential bookings in respect of any event or championship held under the auspices of ESA.

17.2 All past presidents of ESA may become an Honorary Life Member of ESA if so nominated and such appointment is ratified at an AGM.

## **18. PATRONS**

18.1 The KZNEA Council may from time to time nominate any person whom the Council considers to be fit and desirable to be a Patron of ESA which nomination shall be presented for ratification at the next A.G.M. and, if ratified by the Council, such person shall become a Patron of ESA.

18.2 Patrons shall enjoy the same rights and privileges as are enjoyed by Honorary Life Members together with such further rights and privileges as are decided upon by the ESA Council from time to time.

## **19. LIMITATION OF LIABILITY OF MEMBERS INDEMNITY**

a. The liability of any Member, of any classification, is limited exclusively to the sum of any monies then due and payable by such Member to KZNEA, by way of subscription or otherwise howsoever.

b. The Patrons, the President, the Vice-President, the Alternate Director, all members of the ESA/ KZNEA Council, the Treasurer, all officials, servants, agents and persons (natural, corporate or otherwise) acting on behalf of ESA/or KZNEA, in terms of this Constitution and under delegated powers from the Members in General Meeting or from the Council, shall be and they are hereby indemnified and held harmless against any claim or demand by any third party as a result of any act or omission in the performance of their duties for and on behalf of ESA/or KZNEA, from whatever cause arising, provided such person/s acted in good faith.

## **20. ALTERATION OR VARIATION OF THIS CONSTITUTION**

This Constitution may be altered or varied, at any time, by the Ordinary Members in General Meeting, upon a majority vote of not less than 75% (seventy-five per centum) of the total votes of the Ordinary Members, whose representatives are present and entitled to vote at that time provided not less than 21 (twenty-one) calendar days written notification of such Meeting, together with a copy of a proposed resolution/s

## **21. NOTIFICATION**

For the purposes of this Constitution, all notifications by KZNEA to any person or any Member, Honorary Life Member or Patron shall, unless delivered by hand, be effective from the date of dissemination by post, and/or by hand, and/or by fax, and/or by electronic mail to the last known postal address of such Member/s, by any official of KZNEA; but all notifications to KZNEA by any person (natural, corporate or otherwise) or any such Member shall only be effective from the date of receipt thereof by the CEO or the Secretary. In no respects shall any postal authority be, or be deemed to be, the agent of KZNEA.

## **22. INTERPRETATION OF THIS CONSTITUTION**

Any disputes arising out of or in connection with the enforceability of this constitution or the application and interpretation of the provisions thereof or any dispute between ESA and another national sports federation, or between a member of the KZNEA Council and a Member or individual shall be referred to SAEF who may refer the matter to SASCOC (The South African Sport Confederation and Olympic Committee) or the designated statutory body determined by the appropriate government department, for resolution through mediation or expedited arbitration. In the event of arbitration in terms of the foregoing, such resolution shall be final and binding on the parties to the dispute.

## **23. DISSOLUTION OR WINDING UP OF KZNEA**

23.1 KZNEA may be dissolved or wound-up, at any time, by the Members in General Meeting, upon a majority vote of not less than 75% (seventy five per centum) of the total votes of Members, whose representatives are present and entitled to vote, who are present in person at such general meeting, provided that not less than 6 (six) calendar days written notification of such meeting and of any resolution aimed at dissolving or winding-up of KZNEA shall have been given to all Members.

23.2 Upon dissolution or winding up of KZNEA, all the property and assets of KZNEA, after payment of all monies owing to any third parties, shall be transferred free of compensation to any other Association/s or Organisation/s having objects similar to KZNEA, at the discretion of the Members.

## **24. APPEAL BOARD AND DISCIPLINARY BOARDS**

The KZNEA Council shall appoint the members of the Appeal and Disciplinary Boards and delegate such powers to these Boards to include, but not be limited by the following:

- 24.1 To assist KZNEA with legal advice.
- 24.2 Set up and continuously update a disciplinary code for both participants and management, adopted by Council.
- 24.3 Chair disciplinary hearings when requested, and adjudicate, mediate and arbitrate upon legal and disciplinary matters.
- 24.4 The Appeal Board shall comprise of three members of which at least one must have a legal background.
- 24.5 Every member of the Appeal Board shall have one vote each at their meetings and hearings.

## **25. DISPUTE RESOLUTION**

- 25.1 Any dispute arising out of, or in connection with, the enforceability of this Constitution, or the application and interpretation of the provisions thereof, or any dispute between KZNEA and another national sports body, or any dispute between Members of KZNEA, or any dispute between members of KZNEA Exco, or between KZNEA Exco and a Member, or between KZNEA Exco or an KZNEA Exco member and an individual (but excluding disputes concerning an Ethics, Grievances or Selection matter) shall be referred to the SAEF. Should the SAEF fail to resolve the dispute, the dispute will be referred to SASCOC or the designated statutory body determined by the appropriate government department, for resolution through mediation or expedited arbitration in terms of the procedure for the resolution of disputes in sport.
- 25.2 In the event of arbitration in terms of the foregoing, such resolution shall be final and binding on the parties to the dispute.
- 25.3 In recognition of the desire to resolve all disputes in Equestrian Sporting fraternity as amicably and effectively as possible, it is required of all Members of KZNEA to incorporate in their constitutions (and to include in any agreements they may enter into) a dispute resolution clause in terms substantially the same as the above provisions of this Constitution, specifically providing for the resolution of disputes through the mechanisms provided for.
- 25.4 Recourse to the High Courts or Magistrates Courts by a party to any Federations or Associations - related dispute shall be limited to instances of an alleged violation of the provisions of this Constitution or an alleged disregard for the principles of natural justice or for purposes of obtaining urgent interdictory relief. In all other instances any disputes fall to be decided according to the dispute resolution processes provided for in this Constitution.

25.5 Subject to the constitution of the Republic, and save in circumstances where there is a need for urgent relief of a sort which cannot be obtained through the dispute resolution procedures contemplated by this article (including the holding of an arbitration as envisaged in Article 36.1, on an urgent basis), no ordinary member, associate member or individual falling under the jurisdiction of KZNEA, ESA and the SAEF shall approach a Court of Law to decide on a dispute it has with a member, or individual affiliated to KZNEA, ESA and/or the SAEF or with the SAEF itself.

This Constitution was unanimously adopted by the Membership present at the General Meeting held at

this \_\_\_\_\_ day of \_\_\_\_\_ 2016.



## **SCHEDULE ONE - NON-RACIALISM**

1. The principle of non-racialism is recognised and accepted. By this it is meant, broadly, that race should not be, and may not be, a basis of discriminating against or affording privilege to any person or group of persons. (Note: In this document all references to "race" must be taken to include a reference to ethnicity and nationality).
2. It follows from this that no club, province or other affiliated body may have any provision in its constitution which has the effect of barring membership on the grounds of race.
3. A provision in a constitution which though not worded in racial terms none the less is calculated to discriminate on grounds of race and which would have the effect of discriminating on grounds of race shall be regarded as an infringement of 2 (Two).
4. The principle of non-racialism also demands that all clubs, provinces and other affiliated bodies shall, when the situation legitimately requires it, make all their facilities available to persons other than their members on an equal basis irrespective of the race, ethnicity or nationality of such persons; eg. when hosting an event and such non-members are legitimately at the premises of the club or other body in connection therewith.
5. The fundamental rights of freedom of association and freedom of disassociation are recognised. It is also recognised that these rights are fundamental to the formation of and existence of the private club which is the basic building block of a national or provincial sports controlling body.
6. There is inherently a potential conflict between the rights referred to in 5.(Five), and the principle of non-racialism referred to in 1.(One), and it is considered desirable to indicate how such potential conflicts are to be resolved.
7. The following are suggested guidelines as to how to reconcile these principles in practice:
  - 7.1 A constitution which admits any person to membership except persons of any particular racial or ethnic group shall be regarded as infringing the principles of non-racialism and shall not be regarded as a valid exercise of the rights of freedom of association/disassociation (Cf. para 2 above).
  - 7.2 A constitution may limit its membership to persons who fulfil certain criteria notwithstanding that the result thereof is that its members in fact consist only of one (1) or more racial groups, provided that those criteria are not racist in their terms or in their intended effect e.g. a club which restricts its membership to persons who attend a certain school shall not be regarded as infringing the principle of non-racialism even though de facto its members may, as a result, come from a certain racial group only. Other examples of the application of this principle are clubs whose membership is limited to persons of a particular vocation or of a particular religious movement.
8. Under no circumstances will an infringement of 4. (Four) above be tolerated or permitted on the grounds that it constitutes an exercise by the club or affiliated body concerned of its rights of freedom of association and/or disassociation.

9. The existence of the so called "ethnic" clubs are perceived to be problematical and require deeper analysis.

9.1 Various such clubs exist at the moment e.g. the Greek Club, the Italian Club, the German Club and so on. The existence of such clubs is a well established and recognised phenomenon in the countries of the United Kingdom, Western Europe and the U.S.A. It is clear that such clubs are not the result of the policy of apartheid, but arise from the desire of peoples of different origins and cultures to group together to enjoy and foster their own cultural traditions.

9.2 What is said below is a discussion in general terms and is not a reference to any 1. (one) or more of such ethnic clubs which in fact exist. Such clubs appear to have been formed with the bona purpose of catering for the cultural needs or aspirations or interests of the particular ethnic group which it serves. There does not appear to be any ulterior racial motive.

9.3 If the constitution of such a club were to restrict its membership to persons of a particular ethnic group (or race or nationality), it would by necessary implication, be excluding persons from all other ethnic groups/races/nationalities from membership.

Prima facia this would be an infringement of paragraph 2(Two) above. The question which has to be decided is whether, in these circumstances, this constitutes a valid exercise of the rights of freedom of association and disassociation, notwithstanding that it amounts to an infringement of 2(Two), above (Cf. also 7.1 above). It is considered that this would not be acceptable and that any club having a constitution along those lines would not be eligible for membership of the proposed new unified national body or any provincial body.

9.4 By contrast, however, a club which had as its main object the promotion, advancement, propagation etc. of the culture, traditions etc. of any particular race or nationality, but which did not seek to exclude or limit membership on those grounds would be regarded as legitimate and would be eligible for membership.

10. The principles and guidelines set out above with regard to non-racialism shall apply equally in respect of religion and discrimination on the grounds of a person's religious beliefs.

## **SCHEDULE TWO - AFFILIATES TO KZNEA**

Eligibility requirements for Ordinary members, Special Members and Associate Members in terms of clause 7 of the Constitution of KZNEA

1. The objects clause of the constitution of an Associate Member must include provisions that are identical to or substantially the same as sub-clauses 6.3, 6.4, 6.5, 6.6 and 6.9 hereof and shall provide Associate Members who will encourage, promote, develop and administer the sport of Eventing within the area of its jurisdiction in accordance with sound business principles.
2. There must be provisions in the constitution for Associate Members, stipulating that:
  - 2.1 the Association recognises and adopts the Schedule One;
  - 2.2 the Association may not become a member or affiliate to any other body without the prior written consent of the KZNEA Council;
  - 2.3 the Associate Members may not authorise, send or sanction any team to go on a tour outside the boundaries of the Republic of South Africa without having first obtained the written consent of ESA through the KZNEA Council. .
3. Any dispute as to whether the foregoing requirements have been complied with shall be referred to the Constitution sub-committee whose decision shall be final and binding.

### **SCHEDULE THREE - APPLICATION OF THE PROVISIONS OF SECTION 30 (1) OF THE INCOME TAX ACT, 1962.**

The following provisions contained in section 30 (1) of the Act shall at all times apply and be adhered to while this constitution is in operation.

- 1.1 The sole object of the Association is to carry on a public benefit activity which qualifies for purposes of Section 18 A of the Act as defined in Section 30 (1) of the Act, in a non-profit manner.
- 1.2 At least 85% ( Eighty Fiver Percent) of the Association's activities shall be carried out in the Republic of South Africa
- 1.3 At least 3 ( Three) members who will accept fiduciary responsibilities and shall also not be connected persons to each other: and no single person directly or indirectly controls the decision making powers relating to the Association
- 1.4 No funds will be distributed to any person (other than in the course of undertaking any public benefit activity.)
- 1.5 The Association's funds will be used solely for the objects for which it was established, or shall be invested with registered financial institutions as defined in Section 1 of the Financial Institutions (Investment of Funds) Act, 1984, (act no.39 of 1984) or in securities listed on a stock exchange as defined in the Stock Exchanges Control.
- 1.6 The Association will not carry on any business undertaking or trading activities other than to the extent that: The gross income derived from such business undertaking or trading activity does not exceed the greater of

R25000 or 15% of the gross receipts of the Constitution:

The undertaking or activity is -

- a) integral and directly related to the sole object of the Association : and
- b) carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost: and
- c) which would not result in unfair competition in relation to taxable entities:

the undertaking or activity, if not integral and directly related to the sole object of such Association, is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation :

or:

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

- a) the scope and benevolent nature of the undertaking or activity

- b) the direct connection and inter-relationship of the undertaking or activity with the sole purpose of the Association
- c) the profitability of the undertaking or activity: and
- d) the level of economic distortion that may be caused by the tax-exempt status of the Association carrying out the undertaking or activity.

Any business undertaking or trading activities, or assets used in such undertaking or activity, acquired by the Association before 1 January 2001, will be retained or continued as the case may be, in the form so acquired for a period of five years.

- 1.7 On the dissolution of the Association, the remaining assets will be transferred to any similar public benefit organization, within the Republic of South Africa which has been approved in terms of Section 30 of the Act for the purposes of Section 18A of the Act:
- 1.8 No donation will be accepted 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 term of Section 18A: provided that a donor (other than a donor which is an approved public benefit organization 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 of any public benefit activity) may not impose any 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:
- 1.9 A copy of all amendments to the Constitution, trust deed, will be submitted to the Commissioner for the South African Revenue Service;
- 1.10 No remuneration will be paid to any employee, office bearer, member or person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered;
- 1.11 The Association will submit the required Income Tax Returns annually together with the relevant supporting documents;
- 1.12 The Association will, within such period as the Commissioner may determine, register in terms of section 13(5) of the Non-Profit Organisations Act, 1997 (Act No. 71 of 1997), and comply with any other requirements imposed in terms of the Act;
- 1.13 The Association has not and will not use its resources directly or indirectly to support, advance or oppose any political party.

## **SCHEDULE FOUR - DISPUTES**

### **DISPUTES:**

Any disputes arising out of, or in connection with, the enforceability of this constitution, or the application and interpretation of the provisions hereof, or any dispute between any members of the Department of Sport and Recreation (SRSA) or the South African Confederation of Sport and Olympic Committee (SASCOC) or between a member and the National Executive Committee or members of KZNEA shall be referred to the SAEF to deal with, in terms of their constitution, failing which same shall be referred to SASCOC to deal with in terms of their Constitution, Disputes Resolution Council for resolution through mediation or expedited arbitration in terms of the Rules and Procedures for the Resolution of Disputes in Sport, prevailing at the time such dispute is so referred. In the event of arbitration in terms of the above, such resolution shall be final and binding on the parties to the dispute.