

**CONSTITUTION**

**OF THE**

**SOUTH AFRICAN EVENTING**

**ASSOCIATION**

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## 1. CONSTITUTION, NAME AND CORPORATE PERSONALITY

- 1.1. This is the Constitution of the body known as the "SOUTH AFRICAN EVENTING ASSOCIATION" (*herein after referred to as ESA – EVENTING SOUTH AFRICA*), which Association is the national body duly recognised by the South African Equestrian Federation.
- 1.2. ESA 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 ESA and having their National Office within the area of jurisdiction of ESA, which bodies have made application and have been accepted as Associate Members of ESA 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 "Chief Executive Officer" ("CEO") means the person appointed by the National Executive Committee of the Sport, to be employed in terms of an employment contract, when and if necessary. It is specifically recorded that such person may be a member of the National Executive, but shall not be entitled to any voting rights in terms of this Constitution.
- 2.7 "Club" means any Equestrian club, which caters for the discipline of Eventing in a district, as

contained in this Constitution

- 2.8 "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 ESA.
- 2.9 "Constitution" means this Constitution.
- 2.10 "ESA Council" means the executive committee as constituted in terms of this constitution
- 2.11 "ESA" means the sport of Eventing.
- 2.12 "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.
- 2.13 "Day" means a calendar day. "Working day" means a calendar day excluding Saturdays, Sundays and Public Holidays.
- 2.14 "Event" means an Eventing event held under the auspices of ESA & affiliated to SAEF & FEI.
- 2.15 "Event Organizer" means a person duly authorised to manage an event on behalf of ESA either directly or indirectly through its members.
- 2.16 "FEI" means the *Fédération Equestre Internationale*
- 2.17 "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.
- 2.18 "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 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 ESA, 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 "ESA district" shall mean a district ESA 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 ESA.
- 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 ESA, 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 ESA 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 National Office Headquarters shall be at the residential address of the duly elected Secretary of ESA, in the Republic of South Africa, and shall remain at that place until the Council shall decide that the National Office shall be moved to another place, provided that the National Office shall always be at a place within the Republic of South Africa.

### **5. AREA OF JURISDICTION OF ESA**

The geographical area of jurisdiction of ESA shall be the Republic of South Africa and any country outside of South Africa where South African Riders are competing.

### **6. OBJECTIVES OF ESA**

The objectives of ESA 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 tournaments whether same be local or international.
- 6.11 To award National Colours, and to approve 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 ESA 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 of 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 SASCO, the SAEF and ESA, 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 following provincial ESA Associations:-

7.2.1 Western Cape Eventing

7.2.2 Gauteng - Eventing

7.2.3 Eastern Cape - Eventing

7.2.4 Free State - Eventing

7.2.5 Limpopo - Eventing

7.2.6 Kwazulu Natal - Eventing

7.2.7 Northern Cape - Eventing

7.2.8 North West - Eventing



### 7.2.9 Mpumalanga - Eventing

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

#### Members

There shall be nine (9) Provincial Members, categorized and made up of the following districts:

- (i) In the Province of Western Cape (Cape Town)
  - West Coast (Malmesbury)
  - Boland (Stellenbosch)
  - Overberg (Swellendam)
  - Eden (George)
  - Central Karoo (Beaufort West)
  - Cape Town Unicity (Cape Town)
  
- (ii) In the Province of Northern Cape (Kimberley)
  - Namakwa (Springbok)
  - Pixley-ka-Seme (De Aar)
  - Siyanda (Upington)
  - Kgalagadi (Kathu)
  - Frances Baard (Kimberley)
  
- (iii) In the Province of the Eastern Cape (Bisho)
  - Cacadu (Grahamstown)
  - Amathole (East London)
  - Chris Hani (Queenstown)
  - Ukhahlamba (Aliwal North)
  - O R Tambo (Umtata)
  - Alfred Nzo (Mount Ayliff)
  - Nelson Mandela (Port Elizabeth)
  
- (iv) In the Province of Free State (Bloemfontein)
  - Xhariep (Trompsberg)
  - Motheo (Bloemfontein)
  - Lejweleputswa (Welkom)
  - Thabo Mofutsanyana (Phuthaditjhaba)
  - Fezile Dabi (Kroonstadt)
  
- (v) In the Province of Kwazulu-Natal (Pietermaritzburg)
  - 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)
- (vi) In the Province of Mpumalanga (Nelspruit)
- Gert Sibande (Standerton)
  - Nkangala (Witbank)
  - Ehlanzeni (Nelspruit)
- (vii) In the Province of Limpopo (Polokwane)
- Mopani (Giyani)
  - Vhembe (Thohoyandou)
  - Capricorn (Polokwane)
  - Waterberg (Bela-bela)
  - Sekhukhune (Groblersdal)
- (viii) In the Province of North West (Mafikeng)
- Bojanala (Rustenberg)
  - Central (Mafikeng)
  - Bophirima (Vryburg)
  - Southern (Klerksdorp)
- (ix) In the Province of Gauteng (Johannesburg)
- Sedibeng (Vereeniging)
  - Johannesburg (Johannesburg)
  - Ekurhuleni (Germiston)
  - Tshwane
  - West Rand

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

- 8.1 ESA shall have all such powers and authorities as shall be necessary or desirable or conducive of achieving any and all of the objects of ESA. These powers and authorities shall be exercised by the ESA 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 foregoing, the powers and authorities of ESA 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 ESA.
- 8.4 To enter into contracts of any and all kinds necessary to carry out, give effect to or secure the objects of ESA.
- 8.5 From time to time, in accordance with sound business and financial principles to invest the funds of ESA 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 ESA 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 ESA 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 ESA or its officers or otherwise concerning the affairs of ESA, 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 ESA.
- 8.13 To raise money whether by subscription or levies which are to be paid to ESA 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 ESA 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 ESA 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 make and pass rules, by-laws or regulations and to add to, repeal or alter such rules, by-laws or regulations, with or without penalties for the carrying out, administration and implementation of

this Constitution and the attainment of the objects of ESA.

- 8.17 To impose fines, to suspend for a period of time, to ban and/or implement any other disciplinary measures on its Members or former Members or on any Eventing Athlete or club or association or organisation connected or concerned with Eventing arising out of or connected with any contravention or breach of the provisions of this Constitution or any rule, by-law or regulation passed by the ESA Council, including those of SAIDS, SASCOC and World Anti-Doping Code and recover by legal action or otherwise such fines or compulsory contributions or damages from its Members or former Members. Without in any way limiting the generality of the foregoing, ESA shall have the power to suspend or ban any Eventing Athlete, Member, Official or Club from participating in any championship or event.
- 8.18 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 ESA by its Members, former Members or any other persons or body.

## **9. MEMBERSHIP AND TERMINATION OF MEMBERSHIP**

- 9.1 Any Association which wishes to become an Associate Member of ESA shall apply in writing to the ESA Council to be admitted as an Associate Member and shall furnish a copy of its constitution and all such information as the ESA Council may require to decide upon its application.
- 9.2 No Association shall be admitted to membership of ESA unless the ESA Council is satisfied that the constitution of such Association substantially complies with the requirements contained in Schedule Two hereto.
- 9.3 The ESA Council's decision to admit or refuse any application for membership shall be referred to the next meeting of the Council for ratification.
- 9.4 Associate Members shall agree upon and define their geographic areas of jurisdiction provided that in the event of dispute and failure to reach agreement, such areas of jurisdiction shall be defined by the ESA Council, and shall comply mutatis mutandis with the SAEF constitution.
- 9.5 The right of each existing and future Member to have one or more representative teams participate in the various events and championships which are held or staged under the auspices of ESA shall be determined by the ESA Council, which may vary such rights from time to time.
- 9.6 Any Member other than an ordinary member which ceases to operate a viable structure as defined in this Constitution and may ipso facto be suspended from membership and the Council shall decide at its next ordinary meeting whether the membership of such member should be terminated.
- 9.7 Any member of any classification may, at any time, tender their resignation from ESA. Such member must give notice by not later than 30 September of a year. Any member so resigning shall continue to be liable for any monies due and owing by such member, to ESA at the date of their resignation.

## **10. VOTING RIGHTS**

- 10.1 The voting rights set out in this clause shall apply in respect of any and all meetings of the Council.
- 10.2 Ordinary Members shall each have 1 (one) vote.
- 10.3 Athletes Representative shall have 1 (one) vote.
- 10.4 Associate Members shall each have 1 (one) vote.
- 10.5 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.
- 10.6 Only Members whose representatives are personally present at the meeting concerned shall have the right to vote.
- 10.7 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.

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

- 11.1 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.
- 11.2 The ESA 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 ESA 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.
- 11.3 The following persons shall be entitled to attend and speak at the A.G.M.:
  - 11.3.1 All members of ESA Council
  - 11.3.2 Not more than 1 (one) representative of the Special Members, and not more than 1 (one) representative of the Associate Members.
  - 11.3.3 The Patrons.
  - 11.3.4 All Honorary Life Members
  - 11.3.5 Any other person who may be invited by the ESA Council to do so.

- 11.3.6 A Representative of the SAEF
- 11.4 The business to be transacted at an A.G.M. shall be:
  - 11.4.1 To read the notice convening the Meeting
  - 11.4.2 To read and confirm the Minutes of the previous A.G.M., Special General and General meetings, and to consider any matters arising therefrom
  - 11.4.3 To receive and consider the Annual Report of the President, for the period since the date of the previous A.G.M.
  - 11.4.4 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 ESA Council as per the decision of the A.G.M. .
  - 11.4.5 To appoint the auditors of ESA for the period until the next A.G.M.
  - 11.4.6 To consider and to adopt with or without modification, or to reject any recommendations of the ESA Council
  - 11.4.7 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
  - 11.4.8 To elect the ESA Council in terms of clause 15 as read with clause 16
  - 11.4.9 To discuss and consider any matter of which 30 (thirty) days written notice has been given.
- 11.5 Notice of each A.G.M. shall be sent to all the Members, Members of the ESA Council, Patrons and Honorary Life Members not less than 30 (Thirty) calendar days prior to the date of the A.G.M.
- 11.6 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.

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

- 12.1 Subject to the terms of this Constitution the ESA Council shall be the highest authority of ESA and shall determine its policy, decide upon its budget and give directives to the Management Committee.

- 12.2 The following persons shall be eligible to attend and speak at meetings of the Council:
- 12.3.1 All the persons referred to in clause 11.3 save those referred to in sub-clauses 11.
- 12.3 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 ESA Council.
- 12.4 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 ESA Council.
- 12.5 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.
- 12.6 The business to be transacted at the O.G.M. shall be:
- 12.7.1 to read the notice convening the meeting;
- 12.7.2 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;
- 12.7.3 to consider and to adopt, with or without modification, or to reject, any Resolution of which due notice has been given;
- 12.7.4 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 ESA Council;
- 12.7.5 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 12.6 hereof or such resolution has been ratified at the next Ordinary Council meeting.

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

- 13.1 An S.G.M. of Members shall be convened:
- 13.1.1 By resolution of the ESA Council, or
- 13.1.2 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.

- 13.2 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 ESA 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
- 13.3 No business other than that stated in the notification, referred to in sub-clause 13.2, shall be transacted at the S.G.M.
- 13.4 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.

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

- 14.1 The following provisions shall apply to all A.G.M.'s, O.G.M.'s and S.G.M.'s:
- 14.1.1 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 ESA Council.
- 14.1.2 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.
- 14.1.3 Each member of the ESA 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.
- 14.1.4 A quorum shall consist of 50% (fifty per centum) plus 1 (one) of the Ordinary Members in good standing.
- 14.1.5 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.



14.1.6 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:

14.1.6.1 the date, time place to which the meeting is adjourned;

14.1.6.2 the matter before the meeting, when it was adjourned;

14.1.6.3 the grounds for the adjournment; which notice shall have been settled by the President.

14.1.7 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.

## **15. THE ESA COUNCIL**

15.1 The ESA Council shall consist of the following persons:

15.1.1 The President,

15.1.2 The Vice-President,

15.1.3 The Treasurer,

15.1.4 9 (nine) members made up of the Presidents of each of the Provincial Associations referred to under article 7.2.

15.1.5 A Representative of the Athletes commission

15.1.6 The Secretary,

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

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

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

15.1.8.1 Development and Transformation

15.1.8.2 Technical and Coaching Portfolio

15.1.8.3 Judges' and Officials'

15.1.8.4 International Affairs

15.1.8.5 Venue and Schedules

15.1.8.6 Marketing and Advertising

15.1.8.7 Liaison, Public Relations and Communications

15.1.8.8 Veterinary and AHS

15.1.9 The ESA Council shall have the right to appoint, where needed, the following sub-committees, or distribute the portfolio among the members of the Council.

15.1.9.1 National Selection Committee

15.1.9.2 National Technical Committee

15.1.9.3 National Disciplinary Committee

15.1.9.4 National Appeal Board

15.1.9.5 Athletes Commission

15.1.9.6 Coaches Commission

15.1.9.7 Officials Commission

15.1.10 Any individual who is a Provincial President of SAEF may not at the same time be a member of the ESA Council. (***they may but without a vote***)

15.2 The ESA 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.

15.3 The ESA 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 ESA Council shall, as far as possible, seek to preserve a balance of men and women members.

15.4 Members of the ESA Council shall vote on all resolutions by a show of hands.

15.5 Members of the ESA Council shall decide on all matters by a simple majority vote.

15.6 Each member of the ESA Council shall have 1 (one) vote, (excluding the members of portfolio committees as mentioned in 15.1.8), and the President of any meeting of the ESA 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.

15.7 The chairperson of any meeting of the ESA 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 ESA Council as shall have been appointed at that meeting by the Members of the ESA Council present and entitled to vote.

15.8 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 (who is subject to an employment contract).

- 15.9 The ESA 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.
- 15.10 A quorum of Members of the ESA 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 ESA 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.
- 15.11 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 ESA Council who were not present at the meeting of the date, time and place to which the meeting has been adjourned.
- 15.12 Except where otherwise stated herein and subject to the provisions of this constitution, the ESA Council shall be vested generally with all such powers and authorities as are necessary to promote and attain the objectives of ESA 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 15.16.
- 15.13 The ESA 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.
- 15.14 No funds may be transferred on behalf of ESA unless authorised by any 2 (two) of the President, the Vice-President, the Treasurer, the Secretary, or any other employee of ESA, who has been authorised by the Council to have signing powers.
- 15.15 The ESA 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.
- 15.16 The ESA Council may delegate the exercise of any of its powers and functions to one of its Members or to a sub-committee of ESA.
- 15.17 In addition to the foregoing, the ESA Council shall:
- 15.17.1 undertake and perform all such duties and functions as shall be decided by the Council;
  - 15.17.2 consider and, if thought fit, approve the separate constitutions, by-laws, rules and regulations of each Member, and any amendments or alterations thereto;

- 15.17.3 generally undertake and perform all such duties and obligations as are reasonably required to achieve the objectives of ESA, and to implement the policies to be followed by ESA;
- 15.17.4 formulate recommendations and resolutions for the consideration of the Council and to prepare the agenda for Council meetings;
- 15.17.5 subject to the provisions of the Constitution, make, amend, vary, repeal and enforce rules, by-laws and regulations;
- 15.17.6 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 ESA 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 ESA, 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 ESA shall be deemed to be under the auspices of ESA.
- 15.17.7 impose and collect levies, subscriptions, dues and imposts;
- 15.17.8 arrange, control, regulate and promote events, championships and any other forms of competition;
- 15.17.9 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. In particular, the ESA Council may from time to time appoint a suitable person to act as the CEO of ESA and shall determine his or her powers, duties, remuneration and privileges. Such person shall be an ex officio member of the ESA Council with no voting rights at any ESA Council or general meetings.;
- 15.17.10 decide upon and resolve any dispute between any Members, and/or Club, and/or persons who are members of such clubs;
- 15.17.11 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;
- 15.17.12 co-opt any person to the ESA Council as may be required to achieve the objectives of ESA or fulfil any purpose incidental thereto;
- 15.17.13 form sub-committees, consisting of one or more persons, for any purpose incidental to the objectives and powers of ESA and, subject to the constitution, by-laws, rules and regulations, delegate such of its powers to such sub-committees as may be required;
- 15.17.14 appoint special advisers and consultants, for any purposes, and terminate such appointment/s;

- 15.17.15 accept or reject any application for membership subject to ratification by the Council.
  - 15.17.16 open accounts with any recognised commercial banking or financial institution and invest any funds of ESA and pay any such funds to any person (natural, corporate or otherwise) who has a valid claim for payment against ESA;
  - 15.17.17 decide upon the criteria for the award of National Colours and appoint National Selectors for the selecting of teams to whom Colours may be awarded;
  - 15.17.18 ensure that full and proper books of accounts are kept in accordance with sound accounting principles;
  - 15.17.19 ensure that the said books of account and all records of ESA's finances and assets are duly audited each year within 3 months after the financial year end of ESA 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)
  - 15.17.20 deal with any question or issue arising out of or relating to or incidental to non-racialism as described in the schedule one hereto;
  - 15.17.21 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.
  - 15.17.22 address any question or issue or matter concerning or incidental to development including budgeting for and expenditure on development;
  - 15.17.23 approve the employment and termination of employment of staff by ESA 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;
  - 15.17.24 decide any question, issue or matter relating to emblems, colours, or anthems for ESA
  - 15.17.25 make recommendations on any question or issue relating to the affiliation to or disaffiliation from any macro or other body;
  - 15.17.26 decide any question or issue relating to the use of ESA facilities and/or other facilities incidental thereto and/or the standard thereof;
- 15.18 The ESA 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.

- 15.19 It is recognised that it is desirable for all provincial bodies themselves to negotiate and achieve unified provincial bodies. Notwithstanding this, the 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.
- 15.20 Any member of the ESA 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 ESA Council.
- 15.21 No member of the ESA 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, is a salaried person under contract to ESA.
- 15.22 The Secretary shall:
- 15.22.1 Represent as a member of the ESA Council Committee;
  - 15.22.2 Send to all Members, and to all members of the ESA Council:
    - a) Written notification of all meetings of the ESA 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.
- 15.23 Any Member, of any classification, shall be entitled to have a representative attend and speak, but not vote, at any meeting of the ESA 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.

## **16. ELECTION OF THE PRESIDENT, VICE-PRESIDENT, TREASURER AND THE OTHER MEMBERS OF THE ESA COUNCIL**

- 16.1 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 15.1.8
- 16.2.1 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.
- 16.2.2 The ESA Representative of the Special Member shall be elected at a meeting of the Special Member.

- 16.2 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.
- 16.3 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.
- 16.4 A valid nomination for any of the posts referred to in sub-paragraphs 15.1.1 to 15.1.3 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 15.1.4.
- 16.5 In the event of the nominee being elected to one of the posts referred to in paragraph 15.1 and appointed as a representative of an ordinary member, the nominee shall be entitled to 1(one) vote on the ESA council. *Cannot be an ordinary representative and the president or vice president of ESA.*
- 16.6 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.
- 16.7 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 ESA 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.
- 16.8 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.
- 16.10 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.
- 16.11 If the number of men thus nominated plus those elected to one or more of the posts referred to in sub-paragraphs 15.1.1 to 15.1.3 and 15.1.6 inclusive and 15.1.7 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)*
- 16.12 If the number of women thus nominated plus those elected to one or more of the posts referred to in sub-paragraphs 15.1.1 to 15.1.3 inclusive and 15.1.7 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.
- 16.13 If the number of persons thus nominated is such that, together with those elected to the specific posts referred to in sub-paragraphs 15.1.1 to 15.1.3 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)*
- 16.13.1 until there is a total of three men elected to the ESA Council, those men who receive

the highest number of votes amongst the men candidates shall be deemed to be elected;

16.13.2 likewise, until there is a total of two (2) women elected to ESA Executive Council those women who receive the highest number of votes amongst the women candidates shall be deemed to be elected;

16.13.3 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.

16.14 Each person who votes shall record a vote for not more and not less than the number of vacancies.

16.15 All members of the Council shall hold office until the next A.G.M., subject to the provisions of clause 16.4.

## **17. MANAGEMENT COMMITTEE**

17.1 The ESA Council may appoint a Management Committee if so directed at the Annual General Meeting, comprising of:

17.1.1 The President

17.1.2 The Vice President

17.1.3 Five (5) Ordinary Members of the ESA Council inclusive of the Representative of the Special Member

17.1.4 The Secretary

17.2 The Management Committee shall meet at least once every three (3) months.

17.3 The Management Committee with the support of the Discipline Commissions referred to above, will function as the decision-making body around policy matters and shall be empowered to take decisions and to immediately undertake any action required by given events.

17.4 The Management Committee shall appoint an independent Disciplinary Committee to deal with all disciplinary matters relating to the Membership and/or their individual members.

17.5 The President may call on any member of the ESA Council to attend a Management Committee Meeting.

17.6 The minutes of the Management Committee Meetings must be distributed to all members of the Council.

17.7 Each Ordinary Member and Special Member shall elect a representative to serve on the under mentioned Committees. These committees are, but will not be limited to:

17.7.1 Development and Transformation Committee

17.7.2 International Affairs Committee



17.7.3 Marketing, Public Relations Committee

17.7.4 Events, Schedules, Venues and Competitions Committee

17.7.5 Technical Committee

- 17.8 The membership and representation of each sub-committee shall be decided and approved by the Council.
- 17.9 Each Subcommittee shall, subject to the provisions of this Constitution and to the by-laws, rules and regulations of ESA, perform such duties and functions as are delegated to it by the Council.
- 17.10 The powers and authority of each standing sub-committee shall be as set out in the by-laws, rules and regulations of ESA, provided that the ESA Council may by resolution add to or subtract there from.
- 17.11 It is specifically recorded that any Head of a Commission in any discipline shall not be entitled to occupy such position in the event of such person having a financial interest in a business venture connected to the Sport of ESA.

## **18. ASSOCIATE MEMBERS**

- 18.1 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.
- 18.2 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.
- 18.3 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.

## **19. HONORARY LIFE MEMBERS**

- 19.1 The ESA Council shall, from time to time, nominate any person who has rendered notable and meritorious service to ESA 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.

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

## **20. PATRONS**

- 20.1 The ESA 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.
- 20.2 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.

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

- 21.1 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 ESA, by way of subscription or otherwise howsoever.
- 21.2 The Patrons, the President, the Vice-President, the Alternate Director, all members of the ESA Council, the Treasurer, all officials, servants, agents and persons (natural, corporate or otherwise) acting on behalf of ESA, 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, from whatever cause arising, provided such person/s acted in good faith.

## **22. 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

## **23. NOTIFICATION**

For the purposes of this Constitution, all notifications by ESA 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 ESA; but all notifications to ESA 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 ESA.

## **24. 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 ESA 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.

## **25. DISSOLUTION OR WINDING UP OF ESA**

- 25.1 ESA 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 ESA shall have been given to all Members.
- 25.2 Upon dissolution or winding up of ESA, all the property and assets of ESA, 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 ESA, at the discretion of the Members.

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

The ESA 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:

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

## **27 DISPUTE RESOLUTION**

- 27.1 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 ESA and another national sports body, or any dispute between Members of ESA, or any dispute between members of ESA Exco, or between ESA Exco and a Member, or between ESA Exco or an ESA 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 SASCO 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.

- 27.2 In the event of arbitration in terms of the foregoing, such resolution shall be final and binding on the parties to the dispute.
- 27.3 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 ESA 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.
- 27.4 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.
- 27.5 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 ESA and the SAEF shall approach a Court of Law to decide on a dispute it has with a member, or individual affiliated to 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 \_\_\_\_\_ 2015.

## **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 ESA**

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

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 ESA 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 SAEF through the ESA 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 ESA 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.