

CONSTITUTION
of the
VOLUNTARY ASSOCIATION
known as
THE MOUNTAIN CLUB OF SOUTH AFRICA

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1. BACKGROUND

The Mountain Club of South Africa (MCSA) was established in Cape Town in 1891 to further the interests of mountaineering in South Africa and elsewhere, and evolved into a national association with a federal structure.

2. NAME

The name of the Association is -

The Mountain Club of South Africa

(hereinafter referred to as “the Club”)

3. OBJECTS

The Club is a public, non-profit organisation established for the sole object of promoting the interests of mountaineering, primarily in South Africa, as a recreational pastime and on a non-professional basis conducting all its activities in a manner that is for the benefit of, and widely accessible to, the general public. Without limiting its general nature, the Objects shall, inter alia, include -

- 3.1 organise and facilitate mountaineering;
- 3.2 procure and protect real rights in and access to mountains and mountain areas;
- 3.3 initiate and support actions towards protecting the natural beauty and wilderness character of mountains and to promote their effective conservation management;
- 3.4 promote the safety and training of mountaineers;
- 3.5 provide search and rescue resources;
- 3.6 promote the study of mountains and their environments, the preservation of historical and archaeological sites thereon and the dissemination of information on mountains and mountaineering.

4. LEGAL STATUS

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

5. NON-PROFIT DISTRIBUTING CHARACTER

- 5.1 The receipts and property of the Club shall be used solely for the promotion of its stated Objects. No portion of the income or property of the Club shall be paid or distributed directly or indirectly to any person (otherwise than in the ordinary course of undertaking any public benefit activity) or to any member of the Club or National Committee, except
 - 5.1.1 reasonable compensation for services actually rendered to the Club;
 - 5.1.2 reimbursement of actual costs or expenses reasonably incurred on behalf of the Club.
- 5.2 Upon the dissolution of the Club, after all debts and commitments have been paid, any remaining assets shall not be paid to or distributed amongst members, but shall be transferred by donation to any Section of the Club, failing which, to some other society or association which the National Committee (and failing which any division of the High Court) considers appropriate, which –
 - 5.2.1 has objects the same or similar to the Objects of the Club; and

5.2.2 should the Club be exempt from the payment of any taxes and duties, is also exempt from the same taxes and duties.

5.3 In order to maintain its present and future tax exemption status, the Club shall at all times fully comply with all the requirements of the Income Tax Act No 58 of 1962, as amended from time to time, and, where applicable, of the South African Revenue Service, upon which such exemption shall depend.

6. POWERS

The Club, acting through its National Committee or at Annual General Meetings, shall have all the powers necessary for it to carry out its stated Objects effectively.

7. MEMBERSHIP

7.1 Classes of Membership

The Club shall have the following classes of membership -

7.1.1 Sections, being regional mountain clubs already formed or to be formed in any part of Southern Africa and already are, or to be in future, affiliated to the Club;

7.1.2 Persons, being all individual members of constituent Sections, irrespective of race, gender or creed;

7.1.3 Honorary Members elected in terms of Clauses 8.6.2(iii).

7.2 Establishment of Sections

7.2.1 The National Committee, as hereinafter constituted, may prescribe procedures or formalities to be observed by organisations or groups applying for membership as Sections;

7.2.2 An application for membership as a Section of the Club shall be approved by not less than two-thirds of the members of the National Committee to whom are attributable not less than two-thirds of the total votes determined in terms of Clause 8.5.4.

7.3 General Conditions

7.3.1 Each Section shall bear the name of its region or locality after the words "The Mountain Club of South Africa";

7.3.2 A Section shall be a fully autonomous body, with its own legal identity and Constitution and shall exercise exclusive control over its own membership, funds and property; provided that, on admission to the Club, it shall signify its membership of the Club, in a manner prescribed by the National Committee;

7.3.3 The constitution of a Section shall not contain any provisions inconsistent or incompatible with this Constitution.

7.4 Termination of Membership of the Club

The National Committee may terminate the membership of a Section of the Club by a decision of not less than two-thirds of the members of the National Committee to whom are attributable not less than two-thirds of the total votes determined in terms of Clause 8.5.4 inclusive of the Section whose membership it is proposed to terminate.

8. THE NATIONAL COMMITTEE

8.1 Powers

The National Committee –

- 8.1.1 shall, subject to the terms of this Constitution and to resolutions adopted at Annual General Meetings, manage and control the affairs of the Club;
- 8.1.2 may exercise all the powers of the Club;
- 8.1.3 shall formulate the general policy of the Club;
- 8.1.4 shall deal with matters of common interest to all Sections;
- 8.1.5 shall take all such steps, as it may deem necessary, for the implementation of the Objects of the Club;
- 8.1.6 may delegate such powers and duties on such terms and conditions, as it in its discretion deems fit, to an Executive Committee appointed by it which shall consist of the President, Deputy President, Secretary, Treasurer and two members of the National Committee appointed in terms of Clauses 8.3.1, 8.3.5(i) and 8.3.5(ii);
- 8.1.7 may appoint sub-committees for such purposes and with such powers as it may deem fit;
- 8.1.8 may from time to time, and upon such terms and conditions as it may consider appropriate and or necessary, appoint other officers, employ staff and hire professional and other services;
- 8.1.9 may prescribe from time to time the manner and form in which any Section or individual may use the Club badge or emblem;
- 8.1.10 may delegate, from time to time, to any Section or individual the right to -
 - 8.1.10(i) publish the Journal and/or any other publication;
 - 8.1.10(ii) organise any function in the name of the Club.
- 8.1.11 may institute or defend any legal or arbitration proceedings and to settle any claims made by or against the Club;
- 8.1.12 may make and vary investments and re-invest the proceeds of such investments on condition that any investments made by the Club shall be with Financial Institutions as approved by the National Committee from time to time;
- 8.1.13 may receive, expend and administer funds and accept donations made to the Club and retain them in the form in which they are received, or sell them and re-invest the proceeds;
- 8.1.14 may with regard to movable and immovable property and tangible and intangible assets of whatsoever nature -
 - 8.1.14(i) purchase or acquire property and assets;
 - 8.1.14(ii) maintain, manage, develop, exchange, lease, sell, or in any way deal with the property and assets of the Club;
 - 8.1.14(iii) donate and transfer the property and assets of the Club to organisations with the same or similar objects and the same exemptions from taxes and duties to those of the Club.

- 8.1.15 may borrow and use the property or assets of the Club as security for borrowing;
- 8.1.16 may guarantee the performance of contracts or obligations of any Section on condition that such contracts or obligations further the Objects of the Club;
- 8.1.17 may make loans or grant subsidies to any Section on such terms as the National Committee deems expedient;
- 8.1.18 may execute any act or deed in any deeds registry, mining titles or other public office;
- 8.1.19 may work in collaboration with other organisations and amalgamate with any organisation with the same or similar Objects and the same exemptions from taxes and duties to those of the Club;
- 8.1.20 may exercise all the management and executive powers that are normally vested in the Board of Directors of a Company;
- 8.1.21 may make, repeal and amend by-laws and regulations (not inconsistent with this Constitution) for the control of any hut, clubhouse or other premises or property of the Club, or for the preservation of any of its assets or generally for the management of the affairs of the Club. All such by-laws and regulations shall be binding upon members until repealed by the National Committee or set aside by resolution at an Annual General Meeting of the Club;
- 8.1.22 may exercise all the powers and authority of the Club not only in the Republic of South Africa but in any other part of the world.

8.2 Composition

- 8.2.1 The members of the National Committee shall be -
 - 8.2.1(i) the President, ex officio, elected in terms of Clause 8.3.1;
 - 8.2.1(ii) the Deputy President, elected from the Chairpersons of Sections in terms of Clause 8.3.5(i);
 - 8.2.1(iii) the Secretary, ex officio, elected in terms of Clauses 8.3.1;
 - 8.2.1(iv) the Treasurer, ex officio, elected in terms of Clauses 8.3.1;
 - 8.2.1(v) the Chairperson of each Section of the Club.
- 8.2.2 The Chairperson of a Section may be represented by an alternate nominated in writing or by means of electronic communication submitted to the Secretary by the Chairperson or a Committee member designated by the Committee of the said Section.

8.3 Election of Office Bearers and Executive Committee

- 8.3.1 The President, Secretary and Treasurer (“the Office Bearers”) shall be elected at the Annual General Meeting of the Club, and shall hold office until the end of the succeeding Annual General Meeting, when all of them shall resign. The Office Bearers shall be elected at each succeeding Annual General Meeting.
- 8.3.2 Nominations, by Sections, for the Office of President, Secretary and Treasurer, for the said offices shall -
 - 8.3.2(i) be in writing or by means of electronic communication;

- 8.3.2(ii) be accepted in writing or by means of electronic communication by the nominees;
- 8.3.2(iii) reach the Secretary at least sixty days before the date of the Annual General Meeting of the Club, and be communicated in terms of Clause 10 to each Section at least forty-five days before the date of such Annual General Meeting.
- 8.3.3 The non-receipt, by a Section, of a communication referred to in Clause 8.3.2(iii) shall not invalidate the proceedings of an election.
- 8.3.4 The persons elected as President, Secretary and Treasurer shall, if they are the Chairperson of a Section, resign from the latter office.
- 8.3.5 At the Annual General Meeting of the Club there shall be elected, from the Chairpersons of Sections represented on the National Committee -
 - 8.3.5(i) a Deputy President; and in addition
 - 8.3.5(ii) two additional members to serve on the Executive Committee, referred to in Clause 8.3.6.
- 8.3.6 Nominations for the position of Deputy President and the two additional members of the Executive Committee may be made by Sections in writing or by means of electronic communication, and submitted to the Secretary not later than forty-eight hours prior to the Annual General Meeting, or may be made by Section Chairpersons at the said meeting.
- 8.3.7 The Deputy President and the two additional members appointed to serve on the Executive Committee shall hold office until the end of the succeeding Annual General Meeting, when all of them shall resign
- 8.3.8 Should there be no nominee for any or all of the positions of President, Secretary or Treasurer (Office Bearer(s)) received in terms of Clause 8.3.2, or a nominee withdraws his or her acceptance of the nomination prior to the Annual General Meeting, then –
 - 8.3.8(i) the members attending the Annual General Meeting shall be authorised to elect a member of the Club to fill any of the vacant Office Bearer position(s); or
 - 8.3.8(ii) should no person be appointed in terms of Clause 8.3.8(i) then the National Committee shall be authorised to elect a member of the Club to fill the vacant Office Bearer position(s).

8.4 Vacation of Office by an Office Bearer or Executive Committee Member

- 8.4.1 The office of a National Committee Office Bearer, the Deputy President and any of one or both of the two additional members appointed to serve on the Executive Committee shall be vacated if he/she -
 - 8.4.1(i) resigns or dies; or
 - 8.4.1(ii) becomes unfit and/or incapable of acting as such; or
 - 8.4.1(iii) would be disqualified, in terms of the Companies Act or equivalent legislation in force from time to time, from acting as a Director of a Company; or

8.4.1(iv) is removed from office by the National Committee, by a resolution adopted by not less than two-thirds of its members, to whom are attributable not less than two-thirds of the votes determined in terms of Clause 8.5.4, from time to time. The National Committee shall not be obliged to furnish reasons for its decision(s) regarding removal except to the member removed.

8.4.2 Should, during his or her year of office, any member of the Executive Committee vacate his or her office in terms of Clause 8.4.1 above, the National Committee shall, as soon as possible, elect a successor to serve for the remainder of the year by means of a resolution provided for in terms of Clause 8.5.8.

8.5. Procedures at Meetings

The National Committee shall regulate and conduct its meetings as it may deem fit, provided that -

8.5.1 meetings shall be presided over by the President, or in his or her absence, the Deputy President, or in the absence of both the President and the Deputy President, the National Committee shall elect a chairperson from among those present;

8.5.2 not less than one ordinary meeting shall be held in any calendar year;

8.5.3 the quorum for a meeting of the National Committee shall be not less than one half of the Club's Sections, to whom are attributable not less than one half of the total votes determined in terms of Clause 8.5.4;

8.5.4 except where otherwise specified in this Constitution, matters shall be settled by consensus failing which by a majority of votes attributable to Sections present. The number of votes attributable to a Section shall be determined by the number of individual members with full voting rights in that Section, as on the first day of January of each calendar year, on the basis of -

8.5.4(i) one vote in respect of each complete group of 150 members up to the first two of such groups, provided that a Section shall have at least one vote; and

8.5.4(ii) one vote for each additional complete group of 250 members thereafter;

8.5.5 the President, Secretary and Treasurer, shall not have a deliberative vote, but in the event of an equality of votes, the President may exercise a casting vote. The Deputy President, when presiding over a meeting of the National Committee, shall at all times be entitled to retain and exercise such votes attributable to him or her as the representative of his or her Section;

8.5.6 a special meeting

8.5.6(i) may, at any time, be called by the President; or

8.5.6(ii) shall be called if requested by not less than three Sections to whom are attributable not less than twenty-five percent of the total number of votes determined in terms of Clause 8.5.4;

8.5.7 proper minutes shall be kept of all formal proceedings of the National Committee;

8.5.8 a resolution adopted in writing or by means of electronic communication by a majority of not less than two-thirds of the members of the National Committee, to whom are attributable not less than two-thirds of the total number of votes determined in terms of Clause 8.5.4, shall be as valid as if passed at a duly convened meeting of the National Committee, and such a resolution shall be ratified at the next meeting of the National Committee.

8.6 Awards

The National Committee may make the following Awards, based on guidelines determined, from time to time, for making such awards –

8.6.1 to Members of the Club -

- 8.6.1(i) the Gold Badge of the Club to members of the Club who have significantly furthered the cause of mountaineering and the Objects of the Club in several aspects, over a significant period of time;
- 8.6.1(ii) the Mountain Award to members of the Club for significant achievement in mountaineering and/or rock climbing, whether over an extended period of time or for a single outstanding achievement;
- 8.6.1(iii) the President's Award to members of the Club who have rendered exceptional service to the Club over an extended period of time and/or have made an exceptional contribution in a specific field of the Club's activities;

8.6.2 to non-members of the Club -

- 8.6.2(i) the Mountain Award for outstanding achievements in mountaineering and/or rock climbing;
- 8.6.2(ii) the President's Award to any individual who has made a special contribution to the activities of the Club or has furthered the cause of mountaineering and the Objects of the Club provided that the individual's association with the Club extends over a significant period of time;
- 8.6.2(iii) Honorary Membership of the Club, either temporarily or for life and carrying no voting rights, to other persons the Club may wish to honour.

9. Annual General Meeting

- 9.1 An Annual General Meeting shall be held within five months of the beginning of the calendar year.
- 9.2 Annual General Meetings shall be convened by the National Committee on not less than twenty-one (21) days notice, given in terms of Clause 10 to all Sections of the Club. This notice shall state the date, time and place of the meeting and in broad terms the business to be transacted at the meeting.
- 9.3 The business of an Annual General Meeting shall include -
 - 9.3.1 the presentation and adoption of the Secretary's Annual Report of the Club, which report shall have been transmitted to Sections at least fourteen (14) days before the meeting;
 - 9.3.2 the approval of the audited Annual Financial Statements of the Club, transmitted to Sections in terms of Clause 11.6.3;
 - 9.3.3 the election of the President, Secretary and Treasurer in terms of Clause 8.3.1;
 - 9.3.4 the election of the Deputy President and two additional members of the Executive Committee referred to in Clause 8.3.5;
 - 9.3.5 the election of an auditor to carry out the duties set out in Clause 11.6.2;

- 9.3.6 the tabling of the Annual Reports of the Sections;
- 9.3.7 other matters as may be considered appropriate.
- 9.4 The quorum for an Annual General Meeting shall be not less than one-half of the Club's Sections, to whom are attributable not less than one-half of the total votes determined in terms of Clause 8.5.4.
- 9.5 A resolution put to the vote at an Annual General Meeting shall be decided in terms of the provisions of Clause 8.5.4.
- 9.6 Proper minutes shall be kept of the proceedings of an Annual General Meeting, and a record of the Sections and persons present at each meeting. The minutes shall be approved at the next Annual General Meeting and signed by the Chairperson of that meeting, and shall be available for inspection or copying by any member on two (2) days notice to the Secretary.
- 9.7 At an Annual General Meeting, the Club may review, approve or amend any decision taken by the National Committee but no such resolution of the Club shall invalidate any prior action taken by the National Committee in accordance with the provisions of this Constitution.

10. NOTICES

- 10.1 Notice of all meetings provided for in this Constitution, shall be delivered personally, or sent by prepaid post, or by means of electronic communication to the last address notified by each Section of the Club, or in any other manner as the National Committee may decide from time to time.
- 10.2 The accidental omission to address notice(s) to any Section shall not invalidate the proceedings of any meeting.
- 10.3 Notices shall be deemed to have been received within -
 - 10.3.1 seven (7) days after posting;
 - 10.3.2 twenty-four (24) hours of having been dispatched by means of electronic communication.

11. FINANCIAL MATTERS

11.1 Receipts and Expenditure

- 11.1.1 The methods used to raise funds, and the receipt and expenditure thereof shall be such as is authorised from time to time by not less than two-thirds of the members of the National Committee to whom are attributable not less than two-thirds of the total number of votes determined in terms of Clause 8.5.4, save in the event that the aforesaid funds are less than an amount which shall be specified from time to time by a majority vote of not less than two-thirds of the members of the National Committee to whom are attributable not less than two-thirds of the total number of votes of its members as determined in terms of Clause 8.5.4, in which event only a simple majority of members and of the total number of votes shall be required.
- 11.1.2 The Sections, in a manner determined by the National Committee from time to time, shall share expenses incurred in terms of Clause 11.1.1 in the administration of the Club.

11.2 Bank Account(s)

The National Committee shall maintain a bank account(s) in the name of the Club with an approved registered Bank(s). The National Committee shall ensure that all monies received by the Club, except those monies that can be used to pay expenses by cash, are deposited in the abovementioned bank account(s) as soon as possible after receipt.

11.3 Signatories

The National Committee shall, from time to time, determine -

11.3.1 who shall be authorised to sign all cheques and other payment instruction documents, including petty cash vouchers on behalf of the Club;

11.3.2 the basis of using electronic banking;

11.3.3 the terms, conditions, amounts and/or limits that may be imposed on any or all of the signatories.

11.4 Financial Year End

The Club's financial year end shall be 31 December of each calendar year.

11.5 Financial Records

The National Committee shall ensure that the Club keeps proper records and books of account which fairly reflect the affairs of the Club.

11.6 Annual Financial Statements

11.6.1 The National Committee shall ensure that the Club prepares Annual Financial Statements for each financial year.

11.6.2 Prior to the holding of the Annual General Meeting, to be held in terms of Clause 9.1, the National Committee shall ensure that an audit has been carried out and that the auditor has issued his or her report in respect of the Annual Financial Statements.

11.6.3 A copy of the audited Annual Financial Statements shall be transmitted to all Sections fourteen (14) days before the Annual General Meeting.

12. DOMICILE

The Headquarters of the Club and its domicilium citandi et executandi shall be the Club House of The Mountain Club of South Africa - Cape Town Section, where the official records and archives of the Club shall be kept, unless otherwise resolved by not less than one-half of the members of the National Committee to whom are attributable not less than one-half of the total number of votes determined in terms of Clause 8.5.4.

13. AMENDMENTS TO THE CONSTITUTION AND DISSOLUTION

13.1 The terms of this Constitution may be amended, the name of the Club may be changed and the Club may be dissolved by resolution at a formal meeting of the National Committee, provided that -

13.1.1 notice of such a proposed resolution, signed by the proposer, must be received by the Secretary not less than ninety (90) days prior to the date of the meeting;

13.1.2 proper notice of the meeting is given to all Sections of the Club not less than sixty (60) days prior to the date of the meeting and such notice states the nature of the resolution to be proposed;

- 13.1.3 a majority vote of not less than two-thirds of the members of the National Committee to whom are attributable not less than two-thirds of the total number of votes determined in terms of Clause 8.5.4, vote in favour of the resolution.
- 13.2 The proposed resolution, as notified to all Sections, may be amended at the meeting provided that the Chairperson is of the opinion that the amendment does not constitute a substantive change to the content or spirit of the proposed resolution.

14. INDEMNITY

- 14.1 Subject to the provisions of any relevant statute, members of the National Committee and other office bearers may be indemnified by the Club for all acts done by them in good faith on its behalf. Providing the Club agrees to indemnify any member of the National Committee and/or any other office bearer, the Club shall pay all costs and expenses which any such person incurs or becomes liable for as a result of any contract entered into, or act done by him or her, in his or her said capacity, in the discharge, in good faith, of his or her duties on behalf of the Club.
- 14.2 Subject to the provisions of any relevant statute, no member of the National Committee and or other office bearer of the Club shall be liable for the acts, receipts, negligence or defaults of any other member or office bearer, or for any loss, damage or expense suffered by the Club, which occurs in the execution of the duties of his or her office, unless it arises as a result of his or her dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

15. DISPUTES

- 15.1 In the event of a serious disagreement between the members of the National Committee and/or the Club regarding the interpretation of this Constitution, then any two (2) National Committee members of the Club shall be entitled to declare a dispute. Such declaration shall be in writing, state the issue in dispute, and be addressed to the National Committee.
- 15.2 The National Committee shall consider such declaration within two (2) weeks of receiving it. Should the National Committee not be able to resolve the dispute to the satisfaction of the person(s) declaring it, the dispute shall be referred either to a mediator or arbitrator.
- 15.3 Should the dispute be referred to a mediator, the person(s) declaring the dispute and the National Committee must agree on a suitable mediator and to the costs of such mediation. A mediator may recommend an appropriate resolution of the dispute.
- 15.4 In the absence of agreement regarding a mediator or should mediation not resolve the dispute, the dispute shall be referred to arbitration. The arbitrator shall be such suitably qualified person(s) as the person(s) declaring the dispute and the National Committee may mutually agree. Alternatively, each of the parties shall be entitled to nominate one arbitrator, who shall act jointly with a third person to be nominated jointly by the respective nominees of the parties; on the basis that a majority decision of the appointed arbitrators shall be final and binding.
- 15.5 The arbitration shall be held on an informal basis, and the arbitrator shall have the power to determine the procedure to be adopted subject to principles of natural justice.
- 15.6 The arbitrator may base his or her award not only upon the applicable law but also upon the principles of equity and fairness.
- 15.7 The person(s) declaring the dispute and the National Committee may, beforehand, agree to share the costs of the arbitration. In the absence of such agreement the arbitrator shall decide which parties shall be liable for the costs.
- 15.8 The decision of the arbitrator shall be final and binding upon all parties and capable of being made an Order of Court on application by any of them.