

# NERA CONSTITUTION

## ANNEXURE 6: DISCIPLINARY CODE AND PROCEDURE

### 1. DEFINITIONS

In this Annexure, unless the context otherwise indicates, a word or expression defined in the Constitution of the Association bears that meaning and -

“club disciplinary committee” means a club disciplinary committee referred to in paragraph 2.2.1;

“Disciplinary Committee” means the Disciplinary Committee contemplated in article 6.6 of the Constitution of the Association;

“hearing” means a disciplinary hearing; and

“ride disciplinary committee” means ride disciplinary committee referred to in paragraph 4.1(a).

### 2. INVESTIGATION AND DISCIPLINARY ACTION BY A CLUB

#### 2.1 Complaint, charge or allegation and investigation

If a club committee has received a complaint, charge or allegation by a member of the public, a member of the club, a member of the club committee or a member of the Association, against a member of the club, the club committee must consider the complaint, charge or allegation and may resolve -

(a) to investigate the matter and obtain further information, where after it may proceed with a disciplinary hearing against the member on the grounds contemplated in Article 6.4 of the Nera Constitution or in terms of the Constitution of the club; or

(b) to proceed with a hearing against the member as contemplated in paragraph (a).

#### 2.2 Disciplinary hearing

The following procedure must be followed if a hearing is to be held in respect of a member as contemplated in paragraph 2.1 (hereafter referred to as “the accused”):

2.2.1 The club committee must appoint a club disciplinary committee consisting of 3 persons, comprising -

- (a) totally of members of the club committee;
- (b) totally of members of the public; or
- (c) partially of members of the club committee and members of the public ,

to conduct the hearing, and must appoint a chairperson of the club disciplinary committee.

2.2.2.1 The chairperson of the club disciplinary committee must serve or cause to be served a written notice by registered post to or personally on the accused and the complainant, if the evidence of the complainant is relevant to proceed with the hearing, of the meeting of the committee at which the hearing is to take place, at least 21 days prior to the meeting.

2.2.2.2 The written notice referred to in paragraph 2.2.2.1 must -

- (a) state the date, time and place of the hearing;
- (b) state the particulars of the complaint, charge or allegation against the accused, which has been reduced to a charge sheet;
- (c) request the accused and the complainant, if applicable, to be present at the hearing to state their case;
- (d) state that the accused and the complainant, if applicable, may -
  - (i) testify in person;
  - (ii) call witnesses to testify on their behalf; and
  - (iii) may cross-examine persons who have testified at the hearing.

2.2.3.1 An accused may prior to the commencement of the hearing contemplated in paragraph 2.2.2.2(a) furnish the club disciplinary committee with a written explanation, including an admission of guilt or a denial of guilt, regarding a charge against him or her.

2.2.3.2 If an accused has -

- (a) furnished a written explanation, the club disciplinary committee must consider the explanation;

- (b) furnished an admission of guilt in respect of any or all the charges, the club disciplinary committee may accept the admission of guilt and proceed with the hearing regarding the charges in respect of which an admission of guilt has not been furnished;
- (c) furnished a denial of guilt, the club disciplinary committee must proceed with the hearing, unless, after considering the written explanation, the committee is of the opinion not to proceed with the hearing or to proceed therewith only in respect of certain charges.

#### 2.2.4.1 If -

- (a) an accused is not present at the hearing of which written notice was given, the club disciplinary committee may proceed with the hearing;
- (b) the complainant is not present at the hearing, the club disciplinary committee may not proceed with the disciplinary hearing, except if -
  - (i) the accused has furnished an admission of guilt; or
  - (ii) the evidence of the complainant is not relevant to proceed with the hearing; or
  - (iii) the club disciplinary committee resolves to act as complainant in the matter.

#### 2.2.4.2 The complainant, if applicable, must state the case against the accused and may for that purpose -

- (a) present evidence against the accused;
- (b) call witnesses to testify against the accused;
- (c) submit any document, book, record or any other thing relevant to the hearing; and
- (d) cross-examine witnesses testifying on behalf of the accused.

#### 2.2.4.3 An accused who is present at the hearing may answer to any charge against him or her and be heard in his or her defence, and may for that purpose -

- (a) give evidence;
- (b) call witnesses to testify on his or her behalf;
- (c) submit any document, book, record or any other thing relevant to the hearing; and
- (d) cross-examine witnesses testifying against him or her.

2.2.4.4 If there is no complainant acting at the hearing, the chairperson of the club disciplinary committee must state the case against the accused and may for that purpose -

- (a) present evidence against the accused;
- (b) call witnesses to testify against the accused;
- (c) submit any document, book, record or any other thing relevant to the hearing; and
- (d) cross-examine witnesses testifying on behalf of the accused.

2.2.4.5 Notwithstanding paragraph 2.2.4.4, the club disciplinary committee may in any event cross-examine any person who has given evidence or testified before it or who has produced any document, book, record or any other thing relevant to the hearing, or ask questions.

2.2.5 After the club disciplinary committee has heard all the evidence produced and witnesses testified on behalf of the complainant, if applicable, and the accused, the committee -

- (a) may deliberate and consider the evidence and testimonies;
- (b) must make a finding of guilty or not guilty in respect of the charge against the accused; and
- (c) must announce that finding at the hearing concerned, unless the committee postpones the hearing to a later date in order to make the finding.

2.2.6.1 An accused found guilty of a charge, including a charge in respect whereof he or she has furnished an admission of guilt, may -

- (a) address the club disciplinary committee; and

- (b) call witnesses to give evidence on his or her behalf, in mitigation of the penalty to be imposed.

2.2.6.2 A complainant, if applicable, may -

- (a) address the club disciplinary committee; and
- (b) call witnesses to give evidence against the accused, in aggravation of the penalty to be imposed in respect of a charge of which the accused has been found guilty.

2.2.6.3 An accused who has been found guilty of a charge is liable to any one or more of the following penalties -

- (a) a reprimand;
- (b) a caution;
- (c) payment to the club of a fine not exceeding N\$.....;
- (d) disqualification from the results of a ride;
- (e) the imposing of conditions and restrictions by the club disciplinary committee subject to which the accused may, for a specified period, remain to be a member and take part in the endurance riding sport;
- (f) suspension for a specified period of time, subject to the conditions as the club disciplinary committee may determine, from taking part in the endurance riding sport;
- (g) expulsion and the termination of membership.

2.2.7 The club disciplinary committee must -

- (a) set out fully in writing its finding and the penalties (if any), imposed; and
- (b) make the finding and the penalties, if any, known to the accused, the club committee concerned and the Council in writing within a period of 21 days after the conclusion of the hearing concerned.

### 2.3. **Appeal**

- 2.3.1.1 An accused who has been found guilty of a charge at a disciplinary hearing by a club disciplinary committee, may appeal in writing through the chairperson of the club disciplinary committee to -
- (a) firstly, the club committee of the club of which he or she is a member; and
  - (b) secondly, if he or she is not satisfied, to the Council,
- against the finding, any penalty imposed upon him or her or the finding and any penalty.
- 2.3.1.2 A member of a club committee or of the Council who -
- (a) has been a member of the club disciplinary committee concerned; or
  - (b) has given evidence or testified at the hearing concerned,
- may not be a member of the club committee or the Council when hearing an appeal as contemplated in paragraph 2.3.1.1.
- 2.3.2 An appeal must -
- (a) contain the grounds for the appeal; and
  - (b) must reach the chairperson of the club disciplinary committee within 21 days after receipt of the finding and the penalties as contemplated in paragraph 2.2.7.
- 2.3.3 The chairperson of the club disciplinary committee must as soon as possible after receipt thereof as contemplated in paragraph 2.3.2(b) forward the appeal to the club committee or the Council, as the case may be, and the club committee or the Council must consider the appeal.
- 2.3.4 The club committee or the Council, as the case may be, may -
- (a) confirm the finding and the penalty;
  - (b) set aside or amend the finding;
  - (c) set aside or amend any penalty imposed;
  - (d) postpone the imposing of a penalty for the period and upon the conditions determined by the club committee or the Council; or

- (e) suspend the execution of a penalty for the period and upon the conditions determined by the club committee or the Council,

and notify the appellant in writing thereof.

2.3.5 The Council may at any time before the expiration of a period contemplated in paragraph 2.2.6.3(d) or (e) on application -

- (a) terminate any period of time concerned; or
- (b) amend any condition or restriction,

subject to the conditions as it may in each case determine.

2.3.6 If a person fails to comply with any conditions determined in terms of paragraph 2.2.6.3(d) or (e), the period concerned referred to therein does not terminate, unless the accused satisfies the Council that the non-compliance with the conditions was due to circumstances beyond his or her control.

2.3.7.1 An appellant who is not satisfied with the decision of the Council notified to him or her as contemplated in paragraph 2.3.4 may appeal against that decision to the appeal committee contemplated in section 35 of the Namibia Sport Act, 2003 (Act No. 12 of 2003).

2.3.7.2 An appeal referred to in paragraph 2.3.7.1 must comply with section 35(4), (5) and (6) of the Namibia Sports Act, 2003, and the provisions of section 35(7) to (12) apply to such appeal.

2.3.8 Any finding and penalty imposed upon an accused as contemplated in article 2.2.6.3 is not suspended pending the outcome of an appeal, but remains in force until set aside or amended by either the club committee, the Council or the appeal committee concerned, as the case may be.

### 3. **INVESTIGATION AND DISCIPLINARY ACTION BY COUNCIL**

#### 3.1 **Complaint, charge or allegation and investigation**

If the Council has received a complaint, charge or allegation by a member of the public, a member of a club, a member of the Committee or a member of the Association, against a member of a club, a member of the Association or a member of the Council, the Council must consider the complaint, charge or allegation and may resolve -

- (a) to refer the matter to the club committee of the club of which the member is a member and request the club committee to act as contemplated in paragraph 2; or
- (b) (i) to investigate the matter and obtain further information, where after it may proceed through the Disciplinary Committee with a disciplinary hearing against the member concerned on the grounds contemplated in Article 6.4 of the Nera Constitution; or
- (ii) to proceed through the Disciplinary Committee with a hearing against the member as contemplated in paragraph (b)(i).

### 3.2 **Disciplinary hearing**

The following procedure must be followed if a hearing is to be held in respect of a member as contemplated in paragraph 3.1 (hereafter referred to as "the accused"):

3.2.1 The Disciplinary Committee must conduct the hearing.

3.2.2.1 The chairperson of the Disciplinary Committee must serve or cause to be served a written notice by registered post to or personally on the accused and the complainant, if the evidence of the complainant is relevant to proceed with the hearing, of the meeting of the Committee at which the hearing is to take place, at least 21 days prior to the meeting.

3.2.2.2 The written notice referred to in paragraph 3.2.2.1 must -

- (a) state the date, time and place of the hearing;
- (b) state the particulars of the complaint, charge or allegation against the accused, which has been reduced to a charge sheet;
- (c) request the accused and the complainant, if applicable, to be present at the hearing to state their case;
- (d) state that the accused and the complainant, if applicable, may -
  - (i) testify in person;
  - (ii) call witnesses to testify on their behalf; and

- (iii) may cross-examine persons who have testified at the hearing.

3.2.3.1 An accused may prior to the commencement of the hearing contemplated in paragraph 3.2.2.2(a) furnish the Disciplinary Committee with a written explanation, including an admission of guilt or a denial of guilt, regarding a charge against him or her.

3.2.3.2 If an accused has -

- (a) furnished a written explanation, the Disciplinary Committee must consider the explanation;
- (b) furnished an admission of guilt in respect of any or all the charges, the Committee may accept the admission of guilt and proceed with the hearing regarding the charges in respect of which an admission of guilt has not been furnished;
- (c) furnished a denial of guilt, the Committee must proceed with the hearing, unless, after considering the written explanation, the Committee is of the opinion not to proceed with the hearing or to proceed therewith only in respect of certain charges.

3.2.4.1 If -

- (a) an accused is not present at the hearing of which written notice was given, the Disciplinary Committee may proceed with the hearing;
- (b) the complainant is not present at the hearing, the Committee may not proceed with the disciplinary hearing, except if -
  - (i) the accused has furnished an admission of guilt; or
  - (ii) the evidence of the complainant is not relevant to proceed with the hearing; or
  - (iii) the Committee resolves to act as complainant in the matter.

3.2.4.2 The complainant, if applicable, must state the case against the accused and may for that purpose -

- (a) present evidence against the accused;

- (b) call witnesses to testify against the accused;
- (c) submit any document, book, record or any other thing relevant to the hearing; and
- (d) cross-examine witnesses testifying on behalf of the accused.

3.2.4.3 An accused who is present at the hearing may answer to any charge against him or her and be heard in his or her defence, and may for that purpose -

- (a) give evidence;
- (b) call witnesses to testify on his or her behalf;
- (c) submit any document, book, record or any other thing relevant to the hearing; and
- (d) cross-examine witnesses testifying against him or her.

3.2.4.4 If there is no complainant acting at the hearing, the chairperson of the Disciplinary Committee must state the case against the accused and may for that purpose -

- (a) present evidence against the accused;
- (b) call witnesses to testify against the accused;
- (c) submit any document, book, record or any other thing relevant to the hearing; and
- (d) cross-examine witnesses testifying on behalf of the accused.

3.2.4.5 Notwithstanding paragraph 3.2.4.4, the Disciplinary Committee may in any event cross-examine any person who has given evidence or testified before it or who has produced any document, book, record or any other thing relevant to the hearing or ask questions.

3.2.5 After the Disciplinary Committee has heard all the evidence produced and witnesses testified on behalf of the complainant, if applicable, and the accused, the Committee -

- (a) may deliberate and consider the evidence and testimonies;

- (b) must make a finding of guilty or not guilty in respect of the charge against the accused; and
  - (c) must announce that finding at the hearing concerned, unless the Committee postpones the hearing to a later date in order to make the finding.
- 3.2.6.1 An accused found guilty of a charge, including a charge in respect whereof he or she has furnished an admission of guilt, may -
- (a) address the Disciplinary Committee; and
  - (b) call witnesses to give evidence on his or her behalf,
- in mitigation of the penalty to be imposed.
- 3.2.6.2 A complainant, if applicable, may -
- (a) address the Disciplinary Committee; and
  - (b) call witnesses to give evidence against the accused,
- in aggravation of the penalty to be imposed in respect of a charge of which the accused has been found guilty.
- 3.2.6.3 An accused who has been found guilty of a charge is liable to any one or more of the following penalties -
- (a) a reprimand;
  - (b) a caution;
  - (c) payment to the Council of a fine not exceeding N\$.....;
  - (d) disqualification from the results of a ride;
  - (e) the imposing of conditions and restrictions by the Disciplinary Committee subject to which the accused may, for a specified period, remains to be a member and take part in the endurance riding sport;
  - (f) suspension for a specified period of time, subject to the conditions as the Committee may determine, from taking part in the endurance riding sport;
  - (g) expulsion and the termination of membership.

### 3.2.7 The Disciplinary Committee must -

- (a) set out fully in writing its finding and the penalties (if any), imposed; and
- (b) make the finding and the penalties, if any, known to the accused and the Council in writing within a period of 21 days after the conclusion of the hearing concerned.

### 3.3. **Appeal**

3.3.1.1.1 An accused who has been found guilty of a charge at a disciplinary hearing on behalf of the Council by the Disciplinary Committee may appeal in writing through the chairperson of the Committee to -

- (a) firstly, the Council; and
- (b) secondly, if he or she is not satisfied, to the appeal committee contemplated in section 35 of the Namibia Sport Act, 2003,

against the finding, any penalty imposed upon him or her or the finding and any penalty.

3.3.1.1.2 An appeal referred to in paragraph 3.3.1.1.1(b) must comply with section 35(4), (5) and (6) of the Namibia Sports Act, 2003.

3.3.1.2 A -

- (a) member of the Disciplinary Committee which has conducted a hearing; or
- (b) member of the Council who -
  - (i) was a member of the Committee which has conducted the hearing; or
  - (ii) has given evidence or testified at a hearing concerned,

may not be a member of the Council when hearing an appeal as contemplated in paragraph 3.3.1.1.1(a).

3.3.2 An appeal must -

- (a) contain the grounds for the appeal; and

- (b) must reach the chairperson of the Disciplinary Committee within 21 days after receipt of the finding and the penalties as contemplated in paragraph 3.2.7.

3.3.3 The chairperson of the Disciplinary Committee must as soon as possible after receipt thereof as contemplated in paragraph 3.3.2(b) forward the appeal to the Council or the appeal committee contemplated in paragraph 3.3.1.1.1(b), as the case may be, and the Council or the appeal committee must consider the appeal.

3.3.4 The Council, as the case may be, may -

- (a) confirm the finding and the penalty;
- (b) set aside or amend the finding;
- (c) set aside or amend any penalty imposed;
- (d) postpone the imposing of a penalty for the period and upon the conditions determined by the Council; or
- (e) suspend the execution of a penalty for the period and upon the conditions determined by the Council,

and notify the appellant in writing thereof.

3.3.5 The Council may at any time before the expiration of a period contemplated in paragraph 3.2.6.3(d) or (e) on application -

- (a) terminate any period of time concerned; or
- (b) amend any condition or restriction,

subject to the conditions as it may in each case determine.

3.3.6 If a person fails to comply with any conditions determined in terms of paragraph 3.2.6.3(d) or (e), the period concerned referred to therein does not terminate, unless the accused satisfies the Council that the non-compliance with the conditions was due to circumstances beyond his or her control.

3.3.7.1 An appellant who is not satisfied with the decision of the Council notified to him or her as contemplated in paragraph 3.3.4 may appeal against that decision to the appeal committee contemplated in section 35 of the Namibia Sport Act, 2003 (Act No. 12 of 2003).

3.3.7.2 An appeal referred to in paragraph 3.3.7.1 must comply with section 35(4), (5) and (6) of the Namibia Sports Act, 2003, and the provisions of section 35(7) to (12) apply to such appeal.

3.3.9 Any finding and penalty imposed upon an accused as contemplated in article 3.2.6.3 is not suspended pending the outcome of an appeal, but remains in force until set aside or amended by either the Council or the appeal committee concerned, as the case may be.

#### 4. **INVESTIGATION AND ACTION AT OR INVESTIGATION AND DISCIPLINARY ACTION IN RESPECT OF A RIDE**

##### 4.1 **Ride disciplinary committee**

At a ride or in respect of a ride -

(a) the President of the Organising Committee, one other member of the organising committee determined by the Organising Committee and the chairperson of the club who hosts the ride, form the disciplinary committee in respect of the ride concerned, with the President of the Organising Committee as the chairperson thereof (to be called the "ride disciplinary committee"; and

(b) the ride disciplinary committee has jurisdiction to -

(i) investigate;

(ii) obtain further information relating to; and

(iii) hear and adjudicate,

against any person who is involved at the ride (hereafter referred to as 'the accused'), in respect of anything which happened at the ride and which constitutes a contravention of any of the grounds contemplated in Article 6.4 of the Nera Constitution or in terms of the Constitution of the club concerned.

##### 4.2 **Complaint, charge or allegation and investigation**

If an Organising Committee at a ride has received a complaint, charge or allegation by a member of the public, a member of the club, a member of the Committee or a member of the Association, against an accused, the Organising Committee must -

(a) constitute the ride disciplinary committee as contemplated in paragraph 4.1(a); and

- (b) refer the complaint, charge or allegation to the ride disciplinary committee to act as contemplated in paragraph 4.1(b).

### 4.3 **Action against accused and disciplinary hearing**

The following procedure must be followed if -

- (a) action is to be taken against an accused at a ride; or
- (b) action is to be taken against an accused in respect of a ride and a hearing is to be held in respect of an accused as contemplated in paragraph 4.1(b):

#### 4.3.1 **Action at the ride:**

4.3.1.1 The ride disciplinary committee may at the ride -

- (i) investigate;
- (ii) obtain further information relating to; and
- (iii) act,

against any accused who is involved at the ride in respect of anything which happened at the ride and which constitutes a contravention of any of the grounds contemplated in Article 6.4 of the Nera Constitution or in terms of the Constitution of the club concerned.

4.3.1.2.1 If the action or conduct of an accused at a ride affects the proper execution of the ride, the ride disciplinary committee may take the steps necessary to bring an end to the action or conduct concerned, including, but not limited to -

- (a) in the case of a rider, disqualification of the rider from the ride; or
- (b) in the case of a rider or any other person, prohibition of that rider or person to be at the ride.

4.3.1.2.2 The ride disciplinary committee may at any time after the ride concerned -

- (i) further investigate;
- (ii) obtain further information relating to; and

(iii) hear and adjudicate,

against any accused who is involved at the ride anything which happened at the ride and which constitutes a contravention of any of the grounds contemplated in Article 6.4 of the Nera Constitution or in terms of the Constitution of the club concerned.

#### 4.3.2 **Action and disciplinary hearing after the ride:**

4.3.2.1.1 If the ride disciplinary committee has resolved to act as contemplated in paragraph 4.3.1.2.2, the chairperson of the ride disciplinary committee must serve or cause to be served a written notice by registered post to or personally on the accused and the complainant, if the evidence of the complainant is relevant to proceed with the hearing, of the meeting of the ride disciplinary committee at which the hearing is to take place, at least 21 days prior to the meeting.

4.3.2.1.2 The written notice referred to in paragraph 4.3.2.1.1 must -

- (a) state the date, time and place of the hearing;
- (b) state the particulars of the complaint, charge or allegation against the accused, which has been reduced to a charge sheet;
- (c) request the accused and the complainant, if applicable, to be present at the hearing to state their case;
- (d) state that the accused and the complainant, if applicable, may -
  - (i) testify in person;
  - (ii) call witnesses to testify on their behalf; and
  - (iii) may cross-examine persons who have testified at the hearing.

4.3.2.2.1 An accused may prior to the commencement of the hearing contemplated in paragraph 4.3.2.1.2(a) furnish the ride disciplinary committee with a written explanation, including an admission of guilt or a denial of guilt, regarding a charge against him or her.

4.3.2.2.2 If an accused has -

- (a) furnished a written explanation, the ride disciplinary committee must consider the explanation;
- (b) furnished an admission of guilt in respect of any or all the charges, the ride disciplinary committee may accept the admission of guilt and proceed with the hearing regarding the charges in respect of which an admission of guilt has not been furnished;
- (c) furnished a denial of guilt, the ride disciplinary committee must proceed with the hearing, unless, after considering the written explanation, the ride disciplinary committee is of the opinion not to proceed with the hearing or to proceed therewith only in respect of certain charges.

#### 4.3.2.3.1 If -

- (a) an accused is not present at the hearing of which written notice was given, the ride disciplinary committee may proceed with the hearing;
- (b) the complainant is not present at the hearing, the ride disciplinary committee may not proceed with the disciplinary hearing, except if -
  - (i) the accused has furnished an admission of guilt; or
  - (ii) the evidence of the complainant is not relevant to proceed with the hearing; or
  - (iii) the ride disciplinary committee resolves to act as complainant in the matter.

#### 4.3.2.3.2 The complainant, if applicable, must state the case against the accused and may for that purpose -

- (a) present evidence against the accused;
- (b) call witnesses to testify against the accused;
- (c) submit any document, book, record or any other thing relevant to the hearing; and
- (d) cross-examine witnesses testifying on behalf of the accused.

- 4.3.2.3.3 An accused who is present at the hearing may answer to any charge against him or her and be heard in his or her defence, and may for that purpose -
- (a) give evidence;
  - (b) call witnesses to testify on his or her behalf;
  - (c) submit any document, book, record or any other thing relevant to the hearing; and
  - (d) cross-examine witnesses testifying against him or her.
- 4.3.2.3.4 If there is no complainant acting at the hearing, the chairperson of the ride disciplinary committee must state the case against the accused and may for that purpose -
- (a) present evidence against the accused;
  - (b) call witnesses to testify against the accused;
  - (c) submit any document, book, record or any other thing relevant to the hearing; and
  - (d) cross-examine witnesses testifying on behalf of the accused.
- 4.3.2.3.5 Notwithstanding paragraph 4.3.2.3.4, the ride disciplinary committee may in any event cross-examine any person who has given evidence or testified before it or who has produced any document, book, record or any other thing relevant to the hearing, or ask questions.
- 4.3.2.4 After the ride disciplinary committee has heard all the evidence produced and witnesses testified on behalf of the complainant, if applicable, and the accused, the ride disciplinary committee -
- (a) may deliberate and consider the evidence and testimonies;
  - (b) must make a finding of guilty or not guilty in respect of the charge against the accused; and
  - (c) must announce that finding at the hearing concerned, unless the ride disciplinary committee postpones the hearing to a later date in order to make the finding.
- 4.3.2.5.1 An accused found guilty of a charge, including a charge in respect whereof he or she has furnished an admission of guilt,

may -

- (a) address the ride disciplinary committee; and
- (b) call witnesses to give evidence on his or her behalf,

in mitigation of the penalty to be imposed.

4.3.2.5.2 A complainant, if applicable, may -

- (a) address the ride disciplinary committee; and
- (b) call witnesses to give evidence against the accused,

in aggravation of the penalty to be imposed in respect of a charge of which the accused has been found guilty.

4.3.2.5.3 An accused who has been found guilty of a charge is liable to any one or more of the following penalties -

- (a) a reprimand;
- (b) a caution;
- (c) payment to the club, the Association or other organisation who has presented the ride concerned of a fine not exceeding NS.....;
- (d) disqualification from the results of the ride concerned;
- (e) the imposing of conditions and restrictions by the ride disciplinary committee subject to which the accused may, for a specified period, and take part in the endurance riding sport in respect of the ride concerned;
- (f) suspension for a specified period of time, subject to the conditions as the ride disciplinary committee may determine, from taking part in the endurance riding sport in respect of the ride concerned;
- (g) expulsion and the termination of membership.

4.3.2.6 The ride disciplinary committee must -

- (a) set out fully in writing its finding and the penalties (if any), imposed; and
- (b) make the finding and the penalties, if any, known to the

accused, the club committee concerned and the Council in writing within a period of 21 days after the conclusion of the hearing concerned.

#### 4.4. **Appeal**

4.4.1.1 An accused who has been found guilty of a charge at a disciplinary hearing by a ride disciplinary committee may appeal in writing through the chairperson of the ride disciplinary committee to -

(a) firstly, the club committee of the club concerned if the ride has been presented by a club, and secondly, if he or she is not satisfied, to the Council; or

(b) the Council if the ride has been presented by the Council, against the finding, any penalty imposed upon him or her or the finding and any penalty.

4.4.1.2 A member of a club committee or of the Council who -

(a) has been a member of the ride disciplinary committee concerned; or

(b) has given evidence or testified at the hearing concerned, may not be a member of the club committee or the Council when hearing an appeal as contemplated in paragraph 4.4.1.1

4.4.2 An appeal must -

(a) contain the grounds for the appeal; and

(b) must reach the chairperson of the ride disciplinary committee within 21 days after receipt of the finding and the penalties as contemplated in paragraph 4.3.2.6.

4.4.3 The chairperson of the disciplinary committee must as soon as possible after receipt thereof as contemplated in paragraph 4.4.2(b) forward the appeal to the club committee or the Council, as the case may be, and the club committee or the Council must consider the appeal.

4.4.4 The club committee or the Council, as the case may be, may -

(a) confirm the finding and the penalty;

(b) set aside or amend the finding;

- (c) set aside or amend any penalty imposed;
- (d) postpone the imposing of a penalty for the period and upon the conditions determined by the club committee or the Council; or
- (e) suspend the execution of a penalty for the period and upon the conditions determined by the club committee or the Council,

and notify the appellant in writing thereof.

4.4.5 The Council may at any time before the expiration of a period contemplated in paragraph 4.3.2.5.3(d) or (e) on application -

- (a) terminate any period of time concerned; or
- (b) amend any condition or restriction,

subject to the conditions as it may in each case determine.

4.4.6 If a person fails to comply with any conditions determined in terms of paragraph 4.3.2.5.3(d) or (e), the period concerned referred to therein does not terminate, unless the accused satisfies the Council that the non-compliance with the conditions was due to circumstances beyond his or her control.

4.4.7.1 An appellant who is not satisfied with the decision of the Council notified to him or her as contemplated in paragraph 4.4.4 may appeal against that decision to the appeal committee contemplated in section 35 of the Namibia Sport Act, 2003 (Act No. 12 of 2003).

4.4.7.2 An appeal referred to in paragraph 2.3.7.1 must comply with section 35(4), (5) and (6) of the Namibia Sports Act, 2003, and the provisions of section 35(7) to (12) apply to such appeal.

4.4.8 Any finding and penalty imposed upon an accused as contemplated in article 4.3.2.5.3 is not suspended pending the outcome of an appeal, but remains in force until set aside or amended by either the club committee, the Council or the appeal committee concerned, as the case may be.

## 5. **GENERAL**

5.1 If a family member of any member of a disciplinary committee contemplated in this Annexure is an accused in a disciplinary hearing, the member of the disciplinary committee concerned must withdraw from that hearing and be replaced by another person who is not a

family member of the accused, as a member of the disciplinary committee concerned.

- 5.2 At or in respect of FEI rides the FEI Rules and Regulations apply in respect of any investigation and hearing contemplated in this Annexure, but in respect of riders who are not FEI riders, the Constitution of the Association and this Annexure apply.

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