

RULE SERIES 3000

EQUINE ANTI-DOPING AND CONTROLLED MEDICATION PROTOCOL

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3000. GENERAL PROVISIONS

Rule 3010. Introduction

(a) The Horseracing Integrity and Safety Act of 2020 (the **Act**) mandates and empowers the Horseracing Integrity and Safety Authority (the **Authority**) to establish a uniform anti-doping and controlled medication program to improve the integrity and safety of horseracing in the USA (the **Program**).

(b) This Equine Anti-Doping and Controlled Medication Protocol (the **Protocol**) has been developed and issued by the Authority as part of that mandate. It contains or incorporates by reference a set of rules, standards, procedures, and protocols to improve and protect the integrity and safety of horseracing in the USA by deterring and punishing the improper administration or application of Prohibited Substances and Prohibited Methods to Covered Horses. The Protocol is split into five chapters: (1) the purpose, scope, and organization of the Protocol, (2) the Prohibited List, rules of proof, and testing and investigations, (3) the Equine Anti-Doping Rules (**EAD Rules**), (4) the Equine Controlled Medication Rules (**ECM Rules**), and (5) other violations and general procedure/administration.

(c) The Protocol has intentionally divided EAD Rules and ECM Rules into separate chapters to reflect the Authority's view that the treatment of such violations should be separate and distinct from each other. The EAD Rules address Banned Substances and Banned Methods, which are substances/methods that should never be in a horse's system or Used on a horse as they serve no legitimate treatment purpose. Conversely, the ECM Rules address Controlled Medication Substances and Controlled Medication Methods, which are substances/methods that have been determined to have appropriate and therapeutic purposes, and so may be used but are prohibited during the Race Period.

(d) The Protocol has been approved by the Federal Trade Commission (the **Commission**) in accordance with the oversight process set out in section 4 of the Act. It reflects and implements the following principles set out in section 6(b) of the Act:

- (1) that Covered Horses should only compete when they are free from the influence of Prohibited Substances and Prohibited Methods that may affect their performance;
- (2) that Covered Horses that are injured or unsound should not train or participate in Covered Horseraces, and that medications, other foreign substances, and treatment methods that mask or deaden pain must not be used to enable injured or unsound horses to train or race;
- (3) that rules, standards, procedures, and protocols regulating medication and treatment methods for Covered Horses and Covered Horseraces should be uniform and should be administered uniformly throughout the USA;
- (4) that the administration of medications and treatment methods to Covered Horses should be based on an examination and diagnosis that identifies an issue requiring treatment for which the medication or method represents an appropriate component of treatment, and the amount of

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therapeutic medication that a Covered Horse receives should be the minimum necessary to address the health concerns identified during the examination and diagnostic process; and

(5) that the welfare of Covered Horses, the integrity of the sport of horseracing, and the confidence of its stakeholders (including the betting public) require full disclosure to regulatory authorities regarding the administration of medications and treatments to Covered Horses.

(e) The Protocol will be implemented and enforced on behalf of the Authority by (1) an anti-doping and controlled medication enforcement agency known as the Horseracing Integrity and Welfare Unit (the **Agency**); and (2) (where agreed in accordance with sections 5(e)(2) and 11(a)(1) of the Act) by State Racing Commissions acting under the delegated authority of the Authority or the Agency (and references to the Agency in the Protocol will be deemed to encompass such commissions as the context requires, subject to and consistent with the scope of their delegated authority).

(f) In accordance with section 5(b) of the Act, the Protocol pre-empts any provision of State law or regulation with respect to matters within the jurisdiction of the Authority under the Act. Among other things, the Protocol:

(1) identifies the conduct that will constitute an Anti-Doping Rule Violation (Rules 3211 to 3216), a Controlled Medication Rule Violation (Rules 3311 to 3315), or related violations (Rules 3229, 3329, and 3510) (for the avoidance of doubt, the Protocol does not regulate the use of drugs or medications by human participants in Covered Horseraces);

(2) establishes evidentiary and other rules for proving violations of the Protocol (Rules 3121 to 3122);

(3) provides for the creation, maintenance, and updating of a Prohibited List that identifies Prohibited Substances and Prohibited Methods (Rules 3111 to 3113);

(4) empowers the Agency to perform and manage test distribution planning and Testing of Covered Horses both in and out of competition, in accordance with the Testing and Investigations Standards (Rule 3133);

(5) empowers the Agency to gather intelligence and investigate potential violations of the Protocol, in accordance with the Testing and Investigations Standards, which incorporates uniform rules and procedures providing for: (i) access for the Agency to books, records, offices, racetrack facilities, and other places of business of Covered Persons that relate to the care, treatment, training, and racing of Covered Horses; (ii) the issue and enforcement of subpoenas and subpoenas duces tecum by the Authority at the request of the Agency, in accordance with section 5(c) of the Act; (iii) the exercise of other investigatory powers similar in nature and scope to those exercised by State Racing Commissions before the Program Effective Date; and (iv) the coordination and sharing of intelligence and information with State Racing Commissions and with other anti-doping organizations, international equine regulatory bodies, law enforcement, and the Authority (Rule 3133);

(6) empowers the Agency to accredit testing laboratories in accordance with the Laboratory Standards and to monitor, test, and audit approved Laboratories to ensure continuing compliance with the Laboratory Standards (Rule 3136); and provides for all samples collected pursuant to this Protocol to be analyzed at approved laboratories in accordance with the Laboratory Standards or by other approved laboratories, such as international laboratories accredited by the International Federation of Horseracing Authorities (Rule 3138);

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(7) sets out uniform rules and procedures for the Agency’s management of the results of testing and investigations, and for its prosecution of charges that Covered Persons have violated this Protocol, including incorporating the Arbitration Procedures to ensure the fair adjudication of those charges;

(8) sets out the sanctions that may be applied in case of admitted or proven violations of this Protocol, including Disqualification of results, forfeiture of prizes and purses, fines, and periods of Ineligibility for Covered Horses and/or Covered Persons (Rules 3221 to 3232, and Rules 3341 to 3351); and provides for the Authority, State Racing Commissions, the organizers of Covered Horseraces, and other relevant authorities to recognize and enforce those sanctions within their respective spheres of authority (Rule 3710);

(9) regulates the public reporting of case outcomes, and permits and facilitates statistical reporting to the Authority and to the US Congress, the Commission, State Racing Commissions, and other federal or state governmental bodies or agencies having jurisdiction over the sport of horseracing in the USA (Rules 3630); and

(10) empowers the Agency to undertake and commission education and research activities designed to advance the integrity and safety of horseracing in the USA (Rule 3810).

(g) The Protocol comes into force on the Program Effective Date and will apply in full as from that date. In accordance with section 5(k) of the Act, the Protocol only has prospective effect, i.e., it does not apply to, and does not give the Authority or Agency authority to investigate, prosecute, adjudicate, or penalize conduct that occurs before the Program Effective Date (Rule 3070).

(h) The Protocol incorporates by reference the following supporting rules and documents approved by the Commission and issued by the Authority, including Rule Series 1000 (General Provisions), Rule Series 2000 (Racetrack Safety), Rule Series 4000 (Prohibited List), Rule Series 5000 (Testing and Investigations Standards), Rule Series 6000 (Laboratory Standards), Rule Series 7000 (Arbitration Procedures), Rule Series 8000 (Enforcement Rule), Rule Series 8500 (Methodology for Determining Assessments), and Rule Series 9000 (Registration of Covered Persons and Covered Horses).

(i) In accordance with section 6(c)(4) of the Act, the Authority may issue further rules, protocols, policies, standards, and guidelines to support the implementation of this Protocol (subject to Commission oversight in accordance with section 4 of the Act). These materials shall be developed and recommended (in consultation with the Agency) by the Anti-Doping and Medication Control Standing Committee (**ADMC**) of the Authority.

(j) Nothing in this Protocol or in any of its associated rules, protocols, policies, standards, and guidelines: (a) is intended to constrain or limit in any way the powers of the Authority and/or the Agency under the Act; or (b) shall be interpreted or applied in a manner that has the effect of constraining or limiting those powers in any way.

(k) Unless specified otherwise, words and terms in the Protocol that are capitalized are defined terms that have the meaning given to them in Rule 1010.

(l) The rules of interpretation included at Rule 1020 and Rule 3060 shall be used as an aid to interpretation of this Protocol.

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Rule 3020. Application

The Protocol applies to and is binding on:

(a) any horserace involving Covered Horses that has a substantial relation to interstate commerce, including any Thoroughbred horserace that is the subject of interstate off-track or advance deposit wagers (each, a **Covered Horserace**);

(b) any Thoroughbred horse, or any other horse made subject to this Act by election of the applicable State Racing Commission or the breed governing organization for such horse under section 5(k), during the period (A) beginning on the date of the horse's first timed and reported Workout at a Racetrack that participates in Covered Horseraces or at a Training Facility; and (B) ending on the date on which the Authority receives written notice that the horse has been retired (each, a **Covered Horse**); and

(c) the following persons (each, a **Covered Person**): means all Trainers, Owners, Breeders, Jockeys, Racetracks, Veterinarians, Persons licensed by a State Racing Commission and the agents, assigns, and employees of such Persons and other horse support personnel who are engaged in the care, training, or racing of Covered Horses. Each person falling within this sub-paragraph is deemed to have agreed, by undertaking the activities that bring them within this sub-paragraph, to be subject to and to comply with this Protocol.

Rule 3030. Responsible Persons

(a) **'Responsible Person'** means:

(1) For a Covered Horse that has not yet participated in its first Workout (or, if earlier, been nominated for entry in or entered in a Covered Horserace), the Responsible Person is the Owner or Trainer of the Covered Horse.

(2) Once a Covered Horse has participated in its first Workout (or, if earlier, been nominated for entry in or entered in in a Covered Horserace), the Responsible Person for the Covered Horse is its Trainer.

(3) If a Covered Horse is claimed in a claiming race, the person designated as the Responsible Person prior to the claiming race shall be liable for any violation resulting from a Sample collected on Race Day to the same extent they would have been liable if the Covered Horse had not been claimed. The person who claims the Covered Horse in the claiming race will not be liable for such violation, unless they were involved in the violation.

(4) If a Covered Horse stops training for a period of time, the Responsible Person designation may be transferred to the Owner.

(5) If the Owner is an entity, the Managing Owner shall be named as the Responsible Person.

(b) In the event that no Responsible Person has been designated with the Authority for a Covered Horse, the Responsible Person shall be the Owner of the Covered Horse.

(c) The Responsible Person designation shall be filed with the Authority and kept up-to-date. The transfer of the Responsible Person designation shall be done with the Authority (in accordance with its published procedures) prior to the effective date of the transfer, except that if a Covered Horse is claimed in a claiming race, the transfer shall be done on the day of the claiming race.

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(d) The Responsible Person must be the sole representative for the interests of a Covered Horse for which they are the responsible in any matter arising under the Protocol. The Owner of the Covered Horse (if not the Responsible Person) acknowledges and agrees that the Responsible Person for the Covered Horse will represent the Owners' rights and interests in the adjudication of alleged Anti-Doping and/or Controlled Medication Rule Violations under the Protocol.

Rule 3040. Core responsibilities of Covered Persons

(a) Responsibilities of all Covered Persons

It is the personal responsibility of each Covered Person:

- (1) to be knowledgeable of and to comply with this Protocol at all times;
- (2) not to have in their Possession (unless they are a Veterinarian) and not to Use any hypodermic/injection needle at a Racetrack during the Race Period, unless there is compelling justification (e.g. such Use is required as part of life-saving treatment). Failure to comply may constitute a violation pursuant to Rule 3510(c);
- (3) to cooperate promptly and completely with the Authority and the Agency in the discharge of their responsibilities, including:
 - (i) in relation to the Testing program and in relation to the investigation of potential violations of the EAD Rules and/or the ECM Rules;
 - (ii) by providing complete and accurate information to the Authority and the Agency in all interactions and filings; and
 - (iii) on request by the Authority or Agency, (a) making available for inspection any facility, office, stall, equipment, feed, or medicine given to Covered Horses; (b) submitting to under-oath transcribed interviews about their dealings with or in relation to Covered Horses; (c) providing immediate and unfettered access to any and all data, documents, and records related to any Covered Horse (including but not limited to data, documents and records existing in electronic form, e.g., on computers, mobile phones, or other devices); and (d) permitting the Agency to review and/or make and take away copies of such data, documents and records for analysis, investigation, and potential use as evidence of violation of this Protocol by a Covered Person; provided that the Agency will act in accordance with standard operating procedures designed to ensure that it only exercises these powers in a lawful and proportionate manner;Failure to cooperate with the Authority or Agency may constitute a violation pursuant to Rule 3510(b); and
- (4) not to engage in offensive conduct (including improper, insulting, and/or obstructive conduct) towards any Sample Collection Personnel, or any representative of the Agency or the Authority. Failure to comply may constitute a violation pursuant to Rule 3510(a) or potentially Tampering or Attempted Tampering depending on the circumstances of the case;

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(b) *Additional responsibilities of Responsible Persons*

In addition to the duties under Rule 3040(a), it is the personal responsibility of each Responsible Person:

- (1) to ensure that their Covered Horses (i.e., Covered Horses for which they are the Responsible Person) are made available for Sample collection at any time and any place upon request, whether in or out of competition, and that a Nominated Person who is eighteen or older is present to represent the Responsible Person, and that that Nominated Person provides full cooperation on behalf of the Responsible Person to the Sample Collection Personnel to enable compliance with the applicable Testing procedures;
- (2) to ensure that treatments and medications administered to their Covered Horses:
 - (i) are administered only on the advice of a Veterinarian;
 - (ii) do not contain a Banned Substance or involve a Banned Method; and
 - (iii) do not otherwise violate the Protocol;
- (3) to inform all Covered Persons, employees, personnel, agents, and other Persons involved in any way with the care, training, and/or treatment of their Covered Horses of their respective obligations under the Protocol (including in particular those specified in Rule 3040(a)), and to accept full responsibility for any violations by such Covered Persons or other Persons of this Protocol;
- (4) to adequately supervise all Covered Persons, employees, personnel, agents, and other Persons involved in the care, training, and/or treatment of their Covered Horses, including by (without limitation):
 - (i) conducting appropriate due diligence in the hiring process before engaging their services;
 - (ii) creating and maintaining systems to ensure those Persons comply with this Protocol; and
 - (iii) adequately monitoring and overseeing the care by those Persons of their Covered Horses;
- (5) to file and update as necessary with the Authority information identifying what Covered Horses they are the Responsible Person for;
- (6) to maintain accurate, complete, and up-to-date treatment records (including without limitation records of medical, therapeutic, and surgical treatments and procedures, including diagnostics) of their Covered Horses in an electronic or other form specified by the Agency, and to provide the Agency with access to those records upon request and without delay so that it may inspect and make and retain copies of them for purposes of monitoring and ensuring compliance with the requirements of this Protocol. The records must include details of all treatments administered to the Responsible Person's Covered Horse(s), detailing in each case the name of the Covered Horse, the date and time of administration, the name of the substance or method, route of administration, amount, duration (if multiple dosing), name of person administering and authorizing administration, the reason for administration, and any other information relevant to the health and welfare of the Covered Horse that is required by the Agency or Authority. The Responsible Person must update the treatment records of their Covered Horses within five (5) working days of administration (or, for records from a veterinary hospital, within five (5) working days of the

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Covered Horse's departure from the veterinary hospital) and shall keep them for at least the term determined at the Agency's sole discretion.

(7) at the time of registering a horse with the Authority and prior to such horse competing in any Workout or Covered Horserace, the Responsible Person shall declare in writing to the Agency all administrations of Banned Substances and Banned Methods to the horse since the Responsible Person first owned the horse (or, if not the Owner, since the Owner who owns the horse at the time of registration first owned the horse). On request by the Agency, the Responsible Person shall provide any related treatment records for the horse during that period. Where a Banned Substance or Banned Method has been administered in that period, the Agency may impose a stand down period for the horse of up to the period of Ineligibility that would be applicable for the relevant Banned Substance or Banned Method and require that the Covered Horse provide one or more negative Samples before subsequently being eligible to participate in a Workout or Covered Horserace. Failure by a Responsible Person to comply with this Rule 3040(b)(7) may constitute a violation of Rule 3510(b);

(8) if any Covered Horse is moved from a Racetrack or public Training Facility to a private facility, the Responsible Person shall provide sufficient information about the horse's whereabouts so that the Agency remains able to Test the horse at any time in accordance with the Agency's whereabouts policy. The Responsible Person shall also provide any further information about the whereabouts of a Covered Horse that is specifically requested by the Agency. Failure to do so may constitute a violation of Rule 3510(d);

(9) to notify the Authority in writing within seven (7) days of becoming aware that a Covered Horse for which they are the Responsible Person:

- (i) is pregnant;
- (ii) was pregnant but has foaled or is no longer pregnant;
- (iii) has been castrated; or
- (iv) has suffered a fatal condition.

In each case, the Responsible Person must state the name of the Covered Horse, the date of the event triggering the notice, and (for paragraph iv above) a summary explanation regarding the cause of the fatal condition.

(c) *Additional responsibilities of Owners*

In addition to the duties under Rule 3040(a), it is the personal responsibility of an Owner of a Covered Horse:

- (1) to ensure that the Agency is notified in writing of the Owner's ownership interest in the Covered Horse, and that the Agency receives prior written notice of any transfer of that ownership interest to a third party (each person with a 3% percent or greater ownership or property interest in a Covered Horse must register with the Authority as an Owner of the Covered Horse); and
- (2) if a Covered Horse is owned by multiple Owners, to ensure that the Agency is notified in writing of one (1) Owner of the Covered Horse who is authorized by all of the Owners to act as their representative and to receive communications on their behalf in respect of the Covered Horse.

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(d) *Additional responsibilities of Attending Veterinarians*

In addition to the duties under Rule 3040(a), and the further duties and requirements imposed under the Rule Series 2000 (Racetrack Safety), it is the personal responsibility of each Attending Veterinarian to keep updated treatment records (including without limitation records of medical, therapeutic, and surgical treatments and procedures, including diagnostics) in an electronic database designated by the Agency or in any other form designated by the Agency and provide access to the Agency upon request and without delay to and/or copies of such treatment records. The records must include the name of the Covered Horse, and all treatments administered or prescribed to any Covered Horse by the Veterinarian. The records must detail the date and time of administration, the name of the substance, route of administration, amount, duration, name of person administering and authorizing administration, the reason for administration, and any other information prudent to the health and welfare of the Covered Horse or otherwise required by the Agency or Authority.

Rule 3050. Retirement and equine fatalities

(a) *Covered Persons*

(1) Each Responsible Person will continue to be bound by and required to comply with the Protocol unless and until they give written notice to the Authority of their retirement from the position that made them a Responsible Person. In each case, the Responsible Person will be deemed to have retired (and to be no longer subject to the Protocol) on the later of (i) the date given in the written notice of retirement and (ii) the date the notice is received.

(2) Any other Covered Person will continue to be bound by and required to comply with the Protocol unless and until their registration with the Authority lapses.

(3) If a Covered Person retires or ceases to be subject to the Protocol while the Agency is conducting a Results Management process in respect of that person, the Agency retains jurisdiction to complete its Results Management process. If a Covered Person retires or ceases to be subject to the Protocol before any Results Management process has begun, and the Agency had jurisdiction over the Covered Person at the time the anti-doping rule or Controlled Medication Rule Violation was committed, the Agency retains jurisdiction to conduct Results Management in respect of that violation.

(4) If a Covered Person retires while subject to a period of Ineligibility, they must give written notice of such retirement to the Authority. The Covered Person may not return to the sport (i.e. carry out any of the activities prohibited under Rules 3229/3329) unless the Covered Person has (i) given six (6) months' prior written notice (or notice equivalent to the period of Ineligibility remaining as of the date the Covered Person retired, if that period was longer than six months) to the Authority of their intent to return to the sport, and (ii) made their Covered Horses available for Testing (including, if requested, by providing whereabouts information) for that notice period.

(5) The Agency may forward notifications of retirement of Covered Persons to Interested Parties.

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(b) *Covered Horses*

- (1) If an Owner wishes to retire a Covered Horse such that it is no longer made available for Testing, the Owner must provide written notice of such retirement to the Agency, in accordance with its published procedures.
- (2) A Covered Horse that has been retired in accordance with the previous clause may not participate in a Workout or be entered in a Covered Horserace until the Covered Horse has been made available for Testing at least six (6) months prior to notice being given to the Agency (in accordance with its published procedures) of the intention to unretire the Covered Horse.
- (3) If a Covered Horse is retired from horseracing or suffers a fatal condition while the Agency is conducting a Results Management process in respect of it, the Agency retains jurisdiction to complete its Results Management process. If a Covered Horse is retired or suffers a fatal condition before any Results Management process has begun, and the Agency had jurisdiction over the Covered Horse at the time the Anti-Doping or Controlled Medication Rule Violation was committed, the Agency retains jurisdiction to conduct Results Management in respect of that violation.
- (4) If a Covered Horse is retired from horseracing while subject to a period of Ineligibility, the Owner must notify the Agency in writing of such retirement. If the Owner wishes that horse to return to participation in Covered Horseraces and/or Workouts, the Owner must first provide the Agency with written notice and make the Covered Horse available for Testing for at least six (6) months prior to such participation or for the remainder of the Covered Horse's period of Ineligibility (whichever is longer).
- (5) The Agency may retire a Covered Horse based on inactivity (i.e. where the Covered Horse does not participate in a Workout or Covered Horserace for one (1) or more year, excluding periods of inactivity due to a Provisional Suspension or period of Ineligibility) by sending written notice thereof to the Agency and the Owner in accordance with the Agency's procedures. If the Owner disputes that retirement, while the dispute is pending the Covered Horse may not participate in any Workout or Covered Horserace but must be made available for Testing upon demand. Upon resolution of the dispute, the Authority will notify the Agency whether the horse is retired and therefore no longer subject to Testing. If the Owner wishes to return the Covered Horse to participation in Workouts and/or Covered Horseraces, the Owner must first provide the Agency with written notice and make the Covered Horse available for Testing for at least six (6) months prior to such participation.
- (6) The Agency may reduce the six (6) month notice period applicable pursuant to Rule 3050(b)(2) or Rule 3050(b)(4) or Rule 3050(b)(5) to two (2) months if the Owner can establish with supporting evidence including veterinary records that (i) the Covered Horse is infertile or otherwise unsuitable for breeding, and (ii) the Owner made the Covered Horse available for Testing within seven (7) days after learning of the Covered Horse's infertility, and (iii) a Sample collected from the Covered Horse by the Agency and analyzed by a Laboratory was negative for Prohibited Substances. The costs of such Sample collection and analysis must be paid by the Owner.
- (7) The Agency may forward notifications of retirement of Covered Horses to Interested Parties.

CHAPTER I – THE PURPOSE, SCOPE, AND ORGANIZATION OF THE PROTOCOL

Rule 3060. Amendment and interpretation of the Protocol

(a) The Authority may amend this Protocol from time to time, as necessary to ensure that it remains fit for purpose, in accordance with section 8(e) of the Act. Unless provided otherwise, any amendments will come into force on the date specified or (if no date is specified) on the date the amendment is approved by the Commission.

(b) Subject to Rule 3060(c), the Protocol shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.

(c) The Protocol has been adopted pursuant to the Act and shall be interpreted, where applicable, in a manner that is consistent with applicable provisions of the Act and the other rules in Rule Series 1000-9000. In the event of any conflict between the Act and the Protocol, the Act shall prevail. In the event of any conflict between the Protocol and any other rules in Rule Series 1000-9000, the Protocol shall prevail.

(d) Subject to Rule 3060(b), the Protocol is governed by the laws of the Commonwealth of Kentucky. Without prejudice to the jurisdiction conferred on the arbitrator(s), National Stewards Panel, and appeal bodies to hear and determine charges brought for violations of the Protocol and certain related issues, and to any powers of review that may be exercised by the Commission or administrative law judges, any other claims or disputes (contractual or otherwise) relating to or arising out of the Protocol are subject to the exclusive jurisdiction of the Commonwealth of Kentucky state courts.

(e) The World Anti-Doping Code (**Code**), the comments annotating various provisions of the Code, and any case law interpreting and/or applying the Code provisions and/or comments, may be considered by hearing panels adjudicating cases relating to the Protocol where they consider it appropriate.

Rule 3070. Transitional provisions

(a) The Protocol shall not apply retroactively to matters pending before the Program Effective Date.

(b) A presence violation under Rule 3212 or Rule 3312 that occurs after the Program Effective Date as a result of Use or Administration prior to the Program Effective Date shall not constitute a violation of the Protocol.

(c) The relevant State Racing Commission retains authority (including results management) in relation to any anti-doping or controlled medication matters taking place prior to the Program Effective Date.

(d) Changes to substances on the Prohibited List shall not, unless they specifically provide otherwise, be applied retroactively. However, a Responsible Person or other Person who is serving a period of Ineligibility on account of a formerly Prohibited Substance or Prohibited Method that is subsequently removed from the Prohibited List may apply to the Agency to consider a reduction in the period of Ineligibility in light of that removal.

Rule 3080. Statute of limitations

(a) No charge may be brought against a Covered Person or in relation to a Covered Horse in respect of an Anti-Doping Rule Violation unless the Covered Person or Responsible Person for the Covered Horse has been given the ADRV Notice referenced in Rule 3245, or notification has been reasonably attempted, within ten (10) years of the date the Anti-Doping Rule Violation is asserted to have occurred.

CHAPTER I – THE PURPOSE, SCOPE, AND ORGANIZATION OF THE PROTOCOL

(b) No charge may be brought against a Covered Person or in relation to a Covered Horse in respect of a Controlled Medication Rule Violation unless the Covered Person or Responsible Person for the Covered Horse has been given the ECM Notice referenced in Rule 3345, or notification has been reasonably attempted, within one (1) year of the date the Controlled Medication Rule Violation is asserted to have occurred.

(c) Any violation of Rule 3229 or 3329 is subject to a ten (10) year limitation period.

(d) Any violation of Rule 3510 is subject to a four (4) year limitation period.

CHAPTER II – PROHIBITED LIST, RULES OF PROOF, AND TESTING & INVESTIGATIONS

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3110. THE PROHIBITED LIST

Rule 3111. Prohibited Substances and Prohibited Methods

(a) The Prohibited List identifies Prohibited Substances and Prohibited Methods that are:

(1) prohibited at all times (**Banned Substances** and **Banned Methods**) on the basis of the Agency's determination that medical, veterinary, and/or other scientific evidence or experience supports their actual or potential (i) ability to enhance performance in Covered Horseraces, (ii) masking properties, and/or (iii) detrimental impact on horse welfare; or

(2) prohibited for Use on or Administration to a Covered Horse during the Race Period and prohibited to be present in a Sample collected from a Covered Horse on Race Day, except as otherwise specified in the Prohibited List (**Controlled Medication Substances** and **Controlled Medication Methods**).

(b) The Prohibited List also designates certain Prohibited Substances as **Specified Substances**. Specified Substances are subject to more flexible sanctions under this Protocol.

(c) Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (e.g. anabolic steroids) or by specific reference to a particular substance or method.

Rule 3112. Review and publication of the Prohibited List

The Prohibited List will be published at least annually on the website(s) of the Authority and/or Agency, following an opportunity for stakeholder comment. Each new version of the Prohibited List will also be sent to the State Racing Commissions.

The Authority (on recommendation of the ADMC, in consultation with the Agency) may revise the Prohibited List from time to time subject to approval by the Commission. Revisions to the Prohibited List will go into effect on the date specified in the revised Prohibited List (which will not be any earlier than ninety (90) days following its publication). All Covered Persons shall be bound by the Prohibited List, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all Covered Persons to familiarize themselves with the most up-to-date version of the Prohibited List and all revisions thereto.

Rule 3113. Validity of the Prohibited List

The following decisions are final and shall not be subject to any challenge by any Covered Person or other Person on any basis, including any challenge based on an argument that the substance or method is not a masking agent or does not have the potential to enhance performance in future Covered Horseraces or have a detrimental impact on the horse's welfare: (i) the Authority's determination of the Prohibited Substances and Prohibited Methods that are (or will be) included on the Prohibited List; (ii) the Commission's approval of the Prohibited List; (iii) the classification of substances and methods into categories on the Prohibited List; (iv) the classification of a

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substance or method as a Banned Substance or Banned Method as opposed to a Controlled Medication Substance or Controlled Medication Method; (v) the periods during which certain Prohibited Substances are prohibited; (vi) the establishment of a threshold for a Prohibited Substance and/or the quantitative amount of such threshold; and (vii) the classification of Prohibited Substances as either Specified Substances or non-Specified Substances.

Rule 3114. Monitoring Program

The Agency may approve a monitoring program regarding substances that are not on the Prohibited List, but that the Agency wishes to research or monitor, including to identify potential patterns of misuse in horseracing. Laboratories will report the instances of reported Use or detected presence of monitored substances to the Agency, but the results of any such analyses shall not constitute an Anti-Doping or Controlled Medication Rule Violation. Nothing in this Rule 3114 or elsewhere in the Protocol prevents a Laboratory from sharing information with the Agency for any anti-doping or controlled medication purpose or other purpose authorized by the Act. The list of substances in the monitoring program will be reviewed annually.

3120. PROOF OF VIOLATIONS

Rule 3121. Burden and standard of proof

(a) The Agency shall have the burden of establishing that a violation of the Protocol has occurred to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability (aka preponderance of the evidence) but less than clear and convincing evidence or proof beyond a reasonable doubt.

(b) Where the Protocol places the burden of proof on a Covered Person to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability (aka preponderance of the evidence), except as provided in Rules 3122(c) and 3122(d).

Rule 3122. Methods of establishing facts and presumptions

Facts related to violations may be established by any reliable means, including admissions. The following rules of proof shall apply:

(a) Analytical methods, Minimum Reporting Levels, Thresholds, Screening Limits, Decision Limits, and any other Laboratory reporting requirements approved by the Commission are presumed to be scientifically valid and shall not be subject to challenge.

(b) Compliance with the Standards (as opposed to an alternative standard, practice, or procedure) will be sufficient to conclude that the procedures addressed by those Standards were performed properly.

(c) Laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the Laboratory Standards. A Covered Person who is alleged to have committed a violation may rebut this presumption by establishing that a departure from the Laboratory Standards occurred that could reasonably have caused the Adverse Analytical Finding or other factual basis for any other violation asserted. Where the presumption is rebutted, the Agency shall have the

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burden of establishing that such departure did not cause the Adverse Analytical Finding or other factual basis for the violation asserted.

(d) Departures from any other Standards or any provisions of this Protocol shall not invalidate analytical results or other evidence of a violation, and shall not constitute a defense to a charge of such violation; provided, however, that if the Covered Person establishes that a departure from any other Standards or any provisions of this Protocol could reasonably have caused the Adverse Analytical Finding or other factual basis for the violation charged, the Agency shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or other factual basis for the violation.

(e) Non-appealable and final factual findings of a court, professional disciplinary body, or administrative body of competent jurisdiction shall be irrebuttable evidence against the Covered Person to whom the decision pertained of those facts unless the Covered Person establishes that the decision did not respect due process.

(f) A hearing panel may draw an inference adverse to a Covered Person who is asserted to have committed a violation of this Protocol based on the Covered Person's refusal to cooperate with the Agency, including any refusal to respond to questions put to them as part of an investigation and/or to appear at the hearing (either in person or remotely) and to answer questions put by the Agency or the hearing panel.

3130. TESTING AND INVESTIGATIONS

Rule 3131. Purpose of testing and investigations

Testing and investigations may be undertaken to assist in the effective policing and enforcement of the Protocol, including to obtain evidence regarding potential violations under the Protocol.

Rule 3132. Authority to test

(a) The Agency has authority to conduct Testing on any Covered Horse both in and out of competition.

(b) Covered Horses may be subject to Testing at any time and any place upon request by or on behalf of the Agency.

(c) A Covered Horse that is subject to a Provisional Suspension or period of Ineligibility, or that sustains a fatal condition, remains subject to Testing.

(d) In accordance with the Racetrack Safety Program, a Covered Horse may be required to submit to a post-Official Workout Sample collection in order to be released from the Veterinarians' List. Any Sample collected at an Official Workout constitutes a Race Day Test, and so is subject to all of the same requirements that apply to Sample collection at Covered Horseraces.

Rule 3133. Requirements

(a) *Testing.* The Agency shall conduct test distribution planning and Testing in accordance with the Testing and Investigations Standards. The Agency may also delegate authority to third

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parties, including State Racing Commissions, to conduct Testing in accordance with the Testing and Investigations Standards.

(b) *Investigations and intelligence gathering.* The Agency shall conduct investigations and gather intelligence in accordance with the Testing and Investigations Standards, which incorporates uniform rules and procedures providing for: (i) access for the Agency to books, records, offices, racetrack facilities, and other places of business of Covered Persons that are used in the care, treatment, training, and racing of Covered Horses; (ii) the issue and enforcement of subpoenas and subpoenas duces tecum by the Authority at the request of the Agency, in accordance with section 5(c) of the Act; (iii) the exercise of other investigatory powers similar in nature and scope to those exercised by State Racing Commissions before the Program Effective Date; and (iv) the coordination and sharing of intelligence and information with State Racing Commissions and with other anti-doping organizations, international equine regulatory bodies, law enforcement, and the Authority.

Rule 3134. Sample analysis

Samples shall be analyzed in accordance with the principles set forth in Rules 3135 through 3139.

Rule 3135. Ownership of Samples

Samples collected under the Protocol are the property of the Authority, and the Authority is entitled (subject to Rule 3138(b)) to determine all matters regarding access to and the analysis and disposal of such samples.

Rule 3136. Use of approved Laboratories and other laboratories

(a) The Agency will publish a list of approved Laboratories, which may be revised from time to time. Only approved Laboratories may declare an Adverse Analytical Finding. The choice of the Laboratory shall be determined exclusively by the Agency in accordance with the Act.

(b) In accordance with Rule 3122, facts related to violations of the Protocol may be established by any reliable means. This would include, for example, laboratory analysis or other forensic testing conducted reliably outside of Agency-approved laboratories.

Rule 3137. Purpose of Sample analysis

(a) *General.* Samples, related analytical data, Doping Control information, and Medication Control information shall be analyzed (i) to detect the presence of Prohibited Substances and Prohibited Methods identified on the Prohibited List and other substances as may be directed pursuant to Rule 3114, (ii) to assist the Agency in profiling relevant parameters in a Covered Horse's urine, blood, hair, or other matrix, including for DNA or genomic profiling, and/or (iii) for any other legitimate anti-doping or medication control purpose.

(b) *Research on Samples and Data.* Samples, related analytical data, Doping Control information, and Medication Control information may be used for anti-doping or medication control research purposes. However, the results of any analyses performed on such research Samples may not be used as the basis for pursuing an Anti-Doping or Controlled Medication Rule Violation.

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Rule 3138. Standards for Sample analysis and reporting

(a) *General.* Laboratories shall analyze Samples and report results in accordance with the Laboratory Standards.

(b) *Further Analysis of a Sample prior to or during Results Management.* Further Analyses may be conducted without limitation on a Sample prior to the time the Agency notifies a Covered Person that the Sample is the basis for an Anti-Doping or Controlled Medication Rule Violation or that the Sample is negative. If the Agency wishes to conduct Further Analyses on the Sample after that time, it may do so with the consent of the Covered Person or the approval of the hearing panel adjudicating the case against the Covered Person.

(c) *Further Analysis of a Sample after it has been reported as negative or has otherwise not resulted in an Anti-Doping or Controlled Medication Rule Violation.* A Sample that has been reported as negative or has otherwise not resulted in a charge may be stored and subjected to Further Analyses for the purpose described in Rule 3137 at any time exclusively at the direction of the Agency. Any Sample storage and Further Analysis initiated by the Agency shall be at the Agency's expense. Further Analysis of Samples shall be conducted in accordance with the Laboratory Standards.

(d) *Split of A or B Sample.* Where in exceptional circumstances the Laboratory (on instruction from the Agency) is required to further split an A or B Sample for the purpose of using the first part of the resulting split Sample for an A Sample analysis and the second part of the resulting split Sample for B confirmation, the procedures and analysis shall be conducted in accordance with the Laboratory Standards.

Rule 3139. The Agency's right to take possession of Samples and related data

The Agency may at any time, with or without prior notice, take physical possession of any Sample collected by or on behalf of the Agency and any related analytical data or information in the possession of a Laboratory. Upon request by the Agency, the Laboratory in possession of the Sample or related data shall grant access to and enable the Agency to take physical possession of the Sample and/or data as soon as possible.

CHAPTER III: EQUINE ANTI-DOPING RULES

Rule 3211. Definition of Anti-Doping Rule Violation and responsibility for violations

(a) Doping cases will be initiated based on the assertion that one or more of Rules 3212 through 3216 has been violated (each, an **Anti-Doping Rule Violation**).

(b) The Anti-Doping Rule Violations described below may only be committed by Covered Persons, but the Consequences for Anti-Doping Rule Violations may apply to both the Covered Person(s) who commit(s) the violation and any Covered Horse(s) implicated by the violation.

(c) All Covered Persons are responsible for knowing what constitutes an Anti-Doping Rule Violation and what Banned Substances and what Banned Methods are included on the Prohibited List.

Rule 3212. Presence of a Banned Substance

(a) The general rule is that the presence of any amount of a Banned Substance and/or its Metabolites or Markers in a Sample collected from a Covered Horse constitutes an Anti-Doping Rule Violation by the Responsible Person of that Covered Horse.

(b) As an exception to the general rule of Rule 3212(a), the Prohibited List and/or Standards may establish special criteria for the reporting and/or the evaluation of certain Banned Substances for which a Minimum Reporting Level, Threshold, or Decision Limit is specifically identified in the Prohibited List and/or Standards.

(c) It is the personal and non-delegable duty of the Responsible Person to ensure that no Banned Substance is present in the body of their Covered Horse(s). The Responsible Person is therefore strictly liable for any Banned Substance and/or its Metabolites or Markers found to be present in a Sample collected from their Covered Horse(s). Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3212 Anti-Doping Rule Violation.

(d) Sufficient proof of a Rule 3212 Anti-Doping Rule Violation is established by any of the following:

- (1) the presence of a Banned Substance and/or its Metabolites or Markers in the Covered Horse's A Sample where the Responsible Person waives analysis of the B Sample and the B Sample is not analyzed;
- (2) the Covered Horse's B Sample is analyzed and the analysis of the B Sample confirms the presence of the Banned Substance and/or its Metabolites or Markers found in the A Sample; or
- (3) where in exceptional circumstances the Laboratory (on instruction from the Agency) further splits the A or B Sample into two parts in accordance with the Laboratory Standards, the analysis of the second part of the resulting split Sample confirms the presence of the same Banned Substance and/or its Metabolites or Markers as were found in the first part of

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the split Sample, or the Responsible Person waives analysis of the second part of the split Sample.

Rule 3213. Use or Attempted Use of a Banned Substance or a Banned Method

(a) Subject to Rule 3213(c), the Use or Attempted Use of a Banned Substance or Banned Method on a Covered Horse constitutes an Anti-Doping Rule Violation. The success or failure of that Use or Attempted Use is not material. For a Rule 3213 violation to be committed, it is sufficient that the Banned Substance or Banned Method was Used or Attempted to be Used.

(b) It is the personal and non-delegable duty of the Responsible Person to ensure that no Banned Substance or Banned Method is Used on their Covered Horse. The Responsible Person is therefore strictly liable for any Use of a Banned Substance or Banned Method on their Covered Horse. Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3213 Anti-Doping Rule Violation of Use. However, in accordance with the definition of Attempt, it is necessary to show intent on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3213 Anti-Doping Rule Violation of Attempted Use.

(c) The presence of a Prohibited Substance or of evidence of Use of a Prohibited Method in the Covered Horse's Sample or other evidence of Use of such Prohibited Substance or Prohibited Method shall not be considered an Anti-Doping Rule Violation if it is determined to have resulted from Use of the Banned Substance or Banned Method prior to the horse becoming a Covered Horse. However, any such Use is subject to Rule 3040(b)(7) and may be notified to the relevant State Racing Commission.

Rule 3214. Other Anti-Doping Rule Violations involving Banned Substances and/or Banned Methods

The following acts and omissions constitute Anti-Doping Rule Violations by the Covered Person(s) in question:

(a) Possession of a Banned Substance or a Banned Method, unless there is compelling justification for such Possession.

(b) Trafficking or Attempted Trafficking in any Banned Substance or Banned Method.

(c) Administration or Attempted Administration to a Covered Horse of any Banned Substance or any Banned Method.

Rule 3215. Evading collection of a Sample from a Covered Horse; or refusing or failing to submit a Covered Horse to Sample collection

(a) Except as provided in Rule 3215(c), a Covered Person evading collection of a Sample from a Covered Horse, or refusing or failing without compelling justification to submit a Covered Horse to Sample collection after notification by a duly authorized Person, or refusing or failing to comply with all sampling procedure requirements, constitutes an Anti-Doping Rule Violation by that Covered Person.

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(b) In accordance with Rule 3040(b)(1), Responsible Persons are responsible for ensuring that their Covered Horses are available for Sample collection at any time and any place upon request, and that all Sampling procedure requirements are complied with. A Responsible Person may delegate the submission and supervision of the Covered Horse to a third party, but the Responsible Person remains responsible for the Covered Horse throughout the Sample collection process, the acts and omissions of their delegate are imputed to them, and therefore they are deemed liable for their delegate's evasion of Sample collection; refusal or failure without compelling justification to submit the Covered Horse to Sample collection; and/or refusal or failure to comply with any of the sampling procedure requirements.

(c) No violation occurs where a Covered Horse is made available for Sample collection but a Sample is not collected because the Covered Horse is intractable.

Rule 3216. Other Anti-Doping Rule Violations

The following acts and omissions constitute Anti-Doping Rule Violations by the Covered Person(s) in question:

(a) Tampering or Attempted Tampering by a Covered Person with any part of Doping Control or Medication Control;

(b) a Covered Person assisting, encouraging, aiding, abetting, conspiring, covering up, or engaging in any other type of intentional complicity or Attempted complicity (i) in an Anti-Doping Rule Violation committed by another Person, or (ii) in relation to a violation of Rule 3229 by another Person.

(c) Prohibited Association:

(1) Association by a Covered Person in a professional or sport-related capacity with any Person who:

(i) is serving a period of Ineligibility; or

(ii) has been found in a criminal, disciplinary or professional proceeding to have engaged in conduct that would have constituted a violation of the Protocol if it had been applicable to such Person at the relevant time. The disqualifying status of such Person shall last for the longer of (A) six (6) years from the criminal, professional, or disciplinary decision; and (B) the duration of the criminal, disciplinary, or professional sanction imposed; or

(iii) is serving as a front or intermediary for an individual falling within Rule 3216(c)(1)(i) or (ii).

(2) To establish a violation of Rule 3216(c), the Agency must establish that the Covered Person knew at the relevant time of the Person's disqualifying status. It is presumed that any association with the Person described in Rules 3216(c)(1)(i) and (ii) above is in a professional or sport-related capacity, and the burden shall be on the Covered Person to rebut that presumption.

(3) It shall be a defense to a charge of violation of Rule 3216 if the Covered Person establishes that the association with the Person could not have been reasonably avoided.

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- (d) Acts by a Covered Person to discourage or retaliate against reporting to authorities.
 - (1) Where such conduct does not otherwise constitute a violation under Rule 3216(a) (Tampering or Attempted Tampering):
 - (i) Any act that threatens or seeks to intimidate another Person with the intent of discouraging that Person from the good faith reporting of information that relates to an alleged Anti-Doping Rule Violation or other alleged non-compliance with the Protocol to the Agency or other appropriate Person.
 - (ii) Retaliation against a Person who, in good faith, has provided evidence or information that relates to an alleged Anti-Doping Rule Violation or other alleged non-compliance with the Protocol to the Agency or other appropriate entity or Person.
 - (2) For purposes of Rule 3216(d), retaliation, threatening, and intimidation include an act taken against such Person that lacks a good faith basis or is a disproportionate response.

3220. SANCTIONS

Rule 3221. Disqualification of the Covered Horse's results

(a) *Automatic Disqualification of Race Day results*

- (1) An Anti-Doping Rule Violation that arises from a Race Day Test, or that occurs during the Race Period, automatically leads to Disqualification of the results of the Covered Horse obtained on the Race Day(s) that fall(s) within the Race Period, even if any other sanction for the violation is reduced or eliminated under Rules 3224 to 3226.
- (2) In circumstances where (i) an ADRV Notice has been sent as required under Rule 3245, and (ii) the B Sample analysis confirms the A Sample analysis, or the right to request the analysis of the B Sample is waived, the Agency and/or the Responsible Person and/or Owner of the Covered Horse in question may ask the arbitrator(s) to apply Rule 3221 immediately, i.e., prior to adjudication of any other issue.

(b) *Disqualification of subsequent results*

In addition to the automatic Disqualification of results under Rule 3221(a), any other results that the Covered Horse obtained from the date the Anti-Doping Rule Violation first occurred, as well as during any retroactive Ineligibility period applied pursuant to Rule 3248(d), shall be Disqualified, unless it is established that fairness requires otherwise.

(c) *Consequence of Disqualification of results*

If a Covered Horse has results Disqualified under the Protocol, all purses and other compensation, prizes, trophies, points, and rankings are forfeited and must be repaid or surrendered (as applicable) to the race organizer, and the results of the other Covered Horses in the race(s) in question must be adjusted accordingly. Purses, prizes, trophies, and other compensation will (where possible) be withheld for the Covered Horse in issue pending resolution of the relevant charge.

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Rule 3222. Ineligibility for Covered Horses

(a) For a violation of Rule 3212 (presence) or 3213 (Use or Attempted Use), the Covered Horse involved shall be Ineligible for the time designated for the particular substance or category of substance in the Prohibited List.

(b) For a violation of Rule 3215 (evading, refusing, or failing to submit to Sample collection), the Covered Horse involved shall be Ineligible for eighteen (18) months.

(c) Rule 3228 on increased periods of Ineligibility for repeat offenders does not apply to Covered Horses.

(d) The Ineligibility period for a Covered Horse shall be deemed to commence on the date that the violation occurred (which, in the case of a Rule 3212 violation, shall be the date that the positive Sample was collected, even if the Covered Horse has participated in Workouts or Covered Races after that date).

(e) A Covered Horse will be reinstated once its period of Ineligibility ends, provided that (i) the Ineligibility has been respected in full throughout that period in accordance with Rule 3229, and (ii) the Covered Horse has been made available for Testing during that period in accordance with Rule 3132(c). However, such reinstatement is without prejudice to any rest or stand down period that may be imposed on the Covered Horse (e.g. due to injuries), and any requirements for release from the Veterinarians' List, pursuant to the Racetrack Safety Program.

Rule 3223. Ineligibility and financial penalties for Covered Persons

(a) General

(1) The periods of Ineligibility set out in this Rule 3223 apply to the Covered Person's first doping offense. Where an offense is not the Covered Person's first doping offense, Rule 3228 applies.

(2) Unless specified otherwise, the periods of Ineligibility set out in this Rule 3223 are subject to potential elimination, reduction, or suspension pursuant to Rules 3224 to 3226 or potential increase pursuant to Rule 3227.

(3) Unless Rule 3230(b)(1) applies, the periods of Ineligibility set out in this Rule 3223 shall be reduced by any period of Provisional Suspension served by the Covered Person in accordance with Rule 3247.

(b) Sanctions

(1) For a violation of Rule 3212 (presence), 3213 (Use or Attempted Use), 3214(a) (Possession), or 3214(c) (Administration or Attempted Administration), the period of Ineligibility shall be two (2) years. The Covered Person may also be required to pay a fine of up to USD 15,000 or 10% of the gross purse (whichever is greater) and some or all of the Agency's legal costs.

(2) For a violation of Rule 3214(b) (Trafficking or Attempted Trafficking), the period of Ineligibility shall be a minimum of four (4) years up to lifetime Ineligibility, depending on the seriousness of the violation. The Covered Person may also be required to pay a fine of

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up to USD 25,000 or 25% of the gross purse (whichever is greater) and some or all of the Agency's legal costs.

(i) A Rule 3214(b) violation involving a Minor shall be considered a particularly serious violation and shall result in lifetime Ineligibility for the Covered Person who commits it.

(ii) Violations of Rule 3214(b) that may also violate non-sporting laws and regulations shall be reported to the competent administrative, professional, or judicial authorities.

(3) For a violation of Rule 3215 (evading, refusing, or failing to submit to Sample collection) or 3216(a) (Tampering or Attempted Tampering), the period of Ineligibility shall be four (4) years, except:

(i) in the case of failing to submit to Sample collection, if the Covered Person can establish that the failure was not intentional, the period of Ineligibility will be two (2) years;

(ii) in all other cases, if the Covered Person can establish exceptional circumstances that justify a reduction of the period of Ineligibility, the period of Ineligibility will be in a range from two (2) years to four years, depending on their degree of fault.

The Covered Person may also be required to pay a fine of up to USD 15,000 or 10% of the gross purse (whichever is greater) and some or all of the Agency's legal costs.

(4) For a violation of Rule 3216(b) (complicity or Attempted complicity), the period of Ineligibility shall be up to two (2) years, depending on the seriousness of the violation. The Covered Person may also be required to pay a fine of up to USD 15,000 or 10% of the gross purse (whichever is greater) and some or all of the Agency's legal costs.

(5) For a violation of Rule 3216(c) (Prohibited Association), the period of Ineligibility shall be two (2) years, subject to a reduction down to a minimum of one (1) year, depending on the Covered Person's degree of Fault and other circumstances of the case. The Covered Person may also be required to pay a fine of up to USD 15,000 or 10% of the gross purse (whichever is greater) and some or all of the Agency's legal costs.

(6) For a violation of Rule 3216(d) (acts to discourage or retaliate against reporting), the period of Ineligibility shall be a minimum of two (2) years up to lifetime Ineligibility, depending on the seriousness of the violation. The Covered Person may also be required to pay a fine of up to USD 25,000 or 25% of the gross purse (whichever is greater) and some or all of the Agency's legal costs.

(7) For a violation of Rule 3229 (violation of the prohibition against participation during Provisional Suspension or Ineligibility), or complicity or Attempted complicity in such violation, the Consequences set out at Rule 3230 shall apply.

(c) *Commencement of the period of Ineligibility for a Covered Person*

(1) Except as otherwise provided in this Rule 3223, the period of Ineligibility imposed on any Covered Person shall start on the date the period of Ineligibility is accepted or

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otherwise imposed in accordance with the Protocol.

(2) Where a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility will start to run the day after the original period of Ineligibility ends.

(3) Where there have been substantial delays in the adjudication process or other aspects of Doping Control that go well beyond the standard timeframes for Laboratory analyses and Results Management, and the Covered Person can establish that such delays are not attributable to them, the start date of the period of Ineligibility may be deemed back-dated to reflect such delays, but in no event may it be deemed back-dated to a date before the Anti-Doping Rule Violation last occurred. All competitive results achieved during the period of Ineligibility by the Covered Person and/or Covered Horse in issue, including retroactive Ineligibility, shall be Disqualified, unless fairness requires otherwise.

Rule 3224. Elimination of the period of Ineligibility where there is No Fault or Negligence

(a) If a Covered Person establishes in an individual case that they bear No Fault or Negligence for the Anti-Doping Rule Violation(s) charged, the otherwise applicable period of Ineligibility and other Consequences for such Covered Person shall be eliminated (except for those set out in Rule 3221(a) and Rule 3620). When the violation is of Rule 3212 (presence of a Banned Substance), the Covered Person must also establish how the Banned Substance entered the Covered Horse's system as a pre-condition to application of this Rule 3244(a). In the event the period of Ineligibility otherwise applicable is eliminated pursuant to this Rule 3224, the Anti-Doping Rule Violation shall not be considered a prior violation for the purpose of Rule 3228.

(b) Rule 3224 only applies in exceptional circumstances. In particular, it will not apply where the Banned Substance found to be present in a Sample (i) came from a mislabelled or contaminated supplement; or (ii) was administered to the Covered Horse by veterinary or other support personnel without the knowledge of the Responsible Person.

(c) A finding that the Covered Person bears No Fault or Negligence for an Anti-Doping Rule Violation shall not affect the Consequences of that violation that apply to the Covered Horse (i.e., Ineligibility in accordance with Rule 3222(a) and Disqualification of results in accordance with Rule 3221).

Rule 3225. Reduction of the period of Ineligibility where there is No Significant Fault or Negligence

Reductions under this Rule 3225 are mutually exclusive and not cumulative, i.e., no more than one of them may be applied in a particular case.

(a) General rule

Where the Covered Person establishes that they bear No Significant Fault or Negligence for the Anti-Doping Rule Violation in question, the period of Ineligibility shall be fixed between three (3) months and two (2) years, depending on the Covered Person's degree of Fault, unless Rule 3225(b) or 3225(c) applies.

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(b) *Specified Substances*

Where the Covered Person establishes that they bear No Significant Fault or Negligence for the Anti-Doping Rule Violation in question, and the violation involves only a Specified Substance and no Banned Substance, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Covered Person's degree of Fault.

(c) *Contaminated Products or other contamination*

Where the Covered Person establishes that they bear No Significant Fault or Negligence for the Anti-Doping Rule Violation in question and that the Banned Substance in issue came from a Contaminated Product or from another form of contamination, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Covered Person's degree of Fault.

Rule 3226. Elimination, reduction, or suspension of period of Ineligibility and/or other Consequences for reasons unrelated to degree of Fault

(a) *Substantial Assistance.* The Agency may suspend all or part of the Consequences imposed on a Covered Person in an individual doping case – other than Disqualification of results pursuant to Rule 3221 and public disclosure pursuant to Rule 3620 – based on the following:

(1) The Covered Person provides Substantial Assistance to the Agency, the Authority, or a State Racing Commission, a criminal authority, or a professional disciplinary body that results in:

(i) the Agency discovering or bringing forward an Anti-Doping Rule Violation or Controlled Medication Rule Violation by another Covered Person; or

(ii) a criminal or disciplinary body discovering or bringing forward a sport-related criminal offense or the breach of professional or sports rules by another Person, including offenses arising out of a sport integrity violation or sport safety violation, or the violation of any rule or requirement in the Act, and the information provided by the Covered Person providing Substantial Assistance is also made available to the Agency.

(2) The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the Anti-Doping Rule Violation committed by the Covered Person and the degree to which the Substantial Assistance provided by the Covered Person assists the effort to promote doping-free racing, compliance with the Protocol, and/or the integrity of racing. In any event, no more than three-quarters of the otherwise applicable period of Ineligibility may be suspended. If the otherwise applicable period of Ineligibility is a lifetime, the non-suspended period under this section must be no less than eight (8) years. For purposes of this Rule 3226, the otherwise applicable period of Ineligibility shall not include any period of Ineligibility that could be added under Rule 3228(b)(2).

(3) If so requested, the Agency shall allow the Covered Person who seeks to provide Substantial Assistance to provide the information to the Agency subject to a Without Prejudice Agreement.

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(4) If the Covered Person fails to continue to cooperate and/or fails to provide the complete, accurate, and credible Substantial Assistance promised, the Agency shall reinstate the original Consequences. That decision may not be appealed or otherwise challenged.

(b) *Voluntary Admission of an Anti-Doping Rule Violation in the absence of other evidence.* If (i) the Covered Person voluntarily admits the commission of an Anti-Doping Rule Violation before receiving the ADRV Notice or (in the case of a Rule 3212 violation) before having received notice of a Sample collection that could establish the Anti-Doping Rule Violation, and (ii) that admission is the only reliable evidence of the violation at the time the admission is made, the otherwise applicable period of Ineligibility may be reduced by up to one-half.

(c) *Application of multiple grounds for reduction of a sanction.* If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under two (2) or more of Rules 3224, 3225, or 3226, the otherwise applicable period of Ineligibility shall be determined in accordance with Rules 3222, 3223, 3224, and 3225 before applying any reduction or suspension under Rule 3226. If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under Rule 3226, up to three-quarters of the otherwise applicable period of Ineligibility may be reduced or suspended.

(d) *Reductions for certain Anti-Doping Rule Violations based on early admission and acceptance of sanction.*

(1) Where the Agency notifies a Covered Person of a potential Anti-Doping Rule Violation that carries an asserted period of Ineligibility of four (4) or more years (including any period of Ineligibility asserted under Rule 3227), if the Covered Person admits the violation and accepts the asserted period of Ineligibility no more than twenty (20) days after receiving the Charge Letter, the period of Ineligibility to be served will be automatically reduced by one (1) year (but no further reduction shall be allowed under any other Rule).

(2) Where the Agency notifies a Covered Person of a potential Anti-Doping Rule Violation that carries an asserted period of Ineligibility of two (2) years or more years but less than four (4) years (including any period of Ineligibility asserted under Rule 3227), if the Covered Person admits the violation and accepts the asserted period of Ineligibility no more than twenty (20) days after receiving the Charge Letter, the period of Ineligibility to be served will be automatically reduced by six (6) months (but no further reduction shall be allowed under any other Rule).

Rule 3227. Aggravating Circumstances

(a) In an individual case involving an Anti-Doping Rule Violation that is not a Rule 3214(b) violation (Trafficking or Attempted Trafficking) or a Rule 3216(d) violation (acts to discourage or retaliate against reporting), if the Agency establishes that Aggravating Circumstances are present, the period of Ineligibility otherwise applicable shall be increased by up to two (2) years, depending on the seriousness of the Aggravating Circumstances, unless the Covered Person establishes that they did not knowingly commit the Anti-Doping Rule Violation. Where the period of Ineligibility is increased pursuant to this Rule, an additional fine of up to USD 10,000 or an additional 10% of the gross purse (whichever is greater) may also be imposed.

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(b) Actions and circumstances constituting Aggravating Circumstances include:

- (1) Administration of a Banned Substance that is detrimental to the health and welfare of the horse or is designed to deceive the betting public;
- (2) the presence in the Covered Horse's Sample of more than one Banned Substance, or a combination of Banned Substance(s) and Controlled Medication Substance(s);
- (3) the Covered Person Possessed or Administered more than one Banned Substance or Banned Method, or a combination of Banned Substance(s) and Controlled Medication Substance(s);
- (4) the Covered Person Possessed or Administered a Banned Substance or Banned Method on multiple occasions, or committed multiple other Anti-Doping Rule Violations and/or Controlled Medication Rule Violations that cannot be charged as separate violations due to the notice requirements set out in Rule 3245; and/or
- (5) the Covered Person engaged in deceptive or obstructive conduct to avoid the detection or adjudication of an Anti-Doping Rule Violation or a Controlled Medication Rule Violation, for which the Covered Person has not been sanctioned for Tampering.

(c) For the avoidance of doubt, the examples set out in Rule 3227(b) are not exhaustive and other circumstances or conduct may also amount to Aggravating Circumstances that justify the imposition of a longer period of Ineligibility.

Rule 3228. Increased sanctions for repeat offenders

For purposes of this Rule 3228, the following prior Anti-Doping Rule Violations are to be disregarded: (i) violations that took place more than ten (10) years prior to the violation now being sanctioned, and (ii) violations for which the Covered Person established that they bore No Fault or Negligence.

(a) *Second or subsequent Anti-Doping Rule Violation*

- (1) For a Covered Person's second Anti-Doping Rule Violation, the period of Ineligibility shall be the greater of:
 - (i) a six (6) month period of Ineligibility; or
 - (ii) a period of Ineligibility in the following range, taking into account the entirety of the circumstances and the Covered Person's degree of Fault with respect to the second violation:
 - (A) the sum of the period of Ineligibility imposed for the first Anti-Doping Rule Violation plus the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation; and
 - (B) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation.

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(2) A third Anti-Doping Rule Violation will always result in a lifetime period of Ineligibility, except if the third violation fulfills the conditions for elimination or reduction of the period of Ineligibility under Rule 3224 or Rule 3225, in which case the period of Ineligibility will be from eight years to lifetime Ineligibility.

(b) *Additional rules for certain potential multiple violations*

(1) Subject to Rules 3228(b)(2) and (3), Rule 3228(a) will only apply if the Agency can establish that the Covered Person committed the Anti-Doping Rule Violation now being sanctioned after they received an ADRV Notice in respect of the prior Anti-Doping Rule Violation(s), or after the Agency made reasonable efforts to give them an ADRV Notice in respect of the prior Anti-Doping Rule Violation(s). Otherwise, the sanction imposed shall be assessed based on the violation that carries the more severe sanction, including as a result of the application of Rule 3227 (Aggravating Circumstances).

(2) If the Agency establishes that prior to receiving an ADRV Notice in respect of one Anti-Doping Rule Violation the Covered Person committed an additional Anti-Doping Rule Violation, and that the additional violation occurred twelve (12) months or more before or after the violation asserted in that Notice, the period of Ineligibility for the additional violation shall be calculated as if the additional violation were a stand-alone first violation, and that period of Ineligibility will run consecutively to (rather than concurrently with) the period of Ineligibility imposed for the first-notified violation. Where this Rule applies, the violations taken together will constitute a single violation for purposes of Rule 3228(a).

(3) If a Doping Control process results in the assertion of an Anti-Doping Rule Violation, and the Agency establishes that the Covered Person committed an independent violation of Rule 3216(a) (Tampering) in connection with that Doping Control process, the Rule 3216(a) (Tampering) violation shall be treated as a stand-alone violation and the period of Ineligibility for such violation shall be served consecutively to, rather than concurrently with, the period of Ineligibility imposed for the other Anti-Doping Rule Violation. Where this Rule 3228(b)(3) is applied, the violations taken together shall constitute a single violation for purposes of Rule 3228(a).

(4) If the Agency establishes that the Covered Person has committed a second or further Anti-Doping Rule Violation during a period of Ineligibility, any new period of Ineligibility will start to run the day after the original period of Ineligibility ends.

(c) *Violations involving both a Banned Substance or Method and a Controlled Medication Substance or Method*

Where a Covered Person is found based on the same facts to have committed a violation involving both (i) one or more Banned Substance(s) or Banned Method(s), and (ii) one or more Controlled Medication Substance(s) or Controlled Medication Method(s), the Covered Person shall be considered to have committed one Anti-Doping Rule Violation and the sanction imposed shall be based on the Banned Substance or Banned Method that carries the most severe sanction, but Rule 3227 (Aggravating Circumstances) may also be applied to increase the sanction imposed.

Rule 3229. Status during Ineligibility or Provisional Suspension

While serving a period of Ineligibility or Provisional Suspension for an Anti-Doping Rule Violation:

(a) a Covered Horse (i) shall not participate in a Workout or Covered Horserace; but (ii) shall remain subject to Testing.

(b) a Covered Person shall not participate in any capacity in any activity involving Covered Horses or in any other activity (other than authorized anti-doping education or rehabilitation programs) taking place at a Racetrack or Training Facility; nor shall they permit anyone to participate in any capacity on their behalf in any such activities. Any Covered Horse (not itself subject to a Provisional Suspension or period of Ineligibility) under the care of the Covered Person who is subject to a Provisional Suspension or period of Ineligibility shall not participate in Workouts or Covered Horseraces unless and until it has been transferred to another Covered Person.

Rule 3230. Consequences for violation of the prohibition on participation during Ineligibility or provisional suspension under Rule 3229

(a) *Consequences for violation of the prohibition on participation during Ineligibility*

(1) If a Covered Person violates the prohibition against participation during Ineligibility described in Rule 3229, any results obtained from such participation shall be Disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the Covered Person's original period of Ineligibility.

(2) If a Covered Horse participates in any Workout or Covered Horserace in violation of the prohibition against participation during Ineligibility described in Rule 3229, any results obtained from such participation shall be Disqualified and the Responsible Person for that Covered Horse shall receive the following period of Ineligibility:

(i) if the Responsible Person was subject to an original period of Ineligibility, a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. If the original period of Ineligibility has already expired, the new period of Ineligibility shall start on the date that it is accepted or imposed; or

(ii) if the Responsible Person was not subject to an original period of Ineligibility, the period of Ineligibility for violating Rule 3229 shall be from a reprimand to one (1) year, depending on the Covered Person's degree of Fault.

(b) *Consequences for violation of the prohibition on participation during Provisional Suspension*

(1) A Covered Person who violates the prohibition against participation during a Provisional Suspension shall receive no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.

(2) If a Covered Horse participates in any Workout or Covered Horserace in violation of the prohibition against participation during a Provisional Suspension described in Rule 3229, the Responsible Person for that Covered Horse and the Covered Horse shall receive

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no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.

(c) The arbitrator(s) shall determine whether there has been a violation of the prohibition against participation during Ineligibility or Provisional Suspension and apply the appropriate Consequences pursuant to Rule 3261. This decision may be appealed under Rule 3264.

Rule 3231. Automatic Public Disclosure

A mandatory part of each sanction shall include automatic Public Disclosure in accordance with Rule 3620.

Rule 3232. Conditions precedent to reinstatement for Covered Persons

(a) To be reinstated after commission of an Anti-Doping Rule Violation, the Covered Person must have respected their period of Ineligibility (Rule 3229); made their Covered Horses available to Testing as required by Rule 3132(c); and paid any fines and/or reimbursed any costs imposed or accepted to the Agency (unless an instalment plan was established pursuant to Rule 3232(b), in which case the Covered Person must have made all payments due under that plan. If any instalment(s) subsequently become(s) overdue under that plan, the Covered Person and the Covered Horses under their ownership and/or training may not participate in any Workout or Covered Horserace until such overdue instalments are paid in full).

(b) Where fairness requires, the Agency or the arbitrator(s) may establish an instalment plan for repayment of amounts due to be paid or reimbursed under this Protocol. The payment schedule may extend beyond any period of Ineligibility imposed upon the Covered Person.

3240. RESULTS MANAGEMENT

Rule 3241. General

(a) Where Testing and/or investigations yield(s) evidence of a potential Anti-Doping Rule Violation(s), the Agency will conduct Results Management in accordance with this section 3240 and the Testing and Investigations Standards.

(b) The results of all Sample analyses must be sent exclusively to the Agency via secure transmission, in a report signed by an authorized representative of the Laboratory. All communications must be conducted in such a way that the results of the Sample analyses are kept confidential.

Rule 3242. Review of Adverse Analytical Findings

(a) Upon receipt of an Adverse Analytical Finding in relation to an A Sample, the Agency shall conduct a review of the Laboratory Documentation Package supporting the Adverse Analytical Finding (if available at the time of the review) and the relevant Doping Control form(s) and Testing documents to determine whether the Adverse Analytical Finding was caused by any apparent departure from the Testing and Investigations Standards, the Laboratory Standards, or any

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provision of this Protocol. Subject to Rule 3242(b), the Agency may, but need not, communicate with the Responsible Person and Owner during such review.

(b) If the review under Rule 3242(a) reveals an apparent departure that caused the Adverse Analytical Finding, the entire test shall be considered negative, and the Agency shall promptly inform the Responsible Person and each Interested Party of that fact, and shall take no further action in relation to the Adverse Analytical Finding.

(c) If the initial review of an Adverse Analytical Finding under Rule 3242(a) does not reveal an apparent departure that caused the Adverse Analytical Finding, the Agency shall promptly send an ADRV Notice to the Responsible Person and each Interested Party in accordance with Rule 3245.

Rule 3243. Review of Atypical Findings relating to Banned Substances

(a) When a Sample analysis is reported as an Atypical Finding relating to a Banned Substance, the Agency shall conduct an investigation (including directing any further Testing) and/or take any other steps required to decide whether the Atypical Finding should be brought forward as an Adverse Analytical Finding.

(b) The Agency may but need not provide notice of an Atypical Finding to anyone until it has made that decision unless one of the following circumstances exists:

(1) if the Agency determines that the B Sample should be analyzed prior to the conclusion of its investigation, the Agency may conduct the B Sample analysis after notifying the Responsible Person and the Owner, with such notice to include a description of the Atypical Finding and the information described in Rule 3245; or

(2) if the Agency receives a request, whether from a State Racing Commission or the organizer of a Covered Horserace that is to take place shortly, to disclose whether any Covered Horse identified on a list provided by such body has a pending Atypical Finding, the Agency may confirm that the Covered Horse has a pending Atypical Finding after first providing notice of the Atypical Finding to the Responsible Person and the Owner; or

(3) if the Atypical Finding is likely connected to a serious pathology that requires urgent veterinary attention.

(c) If the Agency ultimately decides not to pursue the Atypical Finding as an Adverse Analytical Finding, the Agency may but need not communicate that fact to the Responsible Person and Owner unless they have previously received notice of the Analytical Finding pursuant to Rule 3223(b).

(d) If the Agency decides to move forward with the matter as an Adverse Analytical Finding, then the Agency shall promptly send an ADRV Notice to the Responsible Person and each Interested Party.

Rule 3244. Review of other evidence of a potential Anti-Doping Rule Violation

The Agency shall conduct any follow-up investigation required into any potential Anti-Doping Rule Violation not covered by Rules 3242 or 3243. At such time as the Agency is satisfied that it has sufficient evidence to establish that an Anti-Doping Rule Violation occurred, it shall promptly send an ADRV Notice to the relevant Covered Person and each Interested Party.

Rule 3245. ADRV Notice

(a) Where it is determined that a Covered Person may have committed one or more Anti-Doping Rule Violations, the Agency will promptly notify the Covered Person and each Interested Party in writing of the following (the **ADRV Notice**):

- (1) the alleged Anti-Doping Rule Violation and the Consequences if it is determined to have been committed;
- (2) the Adverse Analytical Finding and/or a summary of the facts and evidence relied on by the Agency to assert the alleged violation (including, where applicable, the name of the Covered Horse implicated in the alleged violation, whether the alleged violation was in connection with a particular Covered Horserace, and the date of Sample collection or of the other facts said to give rise to the violation);
- (3) if applicable, the right of the Responsible Person and the Owner to receive copies (without charge) of the A Sample Laboratory Documentation Package, containing all of the information required by the Laboratory Standards;
- (4) if applicable, details regarding the B Sample analysis:
 - (i) for those substances identified in the Laboratory Standards or Technical Documents for which immediate analysis of the B Sample is authorized in order to preserve the scientific integrity of the Sample in accordance with the Laboratory Standards, that the B Sample has been Tested;
 - (ii) if the B Sample has not been Tested, the Responsible Person's and Owner's right to promptly request the analysis of the B Sample or (failing such request) that the B sample analysis will be deemed to be waived;
 - (iii) an explanation that where the Responsible Person or Owner requests the B Sample analysis within the applicable deadline, or where the Agency decides to proceed with the B Sample analysis, the Agency will notify the Responsible Person or Owner of the date, time, and place where the B Sample will be analyzed and (where the analysis is requested by the Responsible Person or Owner) the amount that the Responsible Person or Owner must pay to have the B Sample tested and B Sample Laboratory Documentation Package prepared, and the date by which such payment must be received, failing which the B Sample analysis will be deemed to have been waived; and
- (5) the opportunity for the Covered Person to provide an explanation within a short deadline;

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(6) the opportunity to provide Substantial Assistance, to admit the Anti-Doping Rule Violation, or to seek to resolve the matter without a hearing under Rule 3249;

(7) all relevant details relating to any Provisional Suspension (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3247; and

(8) if applicable, the right of the Responsible Person, Owner, and/or the Agency to ask the arbitrator(s) to apply Rule 3221 (automatic disqualification of results) promptly where the B Sample analysis confirms the A Sample analysis or where the right to request the B Sample Analysis is waived.

(b) Before sending an ADRV Notice, for purposes of Rule 3228 the Agency shall seek to determine whether the Covered Person in question has committed any prior Anti-Doping Rule Violations under the Protocol.

(c) Any defect in the ADRV Notice (including a failure to identify the Covered Horseraces implicated in the alleged violation, if any) may be corrected by the Agency and shall not invalidate the ADRV Notice or affect the due application of the provisions of this Protocol (including the Disqualification provisions) in relation to the violation.

Rule 3246. B Sample analysis

(a) Except for when the B Sample has been analyzed in accordance with Rule 3245(a)(4)(i), arrangements shall be made for analysis of the B Sample within the time period specified in the Laboratory Standards, or such longer time as may be reasonably required under the circumstances, albeit without undue delay. The Responsible Person or Owner may request, or the Agency may decide, to have the B Sample analysis conducted at a Laboratory different from the one that conducted the A Sample analysis. Subject to Rule 3246(b), the Responsible Person or Owner must pay the costs of the B Sample analysis in advance, but if the B Sample analysis does not confirm the A Sample analysis they will be reimbursed that cost by the Agency. The Responsible Person and Owner and/or one representative each may attend the Laboratory to witness the opening and identification of the B Sample. They do not have any right to witness the analysis of the B Sample.

(b) The Responsible Person and Owner may (if they both agree) waive analysis of the B Sample (in which case they will be deemed to accept the A Sample analytical results). If waived, the Agency may nonetheless elect to proceed with the B Sample analysis at its own expense.

(c) If the B Sample proves negative, then unless the Agency asserts an Anti-Doping Rule Violation under Rule 3213 (Use), the entire Test shall be considered negative, and the Responsible Person and Owner shall be so informed. In such circumstances, the ADRV Notice will be withdrawn, any Provisional Suspensions imposed will be deemed automatically vacated with immediate effect (without the need for any order from the arbitrator(s)), and no further disciplinary action will be taken against the Responsible Person, other Covered Person, or Covered Horse by the Agency in relation to the original Adverse Analytical Finding. If the Agency asserts that a Rule 3213 (Use) violation has occurred, it shall send a Charge Letter to the Responsible Person and other Covered Person(s), with a copy to each Interested Party.

(d) If the presence of a Banned Substance or the Use of a Banned Method is confirmed by the B Sample analysis, or the B Sample analysis is waived, the Agency shall send a Charge Letter to

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the Responsible Person and any other relevant Covered Person(s), with a copy to each Interested Party.

Rule 3247. Provisional suspensions

(a) Provisional suspensions shall be imposed as follows:

(1) For each alleged violation of Rule 3212 (presence) or 3213 (Use) that involves a Banned Substance that is not a Specified Substance, the Agency shall impose a Provisional Suspension, effective from the date specified by the Agency in the ADRV Notice or in further correspondence up to and including the Charge Letter, on (i) the Covered Horse, (ii) the Responsible Person, and (iii) any other Covered Person charged with the violation.

(2) For each alleged violation of Rule 3215 (evading, refusing, or failing to submit to Sample collection), the Agency may impose a Provisional Suspension, effective from the date specified by the Agency in the ADRV Notice or in further correspondence up to and including the Charge Letter, on (i) the Covered Horse, (ii) the Responsible Person, and/or (iii) any other Covered Person charged with the violation.

(3) For all other alleged Anti-Doping Rule Violations, the Agency may impose a Provisional Suspension, effective from the date specified by the Agency in the ADRV Notice or in further correspondence up to and including the Charge Letter, on the Responsible Person and/or any other Covered Person alleged to be implicated in the violation, but not on the Covered Horse.

(b) Where a Provisional Suspension is imposed pursuant to Rule 3247(a), the Responsible Person (on their own behalf and on behalf of the Covered Horse) and any other Covered Person made subject to the Provisional Suspension shall be given:

(1) an opportunity for a Provisional Hearing either before or on a timely basis after imposition of the Provisional Suspension; or

(2) an opportunity for an expedited final adjudication in accordance with Rule 3262 on a timely basis after imposition of the Provisional Suspension.

(c) Provisional Hearings shall be conducted by the arbitrator(s) and heard via telephone or video conference call within the time frame specified in accordance with the Arbitration Procedures. The sole issue to be determined by the arbitrator(s) will be whether the Agency's decision that a Provisional Suspension should be imposed shall be upheld. The Agency's decision to impose a Provisional Suspension shall be maintained unless the Responsible Person/Covered Person requesting the lifting of the Provisional Suspension establishes that:

(1) the allegation that an Anti-Doping Rule Violation has been committed has no reasonable prospect of being upheld, e.g., because of a material defect in the evidence on which the allegation is based; or

(2) the Responsible Person/Covered Person charged bears No Fault or Negligence for the Anti-Doping Rule Violation that is alleged to have been committed, so that any period of Ineligibility that might otherwise be imposed for such offense would be completely eliminated by application of Rule 3224. (This ground does not apply in respect of any Provisional Suspension imposed on a Covered Horse);

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(3) Rule 3225 applies and the Responsible Person/Covered Person bears No Significant Fault or Negligence and they will likely be given a period of Ineligibility that is not longer than the period for which they have already been provisionally suspended. (This ground does not apply in respect of any Provisional Suspension imposed on a Covered Horse); or

(4) exceptional circumstances exist that make it clearly unfair, taking into account all of the circumstances of the case, to impose a Provisional Suspension prior to the final hearing on the merits. This ground is to be construed narrowly and applied only in truly exceptional circumstances. For example, the fact that the Provisional Suspension would prevent the Responsible Person/Covered Person or Covered Horse participating in a particular Workout, Covered Horserace, or other activity shall not qualify as exceptional circumstances for these purposes.

(d) If the application is made before the Provisional Suspension comes into effect, the Provisional Suspension will not come into effect pending the decision on the application. If the application is made after the Provisional Suspension has come into effect, the Provisional Suspension will remain in place pending the decision on the application.

(e) If it considers it appropriate to do so on the specific facts of the case, the Agency may lift the Provisional Suspension.

(f) If the application to have a Provisional Suspension not imposed/lifted is not granted, a further application may not be made to lift the Provisional Suspension unless (i) it is based on material new evidence that the Responsible Person or other Covered Person was not aware of and could not reasonably have been aware of at the time they made the original application; or (ii) there has been some other significant and material change in circumstances since the original application was decided. If the Responsible Person or other Covered Person makes a further application that does not meet either of these requirements, costs may be awarded against them.

(g) Voluntary Provisional Suspension

(1) In all cases where a Responsible Person/Covered Person has been notified of or charged with an Anti-Doping Rule Violation but no Provisional Suspension has been imposed on them and/or on the Covered Horse, that person may (on their own behalf and, if the Responsible Person, on behalf of the Covered Horse) voluntarily accept a Provisional Suspension at any time by written notice to the Agency.

(2) A Provisional Suspension that is voluntarily accepted will have effect (in the same manner as if the Provisional Suspension had been imposed under Rule 3247(a)) from the date that written notice of its acceptance is received by the Agency. If the Provisional Suspension is thereafter respected in full, such Responsible Person, other Covered Person, or Covered Horse (as applicable) shall receive credit for such period of voluntary Provisional Suspension against any period of Ineligibility that may ultimately be imposed. However, if the Provisional Suspension is not respected in full, or if the Responsible Person or other Covered Person withdraw their voluntary acceptance of the Provisional Suspension at any time, the Responsible Person or other Covered Person or Covered Horse (as applicable) shall not receive any credit for the voluntary Provisional Suspension. A copy of the voluntary Provisional Suspension shall promptly be provided to each Interested Party.

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(h) No admission will be inferred, or other adverse inference drawn, from the decision of a Covered Person (a) not to make an application to lift a Provisional Suspension; or (b) to accept a voluntary Provisional Suspension.

(i) If a Provisional Suspension is imposed on, or voluntarily accepted by, a Covered Person or Covered Horse and that Provisional Suspension is respected, then such Covered Person and Covered Horse shall receive a credit for such period of Provisional Suspension against any period of Ineligibility that may ultimately be imposed. If the Covered Person or Covered Horse does not respect a Provisional Suspension, then the Covered Person shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, the Covered Person or Covered Horse shall receive a credit for such period of Ineligibility served against any period of Ineligibility that may ultimately be imposed on appeal.

(j) Notwithstanding any other provision in this Rule 3247 or elsewhere in this Protocol, any Provisional Suspension imposed on a Covered Horse will be automatically lifted (without the need for any hearing) if it has been in place for a period equal to the period of Ineligibility specified for the violation charged.

Rule 3248. Charge Letter

(a) If, after receipt of the Covered Person's explanation, or expiry of the deadline to provide such explanation, the Agency remains satisfied that the Covered Person has committed an Anti-Doping Rule Violation(s), the Agency shall promptly charge the Covered Person with the Anti-Doping Rule Violation(s) they are asserted to have breached. In this letter of charge (**Charge Letter**), which will be copied to each Interested Party, the Agency shall:

- (1) set out the Anti-Doping Rule Violation(s) the Covered Person is charged with having committed;
- (2) provide a summary of the relevant facts upon which the charge is based, enclosing (where applicable) a copy of the complete A Sample Laboratory Documentation Package and of the complete B Sample Laboratory Documentation Package);
- (3) specify the Consequences that the Agency will propose should apply if the charge is/are upheld;
- (4) grant a deadline of not more than ten (10) days from receipt of the Charge Letter (unless otherwise agreed by the Agency) for the Covered Person to either:
 - (i) admit the Anti-Doping Rule Violation(s) charged and:
 - (A) accept the Consequences proposed by the Agency, in which case the Agency will issue a decision under Rule 3249(b); or
 - (B) seek to agree mitigated Consequences with the Agency pursuant to Rule 3249, failing which the Consequences may still be disputed at a hearing; or
 - (C) dispute and/or seek to mitigate the proposed Consequences at a hearing in accordance with Rule 3261 and the Arbitration Procedures; or
 - (ii) deny the Anti-Doping Rule Violation charged and dispute the proposed

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Consequences at a hearing in accordance with Rule 3261 and Arbitration Procedures;

(5) indicate that if the Covered Person does not challenge the Agency's assertion of an Anti-Doping Rule Violation or the proposed Consequences within the prescribed deadline, the Covered Person will be deemed to have waived their right to a hearing, admitted the Anti-Doping Rule Violation(s) charged, and accepted the Consequences specified by the Agency in the Charge Letter (without any mitigation of those Consequences);

(6) give the opportunity to provide Substantial Assistance in accordance with Rule 3226(a); and

(7) provide all relevant details relating to any Provisional Suspensions (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3247.

Rule 3249. Case resolution without a hearing

(a) At any time prior to a final decision under the Arbitration Procedures, (i) the Agency may withdraw a Charge Letter for good cause, in which case any Provisional Suspension will be automatically lifted and (absent the emergence of new information) no further steps will be taken in relation to the violations alleged in the Charge Letter; or (ii) the Covered Person may agree to admit the Anti-Doping Rule Violation(s) charged (or any other violation of this Protocol) and accede to specified Consequences consistent with this Protocol. In any such case, an adjudication under the Arbitration Procedures will not be required.

(b) In the event that the Covered Person admits the Anti-Doping Rule Violation(s) charged and accedes to Consequences specified by the Agency (or is deemed to have done so in accordance with Rule 3248(a)(5)), the Agency will promptly issue a reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and setting out the factual basis for the decision and all of the Consequences to be imposed (including a brief summary of the reasons for any period of Ineligibility imposed, unless doing so could compromise an ongoing investigation or proceeding), and will send notice of the decision to each Interested Party, and will Publicly Disclose the decision in accordance with Rule 3620.

(c) In the event that the Agency withdraws the Charge Letter, it will promptly issue a reasoned decision confirming the withdrawal of the Charge Letter, will send notice of the decision to the Covered Person concerned, with a copy to each Interested Party, and will Publicly Disclose the decision (or a summary thereof) in accordance with Rule 3620 (save that the decision will not be Publicly Disclosed where no Provisional Suspension was imposed and the fact that the Covered Person was charged has not otherwise been made public).

Rule 3250. Notification requirements

(a) Notification of Controlled Medication Rule Violations will take place as set out in Rule 3245 and Rule 3248. If at any point after an ADRV Notice has been provided the Agency decides not to move forward with the alleged Anti-Doping Rule Violation, it will notify the Covered Person(s) concerned and each Interested Party of that decision.

(b) Notification to a Covered Person by the Agency, for all purposes of this Protocol, may be accomplished either through actual or constructive notice. Actual notice may be accomplished by any means. Constructive notice shall be deemed to have been given when the information in

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question is delivered by third-party courier or U.S. postal mail to the Covered Person's most recent mailing address on file with the Authority or by email to the Covered Person's most recent email address on file with the Authority.

3260. HEARINGS AND APPEALS.

Rule 3261. First instance hearing before arbitrator(s)

Where a Covered Person is alleged to have committed an Anti-Doping Rule Violation or to have violated Rule 3229, the Covered Person shall be entitled to a hearing before an impartial arbitrator (or where so requested by the Agency, by a panel of three arbitrators) in accordance with the Arbitration Procedures. The arbitrator(s) must issue a reasoned decision, including an explanation of the reasons for any Consequences imposed (if any) within fourteen (14) calendar days after the conclusion of the hearing, except that the deadline for the issue of the decision may be extended by the arbitrator(s) in exceptional circumstances. The arbitrator(s) may also decide to communicate the operative part of the decision to the parties prior to issuing the full reasoned decision. A copy of the decision shall be sent to the Covered Person(s) concerned, with a copy to each Interested Party. The decision or a summary thereof shall be Publicly Disclosed as provided in Rule 3620.

The arbitrator(s) may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the arbitrator(s).

If an individual case involves allegations that both an Anti-Doping Rule Violation and a Controlled Medication Rule Violation have been committed, the matter shall be referred to and adjudicated by the arbitrator(s) in accordance with this section 3260, the EAD Rules, and the Arbitration Procedures.

Rule 3262. Expedited first instance hearing

For matters involving Anti-Doping Rule Violations for which the Covered Horse or Covered Person is not Provisionally Suspended, where such Covered Horse or Covered Person is likely to participate in a Covered Horserace within forty-five (45) days, the Agency may (where appropriate) address the case on an expedited basis and shorten any deadlines in the Protocol and/or Arbitration Procedures proportionately to ensure resolution of the matter prior to the Covered Horserace.

Rule 3263. Finality

Subject to the right of appeal provided in Rule 3264, decisions rendered by the arbitrator(s) under the Protocol shall be final and binding.

Rule 3264. Right to appeal

- (a) The following decisions may be appealed as provided in the Arbitration Procedures:
 - (1) a decision that an Anti-Doping Rule Violation has been committed;
 - (2) a decision imposing (or not imposing) Consequences for an Anti-Doping Rule Violation;

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- (3) a decision that no Anti-Doping Rule Violation has been committed;
 - (4) a decision that a case under the EAD Rules cannot go forward for procedural reasons (including, for example, because of prescription);
 - (5) a decision to impose (or lift) a Provisional Suspension as a result of a Provisional Hearing under Rule 3247(c);
 - (6) a decision that the Agency or the arbitrator(s) lack(s) authority to rule on an alleged Anti-Doping Rule Violation or its Consequences;
 - (7) a decision to suspend (or not suspend) Consequences or to reinstate (or not reinstate) Consequences under Rule 3226(a) (Substantial Assistance);
 - (8) a decision under Rule 3229/3230 (violation of the prohibition against participation during Ineligibility or Provisional Suspension);
 - (9) such other decisions where a right of appeal is specified in the Protocol or Arbitration Procedures.
- (b) Unless specified otherwise, the above decisions may be appealed by:
- (1) the Agency;
 - (2) the Covered Person found to have committed the Anti-Doping Rule Violation or other violation under the EAD Rules; or
 - (3) the Responsible Person on behalf of the Covered Horse.
- (c) Any decision under appeal shall remain in effect pending resolution of the appeal unless the appeal body orders otherwise.
- (d) Any final decision by the Agency or the arbitrator(s) shall constitute a final civil sanction subject to appeal and review in accordance with the provisions of 15 USC 3058.

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3310. CONTROLLED MEDICATION RULE VIOLATIONS

Rule 3311. Definition of Controlled Medication Rule Violation and responsibility for violations

(a) Controlled medication cases will be initiated based on the assertion that one or more of Rules 3312 to 3315 has been violated (each, a **Controlled Medication Rule Violation**).

(b) The Controlled Medication Rule Violations described below may only be committed by Covered Persons, but the Consequences for Controlled Medication Rule Violations may apply to both the Covered Person(s) who commit(s) the violation and any Covered Horse(s) implicated by the violation.

(c) All Covered Persons are responsible for knowing what constitutes a Controlled Medication Rule Violation and what Controlled Medication Substances and what Controlled Medication Methods are included on the Prohibited List.

Rule 3312. Presence of a Controlled Medication Substance on Race Day

(a) The general rule is that the presence of any amount of a Controlled Medication Substance and/or its Metabolites or Markers in a Sample collected from a Covered Horse on Race Day constitutes a Controlled Medication Rule Violation by the Responsible Person of that Covered Horse.

(b) As an exception to the general rule of Rule 3312(a), the Prohibited List and/or Standards may establish special criteria for the reporting and/or the evaluation of certain Controlled Medication Substances for which a Minimum Reporting Level, Threshold, or Decision Limit is specifically identified in the Prohibited List and/or Standards.

(c) It is the personal and non-delegable duty of the Responsible Person to ensure that no Controlled Medication Substance is present in the body of their Covered Horse(s) on Race Day. The Responsible Person is therefore strictly liable for any Controlled Medication Substance and/or its Metabolites or Markers found to be present in a Sample collected from their Covered Horse(s) on Race Day. Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3312 Controlled Medication Rule Violation.

(d) Sufficient proof of a Rule 3312 Controlled Medication Rule Violation is established by any of the following:

- (1) the presence of a Controlled Medication Substance and/or its Metabolites or Markers in the Covered Horse's A Sample where the Responsible Person waives analysis of the B Sample and the B Sample is not analyzed;
- (2) the Covered Horse's B Sample is analyzed and the analysis of the B Sample confirms the presence of the Controlled Medication Substance and/or its Metabolites or Markers found in the A Sample; or

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(3) where in exceptional circumstances the Laboratory (on instruction from the Agency) further splits the A or B Sample into two parts in accordance with the Laboratory Standards, the analysis of the second part of the resulting split Sample confirms the presence of the same Controlled Medication Substance and/or its Metabolites or Markers as were found in the first part of the split Sample, or the Responsible Person waives analysis of the second part of the split Sample.

Rule 3313. Use or Attempted Use of a Controlled Medication Substance or a Controlled Medication Method during the Race Period

(a) Subject to Rule 3313(c), the Use or Attempted Use of a Controlled Medication Substance or Controlled Medication Method on a Covered Horse during the Race Period constitutes a Controlled Medication Rule Violation. The success or failure of that Use or Attempted Use is not material. For a Rule 3313 violation to be committed, it is sufficient that the Controlled Medication Substance or Controlled Medication Method was Used or Attempted to be Used on a Covered Horse during the Race Period.

(b) It is the personal and non-delegable duty of the Responsible Person to ensure that no Controlled Medication Substance or Controlled Medication Method is Used on their Covered Horse during the Race Period. The Responsible Person is therefore strictly liable for any Use of a Controlled Medication Substance or Controlled Medication Method on their Covered Horses. Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3313 Controlled Medication Rule Violation of Use. However, in accordance with the definition of Attempt, it is necessary to show intent on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3313 Controlled Medication Rule Violation of Attempted Use.

(c) Use of a Controlled Medication Substance or a Controlled Medication Method outside the Race Period is not a Rule 3313 violation. However, if a Controlled Medication Substance or any of its Metabolites or Markers is still present in a Sample collected on Race Day, that is a Rule 3312 (presence) violation.

Rule 3314. Use of a Controlled Medication Substance or a Controlled Medication Method in a manner contrary to horse welfare

(a) Any Use of a Controlled Medication Substance or a Controlled Medication Method on a Covered Horse must (i) be justified by the Covered Horse's medical condition(s) as diagnosed by a Veterinarian, (ii) have been recommended by a Veterinarian in the context of a valid veterinarian-patient-client relationship, (iii) go no further than the minimum necessary to address the diagnosed health concerns, and (iv) be in the best interests of the Covered Horse's health and welfare.

(b) It is the personal and non-delegable duty of the Responsible Person to ensure that no Controlled Medication Substance or Controlled Medication Method is Used on their Covered Horse in breach of the requirements set out in Rule 3314(a). The Responsible Person is therefore strictly liable for a violation of this Rule 3314. Accordingly, it is not necessary to demonstrate intent, Fault, negligence, or knowing Use on the part of the Responsible Person in order to establish that the Responsible Person has committed a Rule 3314 Controlled Medication Rule Violation.

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Rule 3315. Other Controlled Medication Rule Violations involving Controlled Medication Substances and/or Controlled Medication Methods

The following acts and omissions constitute Controlled Medication Rule Violations by the Covered Person(s) in question:

(a) The Administration or Attempted Administration of a Controlled Medication Substance and/or Controlled Medication Method by a Covered Person to a Covered Horse during the Race Period.

(b) The Possession of a Controlled Medication Substance or Controlled Medication Method by any Covered Person that is not in compliance with applicable state or federal law.

(c) A Covered Person assisting, encouraging, aiding, abetting, conspiring, covering up, or engaging in any other type of intentional complicity or Attempted complicity (i) in a Controlled Medication Rule Violation committed by another Person, or (ii) in relation to a violation of Rule 3329 by another Person.

Rule 3316. Tampering or Attempted Tampering with Medication Control

If a Medication Control process results in the assertion of a Controlled Medication Rule Violation, and the Agency establishes that the Covered Person committed an independent violation Tampering or Attempted Tampering in connection with that Medication Control process, that will constitute an Anti-Doping Rule Violation under Rule 3216(a), and the matter will be dealt with in accordance with the procedures and Consequences applicable to Anti-Doping Rule Violations.

3320. SANCTIONS

Rule 3321. Disqualification of the Covered Horse's results

(a) *Automatic Disqualification of Race Day results*

(1) A Controlled Medication Rule Violation that arises from a Race Day Test, or that occurs during the Race Period, automatically leads to Disqualification of the results of the Covered Horse obtained on the Race Day(s) that fall(s) within the Race Period, even if any other sanction for the violation is reduced or eliminated under Rules 3324 to 3326. Upon such Disqualification, all purses and other compensation, prizes, trophies, points, and rankings are forfeited and must be repaid or surrendered (as applicable) to the race organizer, and the results of the other Covered Horses in the race(s) in question must be adjusted accordingly. Purses, prizes, trophies, and other compensation will (where possible) be withheld for the Covered Horse in issue pending resolution of the relevant charge.

(2) In circumstances where (i) an ECM Notice has been sent as required under Rule 3345, and (ii) the B Sample analysis confirms the A Sample analysis, or the right to request the analysis of the B Sample is waived, the Agency and/or the Responsible Person and/or the Owner of the Covered Horse in question may ask the National Stewards Panel (where the Administrative Procedure is not offered/accepted) to apply Rule 3321 immediately, i.e. prior to adjudication of any other issue.

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(b) *No Disqualification of subsequent results*

Subsequent results obtained by the Covered Horse from the date a Controlled Medication Rule Violation first occurred through the commencement of any Provisional Suspension or Ineligibility period for the Covered Horse shall not be Disqualified.

Rule 3322. Ineligibility for Covered Horses

- (a) Unless indicated otherwise in the Prohibited List, there shall be no period of Ineligibility for Covered Horses implicated in violations involving only Controlled Medication Substances or Controlled Medication Methods. Where the Prohibited List specifies a period of Ineligibility, it shall be applied only prospectively (i.e. going forward from the date that it is imposed), with no Disqualification of any results obtained by the Covered Horse before the date that the period of Ineligibility starts to run, other than as provided under Rule 3321(a)(1).
- (b) Where a period of Ineligibility is imposed, the Covered Horse will be reinstated once its period of Ineligibility ends, provided that: (i) that Ineligibility has been respected in full throughout that period in accordance with Rule 3329, and (ii) the Covered Horse has been made available for Testing during that period in accordance with Rule 3132(c). However, such reinstatement is without prejudice to any rest or stand down period that may be imposed on the Covered Horse (e.g. due to injuries), and any requirements for release from the Veterinarians' List, pursuant to the Racetrack Safety Program.

Rule 3323. Ineligibility and financial penalties for Covered Persons

(a) *General*

- (1) The periods of Ineligibility set out in this Rule 3323 apply to the Covered Person's first Controlled Medication Rule Violation. Where it is not the Covered Person's first Controlled Medication Rule Violation, Rule 3328 applies.
- (2) Unless specified otherwise, the periods of Ineligibility set out in this Rule 3323 are subject to potential elimination, reduction, or suspension pursuant to Rules 3324 to 3326, or potential increase pursuant to Rule 3327.
- (3) Unless Rule 3330(b)(1) applies, the periods of Ineligibility set out in this Rule 3323 shall be reduced by any period of Provisional Suspension served by the Covered Person in accordance with Rule 3347.

(b) *Sanctions*

- (1) For a violation of Rule 3312 (presence); Rule 3313 (Use or Attempted Use during the Race Period); Rule 3314 (Use contrary to horse welfare); Rule 3315(a) (Administration or Attempted Administration); or Rule 3315(b) (Possession), the period of Ineligibility shall be fifteen (15) days. The Covered Person may also be required to pay a fine of up to USD 2,500 and some or all of the Agency's legal costs.
- (2) For a violation of Rule 3315(c) (complicity or Attempted complicity), the period of Ineligibility shall be up to fifteen (15) days, depending on the seriousness of the violation. The Covered Person may also be required to pay a fine of up to USD 2,500 and some or

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all of the Agency's legal costs. Unless the specific circumstances of the case warrant otherwise, the sanctions imposed on a Covered Person for complicity or Attempted complicity should not exceed the sanctions imposed on the Covered Person who committed the principal act.

(3) For a violation of Rule 3329 (violation of the prohibition against participation during Provisional Suspension or Ineligibility), or complicity or Attempted complicity in such violation, the Consequences set out at Rule 3330 shall apply.

(c) Commencement of the period of Ineligibility for a Covered Person

(1) Except as otherwise provided in this Rule 3323, the period of Ineligibility imposed on any Covered Person shall start on the date the period of Ineligibility is accepted or otherwise imposed in accordance with the Protocol.

(2) Where a Covered Person is already serving a period of Ineligibility for another violation of the Protocol, any new period of Ineligibility will start to run the day after the original period of Ineligibility ends.

(3) Where there have been substantial delays in the adjudication process or other aspects of Medication Control that go well beyond the standard timeframes for Laboratory analyses and Results Management, and the Covered Person can establish that such delays are not attributable to them, the start date of the period of Ineligibility may be deemed back-dated to reflect such delays, but in no event may it be deemed back-dated to a date before the Controlled Medication Rule Violation last occurred.

Rule 3324. Elimination of the period of Ineligibility where there is No Fault or Negligence

(a) If a Covered Person establishes in an individual case that they bear No Fault or Negligence for the Controlled Medication Rule Violation(s) charged, the otherwise applicable period of Ineligibility and other Consequences for such Covered Person shall be eliminated (except for those set out in Rule 3321 and Rule 3620). When the violation is of Rule 3312 (presence of a Controlled Medication Substance), the Covered Person must also establish how the Controlled Medication Substance entered the Covered Horse's system as a pre-condition to application of this Rule 3324. In the event the period of Ineligibility otherwise applicable is eliminated pursuant to this Rule 3324, the Controlled Medication Rule Violation shall not be considered a prior violation for the purpose of Rule 3328.

(b) Rule 3324 only applies in exceptional circumstances. In particular, it will not apply where the Controlled Medication Substance found to be present in a Sample (i) came from a mislabelled or contaminated supplement; or (ii) was administered to the Covered Horse by veterinary or other support personnel without the knowledge of the Responsible Person.

Rule 3325. Reduction of the period of Ineligibility where there is No Significant Fault or Negligence

Reductions under this Rule 3325 are mutually exclusive and not cumulative, i.e., no more than one of them may be applied in a particular case.

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(a) *General rule*

Where the Covered Person establishes that they bear No Significant Fault or Negligence for the Controlled Medication Rule Violation in question, then (unless Rule 3325(b) or 3325(c) applies) the period of Ineligibility may be reduced depending on the Covered Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the otherwise applicable period of Ineligibility.

(b) *Specified Substances*

Where the Covered Person establishes that they bear No Significant Fault or Negligence for the Controlled Medication Rule Violation in question, and the violation involves only Specified Substances, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, the otherwise applicable period of Ineligibility, depending on the Covered Person's degree of Fault.

(c) *Contaminated Products or other contamination*

Where the Covered Person establishes that they bear No Significant Fault or Negligence and that the Controlled Medication Substance in question came from a Contaminated Product or another form of contamination, the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, the otherwise applicable period of Ineligibility, depending on the Covered Person's degree of Fault.

Rule 3326. Elimination, reduction, or suspension of period of Ineligibility and/or other Consequences for reasons unrelated to degree of Fault

(a) *Substantial Assistance.* The Agency may suspend all or part of the Consequences imposed on a Covered Person in an individual controlled medication case – other than Disqualification of results pursuant to Rule 3321 and public disclosure pursuant to Rule 3620 – based on the following:

(1) The Covered Person provides Substantial Assistance to the Agency, the Authority, or a State Racing Commission, a criminal authority, or a professional disciplinary body that results in:

(i) the Agency discovering or bringing forward an Anti-Doping Rule Violation or a Controlled Medication Rule Violation by another Covered Person; or

(ii) a criminal or disciplinary body discovering or bringing forward a sport-related criminal offense or the breach of professional or sports rules by another Person, including offenses arising out of a sport integrity violation or sport safety violation, or the violation of any rule or requirement in the Act, and the information provided by the Covered Person providing Substantial Assistance is also made available to the Agency.

(2) The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the Controlled Medication Rule Violation committed by the Covered Person and the degree to which the Substantial Assistance provided by the Covered Person assists the effort to promote doping-free racing, compliance with the Protocol, and/or the integrity of racing. For purposes of this Rule 3326, the otherwise

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applicable period of Ineligibility shall not include any period of Ineligibility that could be added under Rule 3328(b)(2).

(3) If so requested, the Agency shall allow the Covered Person who seeks to provide Substantial Assistance to provide the information to the Agency subject to a Without Prejudice Agreement.

(4) If the Covered Person fails to continue to cooperate and/or fails to provide the complete, accurate, and credible Substantial Assistance promised, the Agency shall reinstate the original Consequences. That decision may not be appealed or otherwise challenged.

(b) *Voluntary Admission of a Controlled Medication Rule Violation in the absence of other evidence.* If (i) the Covered Person voluntarily admits the commission of a Controlled Medication Rule Violation before receiving the ECM Notice or (in the case of a Rule 3312 violation) before having received notice of a Sample collection that could establish the Controlled Medication Rule Violation, and (ii) that admission is the only reliable evidence of the violation at the time the admission is made, the otherwise applicable period of Ineligibility may be reduced by up to one-half.

(c) *Application of multiple grounds for reduction of a sanction.* If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under two (2) or more of Rules 3324, 3325, or 3326, the otherwise applicable period of Ineligibility shall be determined in accordance with Rules 3322, 3323, 3324, and 3325 before applying any reduction or suspension under Rule 3326. If the Covered Person establishes entitlement to a reduction or suspension of the period of Ineligibility under Rule 3326, up to three-quarters of the otherwise applicable period of Ineligibility may be reduced or suspended.

(d) *Reductions for certain Controlled Medication Rule Violations based on early admission and acceptance of sanction*

Where the Agency notifies a Covered Person of a potential Controlled Medication Rule Violation that carries an asserted period of Ineligibility of thirty (30) days or more (including any period of Ineligibility asserted under Rule 3327), if the Covered Person admits the violation and accepts the asserted period of Ineligibility no more than twenty (20) days after receiving the Charge Letter, the period of Ineligibility to be served will be automatically reduced by ten (10) days (but no further reduction shall be allowed under any other Rule).

Rule 3327. Aggravating Circumstances

(a) If the Agency establishes in an individual controlled medication case that Aggravating Circumstances are present, the period of Ineligibility otherwise applicable shall be increased by up to six (6) months depending on the seriousness of the Aggravating Circumstances, unless the Covered Person establishes that they did not knowingly commit the Controlled Medication Rule Violation. Where the period of Ineligibility is increased pursuant to this Rule, an additional fine of up to USD 5,000 or an additional 5% of the gross purse (whichever is greater) may also be imposed.

(b) Actions and circumstances constituting Aggravating Circumstances include:

(1) Administration of a Controlled Medication Substance that is detrimental to the health and welfare of the horse or is designed to deceive the betting public;

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- (2) the presence in the Covered Horse's Race Day Sample of more than one Controlled Medication Substance (unless they are all Specified Substances);
- (3) the Covered Person committed multiple other Controlled Medication Rule Violations that cannot be charged as separate violations due to the notice requirements set out in Rule 3345; and/or
- (4) the Covered Person engaged in deceptive or obstructive conduct to avoid the detection or adjudication of a Controlled Medication Rule Violation, for which the Covered Person has not been sanctioned for Tampering.

(c) For the avoidance of doubt, the examples set out in Rule 3327(b) are not exhaustive and other similar circumstances or conduct may also be deemed to amount to Aggravating Circumstances that justify the imposition of a longer period of Ineligibility.

Rule 3328. Increased sanctions for repeat offenders

For purposes of this Rule 3328, the following prior Controlled Medication Rule Violations are to be disregarded: (i) violations that took place more than one (1) prior to the violation now being sanctioned, (ii) violations for which the Covered Person established that they bore No Fault or Negligence; and (iii) violations that were resolved under the Administrative Procedure. Subject strictly thereto:

(a) Where a Covered Person commits more than one Controlled Medication Rule Violation during a one (1) year period:

- (1) the period of Ineligibility shall be as follows:
 - (i) second violation: a period of Ineligibility of thirty (30) days;
 - (ii) third violation: a period of Ineligibility of sixty (60) days;
 - (iii) fourth violation: a period of Ineligibility of one hundred and eighty (180) days; and
- (2) the Covered Person may also be required to pay a fine of up to USD 5,000 and some or all of the Agency's legal costs for each subsequent violation.

(b) *Additional rules for certain potential multiple violations*

(1) Subject to Rules 3328(b)(2) and (3), Rule 3328(a) will only apply if the Agency can establish that the Covered Person committed the Controlled Medication Rule Violation now being sanctioned after they received an ECM Notice in respect of the prior Controlled Medication Rule Violation(s), or after the Agency made reasonable efforts to give them an ECM Notice in respect of the prior Controlled Medication Rule Violation(s). Otherwise, the sanction imposed shall be assessed based on the violation that carries the more severe sanction, including as a result of the application of Rule 3327 (Aggravating Circumstances).

(2) If the Agency establishes that prior to receiving an ECM Notice in respect of one Controlled Medication Rule Violation the Covered Person committed an additional

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Controlled Medication Rule Violation, and that the additional violation occurred twelve (12) months or more before or after the violation asserted in that ECM Notice, the period of Ineligibility for the additional violation shall be calculated as if the additional violation were a stand-alone first violation, and that period of Ineligibility will run consecutively to (rather than concurrently with) the period of Ineligibility imposed for the first-notified violation. Where this Rule applies, the violations taken together will constitute a single violation for purposes of Rule 3328(a).

(3) If the Agency establishes that the Covered Person has committed a second or further Controlled Medication Rule Violation during a period of Ineligibility, any new period of Ineligibility will start to run the day after the original period of Ineligibility ends.

(c) Violations involving both a Banned Substance or Method and a Controlled Medication Substance or Method

Where a Covered Person is found based on the same facts to have committed a violation involving both (i) one or more Banned Substance(s) or Banned Method(s), and (ii) one or more Controlled Medication Substance(s) or Controlled Medication Method(s), the Covered Person shall be considered to have committed one Anti-Doping Rule Violation and the sanction imposed shall be based on the Banned Substance or Banned Method that carries the most severe sanction, but Rule 3327 (Aggravating Circumstances) may also be applied to increase the sanction imposed.

Rule 3329. Status during Ineligibility or Provisional Suspension

While serving a period of Ineligibility or Provisional Suspension for a Controlled Medication Rule Violation:

(a) a Covered Horse (i) shall not participate in a Workout or Covered Horserace; but (ii) shall remain subject to Testing.

(b) a Covered Person shall not participate in any capacity in any activity involving Covered Horses or in any other activity (other than authorized anti-doping education or rehabilitation programs) taking place at a Racetrack or Training Facility; nor shall they permit anyone to participate in any capacity on their behalf in any such activities. Any Covered Horse under the care of the Covered Person who is subject to a period of Ineligibility or Provisional Suspension shall not participate in Workouts or Covered Horseraces unless and until it has been transferred to another Covered Person.

Rule 3330. Consequences for violation of the prohibition on participation during Ineligibility or Provisional Suspension under Rule 3329

(a) Consequences for violation of the prohibition on participation during Ineligibility

(1) If a Covered Person violates the prohibition against participation during Ineligibility described in Rule 3329, any results obtained from such participation shall be Disqualified and a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the Covered Person's original period of Ineligibility.

(2) If a Covered Horse participates in any Workout or Covered Horserace in violation of the prohibition against participation during Ineligibility described in Rule 3329, any results

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obtained from such participation shall be Disqualified, and the Responsible Person for that Covered Horse shall receive the following period of Ineligibility:

- (i) if the Responsible Person was subject to an original period of Ineligibility, a new period of Ineligibility equal in length to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. If the original period of Ineligibility has already expired, the new period of Ineligibility shall start on the date that it is accepted or imposed; or
- (ii) if the Responsible Person was not subject to an original period of Ineligibility, the period of Ineligibility for violating Rule 3329 shall be from a reprimand to one (1) year, depending on the Covered Person's degree of Fault.

(b) Consequences for violation of the prohibition on participation during Provisional Suspension

(1) A Covered Person who violates the prohibition against participation during a Provisional Suspension shall receive no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.

(2) If a Covered Horse participates in any Workout or Covered Horserace in violation of the prohibition against participation during a Provisional Suspension described in Rule 3329, the Responsible Person for that Covered Horse and the Covered Horse shall receive no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.

(c) The National Stewards Panel shall determine whether there has been a violation of the prohibition against participation during Ineligibility or Provisional Suspension and apply the appropriate Consequences pursuant to Rule 3361. This decision may be appealed under Rule 3364.

Rule 3331. Automatic Public Disclosure

A mandatory part of each sanction shall include automatic Public Disclosure in accordance with Rule 3620.

Rule 3332. Conditions precedent to reinstatement for Covered Persons

(a) To be reinstated after commission of a Controlled Medication Rule Violation, the Covered Person must have respected their period of Ineligibility (Rule 3329); made their Covered Horses available for Testing as required by Rule 3132(c); and paid any fines and/or reimbursed any costs imposed or accepted to the Agency (unless an instalment plan was established pursuant to Rule 3332(b), in which case the Covered Person must have made all payments due under that plan. If any instalment(s) subsequently become(s) overdue under that plan, the Covered Person and the Covered Horses under their ownership and/or training may not participate in any Workout or Covered Horserace until such overdue instalments are paid in full).

(b) Where fairness requires, the Agency or the National Stewards Panel may establish an instalment plan for repayment of amounts due to be paid or reimbursed under this Protocol. The payment schedule may extend beyond any period of Ineligibility imposed upon the Covered Person.

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3340. RESULTS MANAGEMENT

Rule 3341. General

(a) Where Testing and/or investigations yield(s) evidence of a potential Controlled Medication Rule Violation(s), the Agency will conduct Results Management in accordance with this section 3340 and the Testing and Investigations Standards.

(b) The results of all Sample analyses must be sent exclusively to the Agency via secure transmission, in a report signed by an authorized representative of the Laboratory. All communications must be conducted in such a way that the results of the Sample analyses are kept confidential.

Rule 3342. Review of Adverse Analytical Findings

(a) Upon receipt of an Adverse Analytical Finding in relation to an A Sample, the Agency shall conduct a review of the Laboratory Documentation Package supporting the Adverse Analytical Finding (if available at the time of the review) and the relevant Doping Control form(s) and Testing documents to determine whether the Adverse Analytical Finding was caused by any apparent departure from the Testing and Investigations Standards, the Laboratory Standards, or any provision of this Protocol. Subject to Rule 3342(b), the Agency may, but need not, communicate with the Responsible Person and Owner during such review.

(b) If the review under Rule 3342(a) reveals an apparent departure that caused the Adverse Analytical Finding, the entire test shall be considered negative, and the Agency shall promptly inform the Responsible Person and each Interested Party of that fact, and shall take no further action in relation to the Adverse Analytical Finding.

(c) If the initial review of an Adverse Analytical Finding under Rule 3342(a) does not reveal an apparent departure that caused the Adverse Analytical Finding, the Agency shall promptly send an ECM Notice to the Responsible Person and each Interested Party in accordance with Rule 3345.

Rule 3343. Review of Atypical Findings relating to Controlled Medication Substances

(a) When a Sample analysis is reported as an Atypical Finding relating to a Controlled Medication Substance, the Agency shall conduct an investigation (including directing any further Testing) and/or take any other steps required to decide whether the Atypical Finding should be brought forward as an Adverse Analytical Finding.

(b) The Agency may but need not provide notice of an Atypical Finding to anyone until it has made that decision unless one of the following circumstances exists:

(1) if the Agency determines that the B Sample should be analyzed prior to the conclusion of its investigation, the Agency may conduct the B Sample analysis after notifying the Responsible Person and the Owner, with such notice to include a description of the Atypical Finding and the information described in Rule 3345; or

(2) if the Agency receives a request, whether from a State Racing Commission or the organizer of a Covered Horserace that is to take place shortly, to disclose whether any Covered Horse identified on a list provided by such body has a pending Atypical Finding,

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the Agency may confirm that the Covered Horse has a pending Atypical Finding after first providing notice of the Atypical Finding to the Responsible Person and the Owner; or

(3) if the Atypical Finding is likely connected to a serious pathology that requires urgent veterinary attention.

(c) If the Agency ultimately decides not to pursue the Atypical Finding as an Adverse Analytical Finding, the Agency may but need not communicate that fact to the Responsible Person and Owner unless they have previously received notice of the Analytical Finding pursuant to Rule 3343(b).

(d) If the Agency decides to move forward with the matter as an Adverse Analytical Finding, then the Agency shall promptly send an ECM Notice to the Responsible Person and each Interested Party.

Rule 3344. Review of other evidence of a potential Controlled Medication Rule Violation

The Agency shall conduct any follow-up investigation required into any potential Controlled Medication Rule Violation not covered by Rules 3342 or 3343. At such time as the Agency is satisfied that it has sufficient evidence to establish that a Controlled Medication Rule Violation occurred, it shall promptly send an ECM Notice to the relevant Covered Person and each Interested Party.

Rule 3345. ECM Notice

(a) Where it is determined that a Covered Person may have committed one or more Controlled Medication Rule Violations, the Agency will promptly notify the Covered Person and each Interested Party in writing of the following (the **ECM Notice**):

(1) the alleged Controlled Medication Rule Violation and the Consequences if it is determined to have been committed;

(2) the Adverse Analytical Finding and/or a summary of the facts and evidence relied on by the Agency to assert the alleged violation (including, where applicable, the name of the Covered Horse implicated in the alleged violation, whether the alleged violation was in connection with a particular Covered Horserace, and the date of Sample collection or of the other facts said to give rise to the violation);

(3) if applicable, the right of the Responsible Person and the Owner to receive copies (without charge) of the A Sample Laboratory Documentation Package, containing all of the information required by the Laboratory Standards;

(4) if applicable, details regarding the B Sample analysis:

(i) for those substances identified in the Laboratory Standards or Technical Documents for which immediate analysis of the B Sample is authorized in order to preserve the scientific integrity of the Sample in accordance with the Laboratory Standards, that the B Sample has been Tested;

(ii) if the B Sample has not been Tested, the Responsible Person's and Owner's right to promptly request the analysis of the B Sample or (failing such request) that the B

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sample analysis will be deemed to be waived;

(iii) an explanation that where the Responsible Person or Owner requests the B Sample analysis within the applicable deadline, or where the Agency decides to proceed with the B Sample analysis, the Agency will notify the Responsible Person or Owner of the date, time, and place where the B Sample will be analyzed and (where the analysis is requested by the Responsible Person or Owner) the amount that the Responsible Person or Owner must pay to have the B Sample tested and B Sample Laboratory Documentation Package prepared, and the date by which such payment must be received, failing which the B Sample analysis will be deemed to have been waived; and

(5) the opportunity for the Covered Person to provide an explanation within a short deadline;

(6) the opportunity to provide Substantial Assistance, to admit the Anti-Doping Rule Violation, or to seek to resolve the matter via the Administration Procedure or (if not applicable) without a hearing under Rule 3350;

(7) all relevant details relating to any Provisional Suspensions (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3347; and

(8) if applicable, the right of the Responsible Person, Owner, and/or the Agency to ask the National Stewards Panel to apply Rule 3321 (automatic disqualification of results) promptly where the B Sample analysis confirms the A Sample analysis or where the right to request the B Sample Analysis is waived.

(b) Before sending an ECM Notice, for purposes of Rule 3328 the Agency shall seek to determine whether the Covered Person in question has committed any prior Controlled Medication Rule Violations under the Protocol.

(c) Any defect in the ECM Notice (including a failure to identify the Covered Horseraces implicated in the alleged violation, if any) may be corrected by the Agency and shall not invalidate the ECM Notice or affect the due application of the provisions of this Protocol (including the Disqualification provisions) in relation to the violation.

Rule 3346. B Sample analysis

(a) Except for when the B Sample has been analyzed in accordance with Rule 3345(a)(4)(i), arrangements shall be made for analysis of the B Sample within the time period specified in the Laboratory Standards, or such longer time as may be reasonably required under the circumstances, albeit without undue delay. The Responsible Person or Owner must pay the costs of the B Sample analysis in advance, but if the B Sample analysis does not confirm the A Sample analysis they will be reimbursed that cost by the Agency. The Responsible Person and Owner and/or one representative each may attend the Laboratory to witness the opening and identification of the B Sample. They do not have any right to witness the analysis of the B Sample.

(b) The Responsible Person and Owner may (if they both agree) waive analysis of the B Sample (in which case they will be deemed to accept the A Sample analytical results). If waived, the Agency may nonetheless elect to proceed with the B Sample analysis at its own expense.

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(c) If the B Sample proves negative, then unless the Agency asserts a Controlled Medication Rule Violation under Rules 3313 or 3314 (Use), the entire Test shall be considered negative, and the Responsible Person and Owner shall be so informed. In such circumstances, the ECM Notice will be withdrawn, any Provisional Suspensions imposed will be deemed automatically vacated with immediate effect (without the need for any order from the National Stewards Panel), and no further disciplinary action will be taken against the Responsible Person, other Covered Person, or Covered Horse by the Agency in relation to the original Adverse Analytical Finding (provided, however, that the Agency may investigate why the B Sample did not match the A Sample). If the Agency asserts that a Rule 3313 or 3314 (Use) violation has occurred, it shall send a Charge Letter to the Responsible Person and other Covered Person(s), with a copy to each Interested Party.

(d) If the presence of a Controlled Medication Substance or the Use of a Controlled Medication Method is confirmed by the B Sample analysis, or the B Sample analysis is waived, the Agency shall send a Charge Letter to the Responsible Person and any other relevant Covered Person(s), with a copy to each Interested Party.

Rule 3347. Provisional suspensions

(a) The Agency shall not impose a Provisional Suspension on a Covered Horse for a Controlled Medication Rule Violation, unless provided otherwise in the Prohibited List. The Responsible Person may accept a voluntary Provisional Suspension for the Covered Horse in accordance with Rule 3347(h).

(b) The Agency may impose a Provisional Suspension on a Covered Person for a Controlled Medication Rule Violation where it considers it appropriate to do so in the circumstances of the case, including where (i) the Covered Person admits the Controlled Medication Rule Violation and is likely to be subject to a period of Ineligibility, (ii) there is an Adverse Analytical Finding for more than one Controlled Medication Substance and those substances are not Specified Substances, (iii) the Covered Person has a pending Anti-Doping or Controlled Medication Rule Violation or prior violation that is likely to result in an increased period of Ineligibility, or (iv) the individual represents a threat to the health, safety, or welfare of horses or the integrity of the sport of horseracing.

(c) Where a Provisional Suspension is imposed pursuant to Rule 3347(b), the Covered Person shall be given:

- (1) an opportunity for a Provisional Hearing either before or on a timely basis after imposition of the Provisional Suspension; or
- (2) an opportunity for an expedited final adjudication in accordance with Rule 3362 on a timely basis after imposition of the Provisional Suspension.

(d) Provisional Hearings shall be conducted by a member of the National Stewards Panel (or where so requested by the Agency, by a panel of three members) and heard via telephone or video conference call within the time frame specified in accordance with the Arbitration Procedures, except where the National Stewards Panel decides to determine the matter on the papers. The sole issue to be determined by the National Stewards Panel will be whether the Agency's decision that a Provisional Suspension should be imposed shall be upheld. The Agency's decision to impose a Provisional Suspension shall be maintained unless the Covered Person requesting the lifting of the Provisional Suspension establishes that:

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(1) the allegation that a Controlled Medication Rule Violation has been committed has no reasonable prospect of being upheld, e.g., because of a material defect in the evidence on which the allegation is based; or

(2) the Covered Person charged bears No Fault or Negligence for the Controlled Medication Rule Violation that is alleged to have been committed, so that any period of Ineligibility that might otherwise be imposed for such offense would be completely eliminated by application of Rule 3324;

(3) Rule 3325 applies and the Covered Person bears No Significant Fault or Negligence and they will likely be given a period of Ineligibility that is not longer than the period for which they have already been provisionally suspended; or

(4) exceptional circumstances exist that make it clearly unfair, taking into account all of the circumstances of the case, to impose a Provisional Suspension prior to the final hearing on the merits. This ground is to be construed narrowly and applied only in truly exceptional circumstances. For example, the fact that the Provisional Suspension would prevent the Responsible Person/Covered Person or Covered Horse participating in a particular Workout, Covered Horserace, or other activity shall not qualify as exceptional circumstances for these purposes.

(e) If the application is made before the Provisional Suspension comes into effect, the Provisional Suspension will not come into effect pending the decision on the application. If the application is made after the Provisional Suspension has come into effect, the Provisional Suspension will remain in place pending the decision on the application.

(f) If it considers it appropriate to do so on the specific facts of the case, the Agency may lift the Provisional Suspension.

(g) If the application to have a Provisional Suspension not imposed/lifted is not granted, a further application may not be made to lift the Provisional Suspension unless (i) it is based on material new evidence that the Responsible Person or other Covered Person was not aware of and could not reasonably have been aware of at the time they made the original application; or (ii) there has been some other significant and material change in circumstances since the original application was decided. If the Responsible Person or other Covered Person makes a further application that does not meet either of these requirements, costs may be awarded against them.

(h) Voluntary Provisional Suspension

(1) In all cases where a Responsible Person/Covered Person has been notified of or charged with a Controlled Medication Rule Violation but no Provisional Suspension has been imposed on them and/or on the Covered Horse, that person may (on their own behalf and, if the Responsible Person, on behalf of the Covered Horse) voluntarily accept a Provisional Suspension at any time by written notice to the Agency.

(2) A Provisional Suspension that is voluntarily accepted will have effect (in the same manner as if the Provisional Suspension had been imposed under Rule 3347(a)) from the date that written notice of its acceptance is received by the Agency. If the Provisional Suspension is thereafter respected in full, such Responsible Person, other Covered Person, or Covered Horse (as applicable) shall receive credit for such period of voluntary Provisional Suspension against any period of Ineligibility that may ultimately be imposed.

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However, if the Provisional Suspension is not respected in full, or if the Responsible Person or other Covered Person withdraw their voluntary acceptance of the Provisional Suspension at any time, the Responsible Person or other Covered Person or Covered Horse (as applicable) shall not receive any credit for the voluntary Provisional Suspension. A copy of the voluntary Provisional Suspension shall promptly be provided to each Interested Party.

(i) No admission will be inferred, or other adverse inference drawn, from the decision of a Covered Person (a) not to make an application to lift a Provisional Suspension; or (b) to accept a voluntary Provisional Suspension.

(j) If a Provisional Suspension is imposed on, or voluntarily accepted by, a Covered Person or Covered Horse and that Provisional Suspension is respected, then such Covered Person and Covered Horse shall receive a credit for such period of Provisional Suspension against any period of Ineligibility that may ultimately be imposed. If the Covered Person or Covered Horse does not respect a Provisional Suspension, then the Covered Person shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, the Covered Person or Covered Horse shall receive a credit for such period of Ineligibility served against any period of Ineligibility that may ultimately be imposed on appeal.

Rule 3348. Charge Letter

(a) If, after receipt of the Covered Person's explanation, or expiry of the deadline to provide such explanation, the Agency remains satisfied that the Covered Person has committed a Controlled Medication Rule Violation(s), the Agency shall promptly charge the Covered Person with the Controlled Medication Rule Violation(s) they are asserted to have breached. In this letter of charge (**Charge Letter**), which will be copied to each Interested Party, the Agency shall:

(1) set out the Controlled Medication Rule Violation(s) the Covered Person is charged with having committed;

(2) provide a summary of the relevant facts upon which the charge is based, enclosing (where applicable) a copy of the complete A Sample Laboratory Documentation Package and of the complete B Sample Laboratory Documentation Package;

(3) specify the Consequences that the Agency will propose should apply if the charge is/are upheld;

(4) grant a deadline of not more than ten (10) days from receipt of the Charge Letter (unless otherwise agreed by the Agency) for the Covered Person to either:

(i) admit the Controlled Medication Rule Violation(s) charged and:

(A) accept the Agency's offer (if applicable) to have the matter determined under the Administrative Procedure in accordance with Rule 3349; or

(B) if the Administrative Procedure is not available, accept the Consequences proposed by the Agency, in which case the Agency will issue a decision under Rule 3350, or seek to agree mitigated Consequences with the Agency pursuant to Rule 3350 failing which the Consequences may still be disputed at a hearing; or

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(C) dispute and/or seek to mitigate the proposed Consequences at a hearing in accordance with Rule 3361 and the Arbitration Procedures; or

(ii) deny the Controlled Medication Rule Violation charged and dispute the proposed Consequences at a hearing in accordance with Rule 3361 and Arbitration Procedures;

(5) indicate that if the Covered Person does not challenge the Agency's assertion of a Controlled Medication Rule Violation or the proposed Consequences within the prescribed deadline, the Covered Person will be deemed to have waived their right to a hearing, admitted the Controlled Medication Rule Violation(s) charged, and accepted the Consequences specified by the Agency in the Charge Letter (without any mitigation of those Consequences);

(6) give the opportunity to provide Substantial Assistance in accordance with Rule 3326(a); and

(7) provide all relevant details relating to any Provisional Suspensions (including, if applicable, the possibility to accept a voluntary Provisional Suspension) in accordance with Rule 3347.

Rule 3349. The Administrative Procedure

(a) The Agency may offer the Covered Person the opportunity to have an alleged Controlled Medication Rule Violation processed under the Administrative Procedure where:

(1) no more than one Controlled Medication Substance (including its Metabolites or Markers) is detected in the Covered Horse's Sample; and

(2) the Covered Person and Covered Horse do not have any prior Controlled Medication Rule Violations within the previous one (1) year, including any violations resolved under the Administrative Procedure, but excluding any violations where a finding of No Fault or Negligence was made.

(b) Where the Administrative Procedure is applied by the Agency, the following Consequences shall be imposed (replacing all Consequences that would otherwise have been applicable under these ECM Rules):

(1) automatic Disqualification of results in accordance with Rule 3320; and

(2) a fine of USD 1,500.

(c) There will be Public Disclosure of Administrative Procedure Sanctions in accordance with Rule 3620.

Rule 3350. Case resolution without a hearing

(a) At any time prior to a final decision under the Arbitration Procedures, (i) the Agency may withdraw a Charge Letter for good cause, in which case any Provisional Suspension will be automatically lifted and (absent the emergence of new information) no further steps will be taken in relation to the violations alleged in the Charge Letter; or (ii) the Covered Person may agree to admit the Controlled Medication Rule Violation(s) charged (or any other violation of this Protocol)

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and accede to specified Consequences consistent with this Protocol. In any such case, an adjudication under the Arbitration Procedures will not be required.

(b) Where the Administrative Procedure does not apply, in the event that the Covered Person admits the Controlled Medication Rule Violation(s) charged and accedes to Consequences specified by the Agency (or is deemed to have done so in accordance with Rule 3348(a)(5)), the Agency will promptly issue a reasoned decision confirming the commission of the Controlled Medication Rule Violation(s) and setting out the factual basis for the decision and all of the Consequences to be imposed (including a brief summary of the reasons for any period of Ineligibility imposed, unless doing so could compromise an ongoing investigation or proceeding), and will send notice of the decision to each Interested Party, and will Publicly Disclose the decision in accordance with Rule 3620.

(c) In the event that the Agency withdraws the Charge Letter, it will promptly issue a reasoned decision confirming the withdrawal of the Charge Letter, will send notice of the decision to the Covered Person concerned, with a copy to each Interested Party, and will Publicly Disclose the decision (or a summary thereof) in accordance with Rule 3620 (save that the decision will not be Publicly Disclosed where no Provisional Suspension was imposed and the fact that the Covered Person was charged has not otherwise been made public).

Rule 3351. Notification requirements

(a) Notification of Controlled Medication Rule Violations will take place as set out in Rule 3345 and Rule 3348. If at any point after an ECM Notice has been provided the Agency decides not to move forward with the charge, it will notify the Covered Person(s) concerned and each Interested Party of that decision.

(b) Notification to a Covered Person by the Agency, for all purposes of this Protocol, may be accomplished either through actual or constructive notice. Actual notice may be accomplished by any means. Constructive notice shall be deemed to have been given when the information in question is delivered by third-party courier or U.S. postal mail to the Covered Person's most recent mailing address on file with the Authority or by email to the Covered Person's most recent email address on file with the Authority.

3360. HEARINGS AND APPEALS

Rule 3361. First instance procedure before the National Stewards Panel

Where a Covered Person is alleged to have committed a Controlled Medication Rule Violation, a violation of Rule 3329, or any violation of Rule 3510, the Covered Person shall be entitled to request a hearing before the National Stewards Panel in accordance with the Arbitration Procedures. However, the National Stewards Panel may determine the matter on the papers without a hearing if the National Stewards Panel considers itself sufficiently well-informed to render a decision on the papers alone. The National Stewards Panel must issue a timely reasoned decision, including an explanation of the reasons for any Consequences imposed (if any). A copy of the decision shall be sent to the Covered Person(s) concerned. Where the Agency considers it necessary or appropriate to do so, a copy of the decision may be sent to any Interested Party. The decision or a summary thereof shall be Publicly Disclosed as provided in Rule 3620.

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The National Stewards Panel may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the National Stewards Panel, or a member of that panel.

Rule 3362. Expedited first instance hearing

For matters involving Controlled Medication Rule Violations for which the Covered Horse or Covered Person is not Provisionally Suspended, where such Covered Horse or Covered Person is likely to participate in a Covered Horserace within forty-five (45) days, the Agency may (where appropriate) address the case on an expedited basis and shorten any deadlines in the Protocol and/or Arbitration Procedures proportionately to ensure resolution of the matter prior to the Covered Horserace.

Rule 3363. Finality

Subject to the right of appeal provided in Rule 3364, decisions rendered by a National Stewards Panel shall be final and binding.

Rule 3364. Right to appeal

- (a) The following decisions may be appealed as provided in the Arbitration Procedures:
 - (1) a decision that a Controlled Medication Rule Violation has been committed;
 - (2) a decision imposing (or not imposing) Consequences for Controlled Medication Rule Violation;
 - (3) a decision that no Controlled Medication Rule Violation has been committed;
 - (4) a decision that a case under the ECM Rules cannot go forward for procedural reasons (including, for example, because of prescription);
 - (5) a decision to impose (or lift) a Provisional Suspension as a result of a Provisional Hearing under Rule 3347(d);
 - (6) a decision that the Agency or the Nationals Stewards Panel lacks authority to rule on an alleged Controlled Medication Rule Violation or its Consequences;
 - (7) a decision to suspend (or not suspend) Consequences or to reinstate (or not reinstate) Consequences under Rule 3326(a) (Substantial Assistance);
 - (8) a decision under Rule 3329/3330 (violation of the prohibition against participation during Ineligibility or Provisional Suspension);
 - (9) a decision that a violation under Rule 3510 has occurred; and
 - (10) such other decisions where a right of appeal is specified in the Protocol or the Arbitration Procedures.
- (b) Unless specified otherwise, the above decisions may be appealed by:
 - (1) the Agency;

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(2) the Covered Person found to have committed the Controlled Medication Rule Violation or other violation under Rule 3329 or Rule 3510; or

(3) the Responsible Person on behalf of the Covered Horse.

(c) Any decision under appeal shall remain in effect pending resolution of the appeal unless the appeal body orders otherwise.

(d) Any final decision by the Agency or the National Stewards Panel shall constitute a final civil sanction subject to appeal and review in accordance with the provisions of 15 USC 3058.

CHAPTER V: OTHER VIOLATIONS AND GENERAL PROCEDURE/ ADMINISTRATION

3500. OTHER VIOLATIONS

Rule 3510. Other violations under the Protocol

Where a Covered Person:

(a) engages in disruptive or offensive conduct towards a Doping Control official or other Person involved in Doping Control that does not rise to the level of Tampering;

(b) refuses or fails to cooperate in full with the Authority and/or the Agency in the discharge of their respective responsibilities under this Protocol, including as set out in Rule 3040(a)(3);

(c) uses or has in their possession one or more hypodermic/injection needle(s) at a Racetrack during the Race Period without compelling justification (e.g. life-saving treatment) contrary to Rule 3040(a)(2);

(d) commits a Whereabouts Failure; and/or

(e) refuses or fails without compelling justification to comply with any other provision of the Protocol (where such refusal or failure does not constitute an Anti-Doping Rule Violation);

the Covered Person will not be deemed to have committed an Anti-Doping or Controlled Medication Rule Violation. However, disciplinary proceedings may be brought against them before the National Stewards Panel in accordance with the Arbitration Procedures or resolved without a hearing applying the rules of proof set out in Rule 3120 and following the procedures set out in section 3360 (in each case, *mutatis mutandis*). The Agency will send the Covered Person in issue a notice of the alleged violation, setting out a summary of the relevant facts upon which the charge is based, and giving the Covered Person the opportunity to provide an explanation within a short deadline. If the National Stewards Panel finds the violation alleged to be proven, or if the Covered Person admits the violation alleged and does not request a hearing to determine the consequences, the National Stewards Panel or (as applicable) the Agency may impose sanctions on Covered Persons as set out in Rule 3520.

Rule 3520. Sanctions for other violations under the Protocol

(a) For a violation of Rule 3510(a) (disruptive or offensive conduct), 3510(b) (refusal or failure to cooperate), or Rule 3510(c) (use or possession of needles), the Covered Person shall be subject to, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, thirty (30) days of Ineligibility, depending on the seriousness of the violation. A fine of up to USD 2,500 may also be imposed.

(b) For a violation of Rule 3510(d) (Whereabouts Failures), the Covered Person shall not be subject to any penalty for the first Whereabouts Failure, but they shall be subject to a fine of USD 250 for the second Whereabouts Failure, and a fine of USD 500 for the third Whereabouts Failure. For any subsequent Whereabouts Failures, the fine will increase by USD 500 each time (so USD 1,000 for the fourth failure, USD 1,500 for the fifth failure, etc).

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(c) For a first violation of Rule 3510(e) (refusal or failure to comply with any other provision of the protocol), the Covered Person shall be subject to, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, thirty (30) days of Ineligibility, as well as a fine of up to USD 2,500 depending on the seriousness of the violation.

(d) For any second or subsequent Rule 3510 violation, the maximum potential Ineligibility and potential fine will be double what the maximum potential Ineligibility and potential fine was for the previous violation.

(e) Where a violation of Rule 3510 is alleged and the Covered Person represents a threat to the health, safety, or welfare of horses or the integrity of the sport of horseracing, the Agency may impose a Provisional Suspension on the Covered Person concerned pending resolution of the charge. The Covered Person may challenge the Provisional Suspension in accordance with Rule 3347 (which shall apply *mutatis mutandis*).

3600. CONFIDENTIALITY AND REPORTING

Rule 3610. Notice of violations and confidentiality

(a) *Notice*

(1) Notice of Anti-Doping or Controlled Medication Rule Violations shall be sent to the Covered Persons concerned, with a copy to each Interested Party, as set out in Rules 3245/3248 and 3345/3348.

(2) Notice of other violations shall be sent to the Covered Persons concerned. The Agency may send a copy to any Interested Party where it considers it necessary or appropriate to do so in the circumstances.

(3) State Racing Commissions shall only be entitled to receive notice of violations of this Protocol as Interested Parties if they first enter into an agreement incorporating confidentiality provisions required by the Agency pursuant to the Act and/or the Protocol. The Agency may in its sole discretion delay notice to the State Racing Commission for case- or investigation-related reasons.

(b) *Confidentiality*

(1) The Agency will use its reasonable endeavours to ensure that Persons under its control do not publicly identify Covered Horses or Covered Persons who are alleged to have committed a violation under the Protocol, unless and until a Provisional Suspension has been imposed or accepted, or a charge has been Publicly Disclosed, or the violation has been confirmed (whether in a decision by the arbitrator(s), the National Stewards Panel, or the Agency; or where admitted).

(2) The Agency may at any time disclose to other Persons such information as the Agency may consider necessary or appropriate to facilitate administration or enforcement of this Protocol (including Interested Parties), provided that each Person provides assurance satisfactory to the Agency that the organisation will maintain all such information in confidence. The Agency will not comment publicly on the specific facts of a pending case

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(as opposed to general description of process and science) except in response to public comments attributed to Covered Person concerned or their representatives.

(3) Interested Parties and other Persons shall not publicly disclose any information about an alleged violation unless the information has been Publicly Disclosed by the Agency or the Covered Person(s) concerned, or the Agency gives written authorization for them to publicly disclose the information.

Rule 3620. Public disclosure

(a) After a Charge Letter has been provided to a Covered Person in accordance with Rule 3248 or 3348, the Agency shall Publicly Disclose such information about the alleged violation as it deems appropriate, including:

- (1) the identity of the Covered Person(s) charged and the applicable Covered Horse (if any) and whether they have been Provisionally Suspended; and
- (2) the nature of the violation involved (including the Prohibited Substance or Prohibited Method involved, if any).

(b) Where a Covered Person is found to have committed a violation of the Protocol (whether an Anti-Doping Rule Violation, a Controlled Medication Rule Violation, or other violation), the Agency shall Publicly Disclose:

- (1) the name of the Covered Person who committed the violation and any Covered Horse implicated by the violation;
- (2) the Rule violated;
- (3) the Prohibited Substance or Prohibited Method involved, if any;
- (4) the Consequences imposed;
- (5) any reasoned decision issued under EAD Rule 3249 and/or ECM Rule 3350 (unless publishing that decision could compromise an ongoing investigation or proceeding); and
- (6) any appeal or review rights available in respect of the decision.

(c) Publication shall be accomplished at a minimum by placing the required information on the Agency's website and leaving the information up for the period for which it may be counted as a prior violation for sanctioning purposes under Rule 3228 or Rule 3328.

Rule 3630. General reporting

The Agency may publish general statistical reports of its Doping Control and Medication Control activities, and may report as necessary on its activities to the US Congress, the Commission, the Authority, the State Racing Commissions, and other federal or state governmental bodies or agencies having jurisdiction over the sport of horseracing in the USA. The Agency may also publish reports showing the names of any Covered Horses Tested and the date of each Test.

Rule 3640. Data privacy

The Agency may collect, store, process, and/or disclose personal information relating to Covered Persons, Covered Horses, and/or other Persons and horses where necessary and appropriate to discharge its responsibilities under the Protocol but shall take appropriate steps to maintain that information and its confidentiality in compliance with applicable law.

3700. IMPLEMENTATION OF DECISIONS

Rule 3710. Application and recognition of decisions

(a) Any decision issued pursuant to the Protocol that a violation of the Protocol has taken place and imposing Consequences or other sanctions for that violation shall be automatically and immediately recognized, respected, enforced and given full force and effect by the Authority, State Racing Commissions, organizers of Covered Horseraces, all Covered Persons, and all other relevant Persons within their respective spheres of authority.

(b) Where a third party with its own jurisdiction over Covered Persons and Covered Horses imposes consequences on them for violation of anti-doping and/or controlled medication rules that are consistent with the Protocol or the World Anti-Doping Code, that decision shall be automatically and immediately recognized, respected, enforced and given full force and effect by the Agency, the Authority, State Racing Commissions, organizers of Covered Horseraces, all Covered Persons, and all other relevant Persons within their respective spheres of authority.

3800. EDUCATION

Rule 3810. Education programs

The Agency shall plan, implement, evaluate, and monitor information, education, and prevention programs for responsible medication use and doping-free horseracing, and shall support active participation by Covered Persons in such programs.