



ANTI-DOPING POLICY

21 March 2016



KENYA NATIONAL ANTI-DOPING POLICY

March 2016)

Introduction

The National Government and the Devolved County Governments condemn doping in sport and are committed to the pursuit of clean sport. They consider that this objective is best pursued through a partnership between government and the sports movement (in line with that represented on a global level by the World Anti-Doping Agency, or “WADA”), and through the harmonisation of anti-doping rules using the framework provided by the World Anti-Doping Code (the “Code”). Accordingly, by ratifying the UNESCO International Convention Against Doping in Sport (the “UNESCO Convention”), the National Government as well as the Devolved County Governments have fully committed to the pursuit of doping-free sport based on the principles set out in the Code. The Constitution of Kenya, 2010 provides the basic principles upon which governance of Kenya is to be conducted. For instance, chapter four of the said Constitution lays out the various rights of persons as well as corresponding obligations. At chapter six of the said document, certain principles of good governance are laid such as integrity, fairness and avoiding a conflict of interest situation. The Sports Act, 2013 (revised edition) creates various institutions for the better governance of sport. These institutions include the Office of the Sports Registrar, the Sports Fund, the Sports Tribunal, Sports Kenya and the Sports Institute. Most importantly, the Sports Act requires all those participating in sport to observe anti-doping rules. Besides, these sports specific institutions, there are other legislations that deal with other aspects of public governance.

Acting with the guidance of the Anti-Doping Agency of Kenya – (ADAK) the National Government and the Devolved County Governments have sought to satisfy the requirements of the UNESCO Convention by adopting the anti-doping policy framework set out in this document (the “Kenya National Anti-Doping Policy”, or “Policy”). The purpose of the Kenya National Anti-Doping Policy is to set out the policy objectives and requirements of the National Government and the Devolved County Governments in the field of doping in sport, and to identify the roles and responsibilities of each of ADAK, the Sports Fund, and the national and County governing bodies of sport in Kenya (i.e., a national or regional entity which is a member of or is recognized by an International Federation), as well as of the Sports Tribunal, in delivering on and/or otherwise supporting those objectives and requirements.

This Kenya National Anti-Doping Policy will come into force on a date to be appointed by the Cabinet Secretary, and may be amended as required from time to time (following due consultation about any material amendments with the sports movement, including WADA, and other relevant parties) to ensure it properly reflects governmental policy objectives and requirements in the field of doping in sport.

1. THE OBJECTIVES OF THE KENYA NATIONAL ANTI-DOPING POLICY

- 1.1 Doping in sport is cheating. It is fundamentally contrary to the spirit of sport, endangers the health of Athletes and of those who emulate and aspire to become Athletes, and undermines the otherwise positive impact of sport in society. Accordingly, the National Government and the Devolved County Governments regard the elimination of doping in sport as an important public policy objective.

The aim of this Policy is –

“ To protect an Athlete’s fundamental right to participate in doping-free sport and thus promote health, fairness and equality for Athletes in Kenya”

This Policy aims –

- a) To protect Athletes and other Participants in sport in Kenya
 - b) To promote doping-free sport in Kenya, whether competitive or recreational
 - c) To establish consistent standards of anti-doping policy, testing and education in Kenya
 - d) To encourage and collaborate with international actors of anti-doping in sport.
- 1.2 Eliminating doping in sport requires a commitment to harmonised anti-doping rules, and to consistent, transparent and accountable management of results and sanctioning of Athletes and Athlete Support Personnel who commit anti-doping rule violations. It also requires a concerted and coordinated effort and partnership between the government and the sports movement to develop effective means of policing and enforcing the anti-doping rules.
- 1.3 WADA represents a public-private partnership at a global level, and the World Anti-Doping Code provides the framework for the adoption of clear and consistent anti-doping rules across all sports and all nations, around the world. That is why the government has made a formal legal commitment, through its ratification of the UNESCO Convention, that the National Government and the Devolved County Governments will work with sport, under the auspices of WADA and the Code, to eradicate doping in sport and in Kenya. This includes a commitment to adopt appropriate measures to implement the principles of the Code, as well as additional measures complementary to the Code, on a national level within Kenya, along with specific commitments:
- 1.3.1 to adopt and/or make it mandatory for the sports movement to adopt Code-compliant measures to prevent the use, possession of, administration of, and trafficking in Prohibited Substances and Prohibited Methods by Athletes (unless based on a Therapeutic Use Exemption), Athlete Support personnel or by any other persons;
 - 1.3.2 to sanction Athletes and Athlete Support Personnel who commit anti-doping rule violations or other offences connected with doping in sport under articles 2, 10 and 23.2.2 of the Code;
 - 1.3.3 to implement testing programmes that are consistent with the principles of the Code, including both No Advance Notice In- Competition testing and Out-of-Competition testing as per article 4.6.2 of the International Standards on Testing and Investigations (ISTI);
 - 1.3.4 to encourage competent bodies to develop and implement appropriate codes of conduct relating to doping in sport that are consistent with the Code articles 21.1 and 21.2;

- 1.3.5 to encourage all of its public services and agencies to share information with Anti-Doping Organisations that would be useful in the fight against doping,
 - 1.3.6 to withhold financial or other sports-related support from Athletes or Athlete Support Personnel during any suspension imposed on them on account of an anti-doping rule violation; and to enforce the consequences foreseen in article 10 and 23.2.2 as well as in Appendix 1 of the Code
 - 1.3.7 to withhold some or all financial or other sports-related support from any sports body not in compliance with the Code or applicable anti-doping rules adopted pursuant to the Code;
 - 1.3.8 to bring all other governmental involvement in anti-doping in sport into harmony with the Code; and
 - 1.3.9 generally to support the mission of WADA in the international fight against doping.
- 1.4 This Policy has been issued by the Cabinet Secretary in charge of Sport, together with his counterparts in the Devolved County Governments, as part of the effort to satisfy the requirements of the UNESCO Convention and the Code.

2. THE ROLES AND RESPONSIBILITIES OF ANTI-DOPING AGENCY OF KENYA (ADAK)

As the Government's policy advisor in relation to the fight against doping in sport, and as the National Anti-Doping Organisation for Kenya, ADAK shall have the following roles and responsibilities:

2.1 Code/UNESCO Convention

ADAK will comply with the Code and will discharge in Kenya ALL the responsibilities that Article 20.5 of the Code confers on National Anti-Doping Organisations, including, but not limited to:

- 2.1.1 Independence in its operational decision making and activities
- 2.1.2 adopting and implementing Code-compliant anti-doping rules and policies, including effective operational policies and procedures for the collection of Samples, for the administration of applications for Therapeutic Use Exemptions ("TUEs"), and for the collection and use of whereabouts information;
- 2.1.3 cooperating with other Anti-Doping Organisations and other public agencies and services active in the fight against doping, including by developing protocols for the sharing of anti-doping intelligence;
- 2.1.4 pursuing diligently all potential anti-doping rule violations within its jurisdiction, including investigating whether Athlete Support Personnel or other persons may have been involved in cases of doping by Athletes and to ensure the proper enforcement of Consequences;
- 2.1.5 To cooperate fully with WADA in connection with investigations conducted by WADA pursuant to Article 20.7.10 of the Code.
- 2.1.6 ensuring that appropriate mechanisms exist for withholding public funding and/or publicly-funded services from Athletes or Athlete Support Personnel who commit anti-doping rule violations and/or from National Sports Federations which fail to comply with the requirements of this Policy and ADAK Rules in line with section 73 of the Sports Act and the Regulations relating to registration of sports organizations;
- 2.1.7 conducting an automatic investigation of *Athlete Support Personnel* within its jurisdiction in the case of any anti-doping rule violation by a *Minor* and to conduct an automatic investigation of any *Athlete Support Person* who has provided support to more than one
- 2.1.8 promoting anti-doping research and education

2.2 Influencing International Anti-Doping Policy

- 2.2.1 ADAK will act as the main policy advisor to the National Government in relation to the fight against doping in sport, keeping it abreast of all relevant developments on a national and international level.
- 2.2.2 ADAK will act as custodian of this Policy, managing its operation on a day-to-day basis, and making recommendations for its amendment and/or supplementation as required from time to time to reflect best practice.
- 2.2.3 ADAK will cooperate with WADA and other relevant Anti-Doping Organisations in the coordination and implementation worldwide of a high quality and efficient anti-doping effort for sport.

2.2.4 ADAK will conduct international advocacy for doping-free sport, including leading on the development of anti-doping standards worldwide and ensuring that the views of the National Government on all important anti-doping issues are heard and taken properly into account.

2.3 Kenya Anti-Doping Rules

2.3.1 ADAK will develop, publish and maintain a set of Kenya Anti-Doping Rules, which shall be binding on all sports Organizations and persons participating in both competitive and recreational sport in accordance with paragraph 5.2.2 of this Policy.

2.3.2 ADAK will keep the Kenya Anti-Doping Rules and related operational policies and procedures under review to ensure that they are consistent with the Code and the International Standards and reflect best practice in anti-doping.

2.3.3 ADAK will ensure that Sports Federations automatically adopt the Kenya Anti-Doping Rules so as to apply to and govern the conduct of Athletes and Athlete Support Personnel who are subject to the Federation's jurisdiction, whether suspended or in any way inactive, and those engaged in recreational sport in private sports clubs, gyms and other facilities.

2.4 Anti-Doping Education and Research

In accordance with the requirements of Part Two of the Code and Part IV of the UNESCO Convention:

- 2.4.1 ADAK will plan, implement, evaluate and monitor information and education programmes for ~~_____ doping-free sport, including programmes~~ directed at young people, appropriate to their stage of development, in school and sports clubs, parents, adult athletes, sport officials, coaches, medical personnel, and the media. The programmes should provide Participants with updated and accurate information in accordance with Article 18.2 of the Code, on at least the following issues:
- a) Substances and methods on the Prohibited List
 - b) Anti-doping rule violations
 - c) Consequences of doping, including sanctions, health and social consequences
 - d) Doping control procedures
 - e) Athletes' and Athlete Support Personnel's rights and responsibilities
 - f) TUEs
 - g) Managing the risks of nutritional supplements
 - h) Harm of doping to the spirit of sport
 - i) Applicable whereabouts requirements
- 2.4.2 ADAK will promote and support active participation by Sports Federations, Athletes and Athlete Support Personnel in education programmes for doping-free sport.
- 2.4.3 ADAK will cooperate with other stakeholders to coordinate efforts in anti-doping information and education in order to share experience and ensure the effectiveness of the education programmes in preventing doping in sport.
- 2.4.4 ADAK will encourage and promote anti-doping research and take all reasonable measures to ensure that the results of such research are used to promote the anti-doping effort in a manner consistent with the principles of the Code.
- 2.4.5 ADAK will work with the relevant Regional Anti-Doping Organization (RADO) and WADA to coordinate anti-doping research. Subject to intellectual property rights, ADAK will provide copies of anti-doping research results to WADA and, where appropriate, will share those results with other relevant persons.
- ## 2.5 Testing
- 2.5.1 ~~_____~~ ADAK will develop and implement a Test Distribution Plan and establish a National Registered Testing Pool for sport in Kenya, consistent with the principles set out in the Code, the International Standard for Testing and Investigations (ISTI) and the Technical Document for Sport Specific Analysis (TDSSA)

2.5.2 ADAK shall have the exclusive mandate to conduct in-competition and out-of- competition testing over all athletes who are nationals, residents, license-holders or members of sports organizations of Kenya or who are present in Kenya; each international Federation and each Major Event Organization shall have in-competition and out-of-competition testing authority over all athletes who are subject to its rules or in any way connected with the International Federation or Major Event Organization.

2.5.3 An International Federation or a Major Event Organization may delegate or contract any part of testing to ADAK

2.5.4 ADAK will enter into arrangements for testing with other Anti-Doping Organisations, as appropriate.

2.5.5 ADAK will make appropriate arrangements with WADA-accredited laboratories as necessary to enable the analysis of Samples collected by ADAK in accordance with the Code and the International Standard for Laboratories.

2.5.6 ADAK shall fulfill the responsibilities set forth in article 5.8 of the Code relating to investigating atypical findings, adverse passport findings and any other non-analytical information or intelligence

2.5.7 ADAK shall communicate results of such intelligence information to WADA and other relevant NADOs

2.6 Developing Other Anti-Doping Intelligence

2.6.1 ADAK will collaborate with law enforcement, other public agencies and services and applicable anti-doping organisations provided for in the Code in investigating atypical findings, adverse passport findings and any other non-analytical information and sharing anti-doping intelligence between such bodies and ADAK.

2.6.2 ADAK will also put into place procedures to facilitate the provision of anti-doping intelligence to it by Sports Federations, Athletes, Athlete Support Personnel, and others.

2.6.3 ADAK will implement policies and procedures to ensure that all intelligence that it receives is handled safely and securely and in accordance with applicable legal requirements, is assessed for relevance and reliability, and (where appropriate) is properly investigated and followed up (and/or referred to other agencies as required).

2.6.4 ADAK will apply the provisions of Code Article 10 (Sanctions on Individuals as expounded in the ADAK Rules at article 10

2.7 Results Management

2.7.1 ADAK shall conduct results management in accordance with article 7 of the Code where it initiated and directed Sample collection (or, if no Sample collection is involved, if it first provided notice to an Athlete or other Person of an asserted anti-doping rule violation and then diligently pursued that anti-doping rule violation). ADAK will discharge that function responsibly and in good faith. All cases of adverse findings shall be brought forth.

2.7.2 Where ADAK is contracted to carry out any part of testing by an international organization or a major Event organizer, ADAK may choose to collect additional samples at its expense or instruct the laboratory to carry out additional forms of analyses at its expense, and the results thereof shall be notified to the international Federation or major Event organizer as per article 5.2.6 of the Code

2.7.3

Results management in relation to a potential Whereabouts Failure (a filing failure or a missed test) shall be administered by ADAK where it is the Anti-Doping Organization with whom the Athlete in question files his or her whereabouts information, as provided in the International Standard for Testing and Investigations. ADAK shall submit that information to WADA through ADAMS or another system approved by WADA, where it will be made available to other relevant Anti-Doping Organizations. Other aspects of Article 7 of the Code shall be managed as provided for in the ADAK Rules.

2.7.4 Any determination by ADAK that an Athlete or Athlete Support Personnel has a case to answer for violation of the ADAK Rules shall be handled in accordance with the ADAK Rules and in line with article 7.1 and 7.1.1 of the Code

2.8 Case Presentation

- 2.8.1 Subject to paragraph 2.8.4 of this Policy, ADAK shall have the sole and exclusive right and responsibility:
- a. to prosecute an Athlete, an Athlete Support Personnel or with a sports organization in violation of the ADAK Rules; provided that all other offenders shall fall under the criminal justice system.
 - b. to pursue or defend (as applicable) any application and/or appeal arising in relation to proceedings at the Sports Tribunal.
 - c. Report outcomes of such cases promptly to WADA and the international federation
- 2.8.2 In discharging these case presentation responsibilities, ADAK and the Sports Tribunal shall respect Article 8 of the Code and the duty of procedural fairness owed to Athletes ,Athlete Support Personnel who have been charged with commission of anti-doping rule violations and the disciplinary body.
- 2.8.3 ADAK will be responsible for the costs incurred in exercising its rights under paragraph 2.8.1 of this Policy, subject to any right set out in the ADAK Rules, the Sports Tribunal rules and/or the CAS Code of Sports-related Arbitration to seek an order shifting some or all of the costs to the Athlete or Athlete Support Personnel or other party.
- 2.8.4 The right to a hearing may be waived by an athlete or other person either expressly or through failure to challenge ADAK's assertion that an anti-doping rule violation has occurred within the period provided for by the ADAK Rules.

2.9 Quality Assurance

2.9.1 ADAK will abide by the general warranties given at Part 1 of Appendix One to this Policy.

2.9.2 The TUE Committee shall administer applications for TUEs in compliance with the International Standard for Therapeutic Use Exemptions, and in accordance with article 4 of the Code and the provisions of Part 2 of Appendix One to this Policy .

2.9.3 ADAK will administer a whereabouts programme for Athletes who are included in the National Registered Testing Pool in compliance with the International Standard for Testing and Investigations, and in accordance with the Code and the provisions of Part 3 of Appendix One to this Policy, and taking into account the WADA Guidelines for Implementing an Effective Athlete Whereabouts Programme.

2.9.4 ADAK will carry out testing in compliance with article 5 of the Code, the International Standard for Testing and Investigations, in accordance with the provisions of Part 4 of Appendix One to this Policy, and taking into account the WADA Guidelines for Urine Sample Collection and for Blood Sample Collection.

- 2.9.5 In accordance with paragraph 2.5.5 of this Policy, ADAK will ensure that the analysis of any Samples that it collects is conducted in compliance with the International Standard for Laboratories.
- 2.9.6 ADAK will carry out its results management responsibilities in accordance with the provisions of article 7 of the Code.
- 2.9.7 ADAK will put in place appropriate policies and procedures to ensure that all items of anti-doping intelligence and data are handled in compliance with the International Standard for the Protection of Privacy and Personal Information, the Data Protection laws, and all other applicable laws and regulations.
- 2.10 Confidentiality
- 2.10.1 ADAK will put in place appropriate policies and procedures to respect and ensure the confidentiality of information as required by the Code and the International Standard for Protection of Privacy and information.
- 2.10.2 ADAK - its Board members, officers, and staff shall not comment publicly on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to the respondent Athlete or Athlete Support Personnel or his/her representatives.
- 2.11 Accountability
- 2.11.1 ADAK will be accountable to the Ministry in charge of Sport, but shall remain fully independent in their operational and strategic decisions and daily business activities.
- 2.11.2 ADAK will be accountable to Parliament and to the Parliamentary Ombudsman through the Ministry in charge Sport, but shall remain fully independent in their operational and strategic decisions and daily business activities.
- 2.11.3 ADAK will maintain ISO 9001-2008 certification, including submitting to annual inspection and auditing by the Kenya Bureau of Standards
- 2.11.4 ADAK will make its staff members available to a sports organization during working hours for consultation on any matter arising out of ADAK's performance of the functions assigned to it under this Policy; and will ensure that any person or team undertaking doping control on behalf of ADAK outside normal working hours has the contact details for a member of staff who may be contacted in case of emergency. In addition, ADAK will make itself available for meetings with Sports Federations on at least an annual basis to discuss any matters of concern.

2.11.5 To the extent that a sports organization is held liable to an Athlete or Athlete Support Personnel in damages and/or costs as a result of the fault of ADAK in the discharge of its responsibilities under this Policy and/or the ADAK Rules, then (provided the sports organization has done everything reasonably possible to mitigate such damages and/or costs, has given ADAK conduct of the matter, has given ADAK all reasonable assistance in defending the matter, and has done nothing to prejudice that defence) ADAK will indemnify the sports organisation in respect of the same.

2.12 Monitoring sports organization Compliance with this Policy

2.12.1 It shall be ADAK's responsibility to ensure compliance by Sports Federations with the requirements of this Policy, the Anti-Doping Act and the Code.

2.12.2 Federations shall report any suspicious cases of doping in their federations to ADAK

2.12.3 Federations shall ensure that all its officials and athletes attend seminars on anti-doping at least once a year

2.12.4 Federations shall ensure that any athlete or athlete support personnel undergoing a suspension does not mix with other athletes and is kept away from training facilities and competitions organized by the sports organisation or the relevant international/regional body..

2.12.5 Where ADAK considers that a sports organization has failed to comply with the requirements of this Policy, ADAK will follow the process set out in Appendix Two to this Policy. No determination of non-compliance shall be effective, and no consequences may be applied for non-compliance, except in accordance with that process.

3. THE ANTI-DOPING ROLES AND RESPONSIBILITIES OF THE SPORTS FUND

The Sports Fund established under the Sports Act and with the primary responsibility of providing funding to Sports Federations shall have the following anti-doping roles and responsibilities:, which are complementary to all other sanctions by ADAK under the Code and under the ADAK anti-doping Rules.

- 3.1 The Sports Fund shall only fund those Federations who have been certified as being compliant to ADAK's Anti-doping Rules and the Code.

- 3.2 Where the Sports Fund learns of information suggesting or relating in any way to an apparent anti-doping rule violation by an Athlete or Athlete Support Personnel, it will immediately report that information to ADAK. Thereafter it will support and cooperate fully with ADAK in its investigation of that information.

- 3.3 In addition to the provisions of article 10.10 of the Code, the following financial Consequences shall apply for Non-compliance with the ADAK Rules by an Athlete or Athlete Support Personnel,
 - 3.3.1 Compliance with the ADAK Rules shall be a pre-condition of eligibility for receipt of public funding and/or publicly funded benefits by an Athlete or Athlete Support Personnel from the Sports Fund.

In addition to other sanctions by ADAK for anti-doping rule violation, the Sports Fund shall also sanction non-compliance appropriately, including (a) withdrawing public funding or other benefits from an Athlete or Athlete Support Personnel during any period of Ineligibility imposed on the Athlete or Athlete Support Personnel for an anti-doping rule violation; and (b) clawing back public funding received by the Athlete or Athlete Support Personnel during the period of non-compliance.

 - 3.3.2 Where an Athlete or Athlete Support Personnel who is a recipient of public funding and/or publicly-funded benefits from the Sports Fund is charged with an anti-doping rule violation, upon receipt of notice to that effect (to be provided by ADAK in accordance with the requirements of the ADAK Rules) then the Sports Fund shall suspend provision of such funding and/or benefits pending hearing and determination of the charge, and will take all necessary steps to ensure that such person does not receive such funding or benefits indirectly (i.e. by means of assistance or benefits provided by the Sports Fund via an Sports Federation, including but not limited to training facilities, coaching internships or apprenticeships) pending final determination of the charge in accordance with article 7.9 of the Code.

- 3.3.3 If it is finally determined that no anti-doping rule violation has been committed, or if it is finally determined that a violation has been committed but no period of Ineligibility is imposed, then ADAK will notify the Sports Fund, and the Sports Fund will remit any suspended payments to the Athlete or Athlete Support Personnel as soon as possible and will reinstate access for that person to any relevant services.
- 3.3.4 If it is finally determined that an anti-doping rule violation has been committed and a period of Ineligibility is imposed, then ADAK will notify the Sports Fund of that decision and the Sports Fund:
- a. will retain the suspended payments referred to in paragraph 3.4.2 of this Policy; and
 - b. will exercise its contractual rights to obtain repayment from the Athlete or Athlete Support Personnel of all or part of any funding provided to him/her by the Sports Fund, either directly or via a Sports Organization, during the period when the anti-doping rule violation was committed (save where the costs of doing so would outweigh the sums to be repaid).
- 3.4 In accordance with article 12 of the Code the following financial Consequences for Non-compliance with the Kenya National Anti-Doping Policy by a National Sports organization shall apply:
- 3.4.1 The Sports Fund will make compliance with this Policy a condition precedent to eligibility for receipt of public funding and/or publicly funded benefits and services by sports federation. The Sports Fund will ensure that it reserves the power, under the terms of its grant of such funding and/or benefits or services, to enforce that condition in accordance with paragraph 3.5.2.
- 3.4.2 In the event that sports organization is determined (following the process set out in Appendix Two of this Policy) to have failed to comply with the requirements of this Policy, and the consequences applied for such non-compliance implicate said funding or benefits or services, the Sports Fund shall take all necessary steps to implement those consequences.
- 3.4.3 This policy applies to all Federations irrespective of whether such sports organization receives funding from the government or not
- 4. THE ANTI-DOPING ROLES AND THE PRIVATE SECTOR**
- 4.1 This Policy is binding to private persons as well
- 4.2 Private corporations shall make compliance with this policy a condition precedent to funding of sports bodies or athletes.
In case of non-compliance a sponsor may require the individual or sports organization to refund all or part of the money given out, or may withhold or withdraw all or part of any proposed funding.
- 4.3 ADAK shall monitor closely the involvement of private corporations in sports to ensure that they support Sports Federations that are Code compliant

5. THE ANTI-DOPING ROLES AND RESPONSIBILITIES OF THE NATIONAL FEDERATIONS AND OTHER SPORT ORGANIZATIONS IN KENYA

Further to the provisions of Part Three of the Code, each national sports organization with responsibility for the governance and regulation of sport in Kenya, and any other sports organisation that serves as the ruling body for a sport or for an event involving one or more sports (each previously defined as a "Sport federation"), shall have the following anti-doping roles and responsibilities:

5.1 Recognition of and support for Kenya National Anti-Doping Policy and for ADAK

5.1.1 A sports organisation shall automatically respect and promote the principles of this Policy, including being bound by ADAK as the National Anti-Doping Organisation for Kenya and fully supporting the efforts of ADAK in the fight against doping in sport.

5.1.2 A National sports organisation shall designate one staff member or other person to act as its Anti-Doping Officer, in charge of the Federation's anti-doping functions and responsible for ensuring that it satisfies the requirements of this Policy, including liaising with ADAK as required. The sports organization will make the Anti-Doping Officer available to ADAK as required in order to discuss the Federation's responsibilities under this Policy.

5.2 Adoption of Code-Compliant Anti-Doping Rules

5.2.1 Each sports organisation shall automatically be bound by the ADAK anti-doping rules.

5.2.2 Each sports organization shall require all Athletes and each Athlete Support Person who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel to agree to be bound by anti-doping rules in conformity with the Code as a condition of such participation

5.2.3 Each sports organization shall require Athletes who are not regular members of the sports organization to be available for Sample collection and to provide accurate and up-to-date whereabouts information as part of the National Registered Testing Pool.

5.2.4 Each sports organization shall prepare rules requiring all Athletes and each Athlete Support Personnel who participates as coach, trainer, manager, team staff, official, medical or paramedical personnel to agree to be bound by anti-doping rules and ADAK's results management authority in conformity with the Code as a condition of such participation

5.2.5 Each sports organization shall take appropriate measures to discourage non-compliance with the Code and ADAK rules

5.2.6 It is acknowledged that (a) certain of the persons who are subject to the Sport's Organization's jurisdiction may also be subject to the anti-doping jurisdiction of other Anti-Doping Organisations, including the international Federation of which the sports organization is a member, and (b) the same conduct of such persons may implicate not only the ADAK Rules but also the anti-doping rules of such other Anti-Doping Organisations. In such circumstances, the jurisdictional and other issues that arise shall be resolved in accordance with the Code.

5.2.7 Where Sports organizations within a particular sport allocate responsibility amongst themselves for compliance with this Policy, they shall put in place in their respective constitutions provisions binding on their Athletes and Athlete Support Personnel and satisfactory to ADAK that give effect to that allocation of responsibility and ensure accountability at each level.

Education of Athletes and Athlete Support Personnel

5.3 Each sports organization shall cooperate with ADAK's Education and awareness programmes for Athletes and Athlete Support Personnel

5.4 THERAPEUTIC USE EXEMPTION(TUEs)

5.4.1 The Therapeutic Use Exemption Committee (TUEC) shall be responsible for all matters touching on the TUEs on behalf of ADAK. The composition, manner of appointment and mandate of the TUEC shall be as specified in the ADAK Anti-Doping Rules

5.4.2 An Athlete who is not an International-Level Athlete shall apply to the TUE Committee for a TUE. If the ADAK denies the application, the Athlete may appeal exclusively to the Tribunal as provided for in Articles 13.2.2, 13.2.3, and 13.4 of the Code and in the ADAK rules

5.4.3 . An Athlete who is an International-Level Athlete should apply to his or her International Federation.

5.4.3.1 Where the Athlete already has a TUE granted by his or her National Anti-Doping Organization for the substance or method in question, if that TUE meets the criteria set out in the International Standard for Therapeutic Use Exemptions, then the International Federation must recognize it. If the International Federation considers that the TUE does not meet those criteria and so refuses to recognize it, it must notify the Athlete and his or her National Anti-Doping Organization promptly, with reasons. The Athlete or the National Anti-Doping Organization shall have 21 days from such notification to refer the matter to WADA for review. If the matter is referred to WADA for review, the TUE granted by the National Anti-Doping Organization remains valid for national level Competition and Out-of-Competition Testing (but is not valid for international level Competition) pending WADA 's decision. If the matter is not referred to WADA for review, the TUE becomes invalid for any purpose when the 21-day review deadline expires.

5.4.3.2 If the Athlete does not already have a TUE granted by his or her National Anti-Doping Organization for the substance or method in question, the Athlete must apply directly to his or her International Federation for a TUE as soon as the need arises. If the International Federation (or the National Anti-Doping Organization, where it has agreed to consider the application on behalf of the International Federation) denies the Athlete's application, it must notify the Athlete promptly, with reasons. If the International Federation grants the Athlete's application, it must notify not only the Athlete but also his or her National Anti-Doping Organization, and if the National Anti-Doping Organization considers that the TUE does not meet the criteria set out in the International Standard for Therapeutic Use Exemptions, it has 21 days from such notification to refer the matter to WADA for review. If the National Anti-Doping Organization refers the matter to WADA for review, the TUE granted by the International Federation remains valid for international-level Competition and Out-of-Competition Testing (but is not valid for national-level Competition) pending WADA 's decision. If the National Anti-Doping Organization does not refer the matter to WADA for review, the TUE granted by the International Federation becomes valid for national-level Competition as well when the 21-day review deadline expires.

5.4.4 Decisions relating to TUE's may be appealed in accordance with the Code and as specified in the ADAK Rules, ADAK may designate a category of Athletes below national level under Sports Organization's jurisdiction (to be known as the "Domestic Pool") who, although not in a Registered Testing Pool, may also be required to obtain a TUE prior to use or possession of a Prohibited Substance or Prohibited Method. In that case, the sports organization shall notify the concerned Athletes that they have been included in the Domestic Pool and of the consequences of that inclusion.

5.4.5 Each Sports Organization shall cooperate fully with ADAK in relation to the processing of TUE applications by Athletes falling within paragraph 2.3.2 of this Policy, including (without limitation):

- a. providing to ADAK any TUEs granted by the respective international federation
- b. treating in confidence all medical and other information of which its personnel become aware in relation to TUE applications made by Athletes under its jurisdiction, and such personnel shall, if so required by ADAK, sign appropriate undertakings to that effect.

5.5 Testing

5.5.1 ADAK shall prepare its Test Distribution Plan for sport in Kenya and require a Sports organization to-

- a. provide ADAK with a calendar of events taking place in the period to be covered by the Test Distribution Plan and
- b. provide ADAK with information about the number of Athletes under the Sports Organization's jurisdiction and the levels at which they compete.

- 5.5.3 The sports organization shall provide Independent Observers with access and appropriate accreditation to testing conducted at National Events, subject to reasonable advance notice

- 5.5.4 ADAK shall have the exclusive right to choose the WADA- accredited laboratory at which analysis of Samples collected pursuant to the Test Distribution Plan shall be conducted.

- 5.5.5 ADAK may make directions in relation to the analysis of Samples, including (without limitation) re-analysis and disposal of Samples based on knowledge or information arising after the initial analysis of the Samples in accordance with article 5 of the Code, the International Standard for Testing and Investigation (ISTI) and the Technical Document for Sport Specific Analysis)

5.6 Results Management:

- 5.6.1 ADAK shall determine whether an Athlete or Athlete Support Personnel has a case to answer for violation of those rules where ADAK has results management authority pursuant to Article 7.1 of the Code

- 5.6.2 Where a sports organization learns of information suggesting or relating in any way to an apparent anti-doping rule violation by an Athlete or Athlete Support Personnel under its jurisdiction, it shall immediately report that

information in full to ADAK. Thereafter it shall support and cooperate fully with ADAK in its investigation of that information, including (without limitation) reporting any further information received on the same or any related subject. A sports organization shall also provide the same support and cooperation for any investigation conducted by ADAK into information obtained from any other source.

5.6.3 Where it is determined that an Athlete or Athlete Support Personnel has a case to answer for violation of the ADAK Rules, ADAK shall bring the relevant charges before the Sports Tribunal

5.6.4 The sports organization shall enforce disciplinary measures against the Athlete or Athlete Support Personnel by giving effect to any period of Ineligibility imposed (whether provisionally prior to the final hearing or after a final hearing) and/or any Disqualification of results.

- 5.6.5 A Sports Organization (a) shall not - take any position or otherwise act in any way that undermines the integrity of the ADAK Rules; and (b) shall not in any circumstances act as advocate for the Athlete or Athlete Support Personnel (provided that, for the avoidance of doubt, this is not intended to limit in any way the right of a sports organization to be enjoined, on appeal, in support of the decision that is the subject of the appeal).

5.7 Disciplinary Proceedings at First Instance and on Appeal

- 5.7.1 All disputes relating to anti-doping rule violations shall be referred to the Sports Tribunal established under the Sports Act, 2013.
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- 5.7.2 The Sports Tribunal shall have jurisdiction in the case of National and County level athletes to hear both the first instance and an appeal therefrom. The Chair of the Sports Tribunal shall constitute the specific panels to hear the matter.

- 5.7.3 The Sports Tribunal shall have jurisdiction to sit on appeals for National and County level Athletes relating to a denial of a TUE by ADAK under article 4.4.6.1 of the Rules.

- 5.7.4 In case of international level Athletes, the Sports Tribunal shall have jurisdiction to entertain the first instance hearing, appeals being reserved for the Court of Arbitration for Sport (CAS).

- 5.7.5 Communication of a decision relating to an anti-doping rule violation shall be made by ADAK in accordance with articles 7.3, 7.4 7.5, 7.6 or 7.7 and 14.1.2, and 14.3 of the Code

5.7.6 The appeal process shall be in accordance with article 13 of the Code

5.8 Ineligible Athletes and Athlete Support Personnel

5.8.1 A National sports organization shall make compliance with all applicable anti-doping rules a condition of every contract it makes with, or licence or permission it grants to, an Athlete or Athlete Support Personnel (including, without limitation, licence or permission to make use of the Sports Organization's facilities or services).

5.8.2 Where an Athlete or Athlete Support Personnel under its jurisdiction is Provisionally Suspended, the Sports Organization shall take all necessary steps in its power give effect to that Provisional Suspension, including seeking recognition of the Provisional Suspension by other relevant bodies, and will procure that its members and affiliates do the same.

5.8.3 Where an Athlete or Athlete Support Personnel is found to have committed an anti-doping rule violation, the sports organization shall take all necessary steps in its power to give effect to the Disqualification of results, period of Ineligibility and/or other Consequences imposed on the Athlete or Athlete Support Personnel in relation to that anti-doping rule violation, including seeking recognition of the Ineligibility by other relevant bodies, and will procure that its members and affiliates do the same.

5.8.4 Where a Sports Organization provides benefits or services to its Athletes or Athlete Support Personnel, the sports organization will ensure that no Athlete or Athlete Support Personnel receives such benefits or services during any period of Provisional Suspension or Ineligibility.

5.9 Consequences of Non-Compliance

5.9.1 Compliance with the requirements of this Policy shall be a condition of a sports organization's eligibility for receipt of public funding and of publicly-funded benefits and services. In case of non-compliance, and in addition to any other sanctions, the Sports Fund shall withhold and or recall funding to such a sports federation

5.9.2 ADAK shall monitor compliance of each sports organization with the requirements of this Policy. To partly facilitate such monitoring, the sports organization must disclose to ADAK in writing and without delay any facts or circumstances that might reasonably be considered to amount to non-compliance, together with any explanation or justification offered for such non-compliance. The sports organization must also provide such further information as ADAK may reasonably require in relation to such non-compliance. Without prejudice to the foregoing, the sports organization must report to ADAK on an annual basis as to the Federation's compliance with this Policy, including identifying any and all instances of non-compliance and providing any explanation or justification offered for such non-compliance.

5.9.3 ADAK shall also monitor such compliance through the Athlete Biological Passport and intelligence gathering.

5.9.4 ADAK shall bring charges of non-compliance of a sports organization before the Tribunal and seek for certain orders including but not limited to deregistration of the said sports organization or withdrawal of public funding

5.9.3 Instances of non-compliance with the Policy, as well as the consequences of such non-compliance, shall be resolved exclusively by following the procedure set out at Appendix Two to this Policy.

5.9.4 It is acknowledged that the sports organization is a member of and subject to the jurisdiction of the international Federation for its sport, and that in such capacity the sports organization is required to comply with the anti-doping obligations imposed upon it by that international sports organization (the "IF Anti-Doping Obligations") as well as by ADAK.

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Appendix One: Quality Assurance

Part 1. Warranties

ADAK warrants to and for the benefit of the Sports Federations, all Athletes and other Persons, and the Sports Funds that:

- A1.1 as the National Anti-Doping Organisation for Kenya, it has all of the necessary experience, capability and personnel to perform the functions assigned to it in Kenya National Anti-Doping Policy and in ADAK Rules to the highest professional standards;
- A1.2 it will perform the functions assigned to it in Kenya National Anti-Doping Policy, the Act and in the ADAK Rules in a timely and effective manner;
- A1.3 it will procure that each ADAK staff member (including for these purposes, without limitation, all Doping Control Officers, Blood Collection Officers, and chaperones) will, comply in all respects with all relevant laws and regulations that relate in any way to the functions assigned to it in Kenya National Anti-Doping Policy and in the ADAK Rules;
- A1.4 it will procure that each ADAK staff member (including for these purposes, without limitation, all Doping Control Officers, Blood Collection Officers, and chaperones), as well as any other director, officer, employee, agent and/or representative of ADAK who may receive personal and/or confidential information, will:
 - A1.4.1 handle, store and process that information in accordance with the requirements of the World Anti-Doping Code, the relevant International Standards, and applicable law;
 - A1.4.2 use that information only for the purposes set out in Kenya National Anti-Doping Policy and/or the ADAK Rules; and
 - A1.4.3 not at any time disclose, comment on, or reveal any confidential information to any person or party save as authorised by the World Anti-Doping Code and/or Kenya National Anti-Doping Policy or the ADAK Rules, or as otherwise required by law;
- A1.5 it will conduct regular internal auditing of its performance of the functions assigned to it under Kenya National Anti-Doping Policy and Kenya Anti-Doping Rules; and

Part 2. **TUEs**

A1.7 ADAK will establish and maintain TUE Committee in accordance with ADAK Anti-Doping Rules and with suitable experience and resources as necessary to fulfill the functions ascribed to such body under the ADAK Rules.

A1.8 ADAK will accept applications for TUEs from the Athletes identified in paragraphs 2.3.2 and 5.4.1 of the Policy.

A1.9 Such TUE applications will be processed in accordance with article 4.4 of the Code and the International Standard for TUEs, the relevant provisions of the ADAK Rules, and the following provisions:

A1.9.1 On receipt of an application for a TUE, ADAK will undertake an administrative review to confirm that the application falls within the scope of paragraph A1.8, above, has been completed fully and accurately, and is accompanied by sufficient medical information to process the application. ADAK will use all reasonable endeavours to complete this formality within three (3) working days of receipt of the application.

A1.9.2 Applications passing this administrative review will be forwarded without delay to the TUE Committee. Improperly completed and/or incomplete applications will be returned to the Athlete without approval, but with an explanation as to why the application is improper and/or incomplete, and with instructions that enable the Athlete to rectify and resubmit the application to ADAK or another Anti-Doping Organisation (as applicable).

A1.9.3 ADAK will procure that TUE Committee uses all reasonable endeavours to complete its review of the TUE application so that ADAK may notify the applicant Athlete of TUE Committee's decision (Approved or Declined) within 7 (seven) working days of the Committee's receipt of the application. ADAK will put a process in place to enable the identification and prioritisation of urgent applications. Where urgency is called, the application shall be transmitted to the TUEC within 24 hours and the TUEC shall make a decision within another 24 hours.

A1.9.4 Where the application is approved, i.e., a TUE is granted, TUE Committee will also specify in its decision the period for which the TUE is valid and any conditions of and/or restrictions on such approval.

- A1.9.5 Where the application is declined, or is approved conditionally and/or with restrictions, TUE Committee will provide written reasons for that decision.
- A1.10 Pending receipt of TUE Committee's decision on the Athlete's TUE application, any use of the Prohibited Substance or Prohibited Method that is the subject of the application is entirely at the Athlete's own risk.
- A1.11 Where an appeal is made to the Sports Tribunal against a decision of TUE Committee, efforts will be made for the said appeal to be heard within three (3) days of presentation of the said appeal.

Part 3. Whereabouts

A1.12 ADAK shall decide on the Registered Pool in line with WADA's International Standard for Testing and Investigation and will make available to each Athlete included in the National Registered Testing Pool:

A1.12.1 an awareness session (either individually, or with other Athletes) in which the Athlete (a) is educated as to his/her responsibilities triggered by inclusion in the National Registered Testing Pool, and of the consequences of not complying with those responsibilities; and (b) is trained in how to use the online whereabouts filing system (ADAMS or any other system approved by WADA) to comply with those requirements. Wherever possible, that session will be face-to-face; and

A1.12.2 refresher education/training courses as appropriate on some or all of these issues.

A1.13 ADAK will employ a dedicated staff person to deal with ad hoc enquiries from Athletes in relation to compliance with their responsibilities as members of the National Registered Testing Pool.

Part 4. Sample Collection

A1.14 Any testing carried out by ADAK will be conducted in accordance with the International Standard for Testing and Investigations and article 5 of the Code

A1.15 For in-competition testing ADAK will provide a Sample collection team consisting of an appropriate number of Doping Control Officers ("DCOs"), Blood Collection Officers (where applicable), and chaperones. It will also provide an adequate number of suitable personnel for each Out-of-Competition mission.

- A1.16 At each Event, it shall be the responsibility of the Event organiser to provide a Doping Control Station that conforms to the requirements of the International Standard for Testing and Investigation; and the lead DCO in the Sample collection team shall liaise with the Event organiser to confirm that the facilities meet this standard.
- A1.17 At each Event, as well as at any Out-of-Competition mission conducted by ADAK, ADAK will provide all necessary documentation and equipment required to enable testing to be carried out, including (without limitation) all necessary Sample collection equipment and secure transit containers and all other necessary equipment for storing the Samples and transporting the Samples safely and securely to the laboratory.
- A1.18 At each Event, as well as at any Out-of-Competition mission conducted by ADAK, the DCO and/or the chaperones will be responsible for the following:
- A1.18.1 the identification of the Athletes selected by ADAK for testing;
 - A1.18.2 the notification of Athletes selected for testing;
 - A1.18.3 (where applicable) the escorting of Athletes selected for testing to the Doping Control Station;
 - A1.18.4 the chaperoning of Athletes subsequent to notification and prior to Sample provision;
 - A1.18.5 the witnessing of Sample provision by Athletes selected for testing;
 - A1.18.6 Sample division and sealing and completion of all relevant forms and documentation;
 - A1.18.7 where required, completion of the partial Sample collection procedures;
 - A1.18.8 the maintenance and storage of the Samples in an appropriate, secure environment from the time of Sample provision by the Athlete until such time as the Samples are transported to the laboratory for analysis; and
 - A1.18.9 secure conveyance of Samples to the laboratory, pursuant to comprehensive chain of custody procedures.
- A1. 19 In accordance with paragraph 2.5.5 of the Policy, ADAK will make appropriate arrangements with WADA-accredited laboratories (the "Laboratory") as necessary to enable the proper handling, storage and analysis

of Samples collected by ADAK, all in accordance with the Code and the International Standard for Laboratories.

Part 5. Results Management

- A1.20 In relation to each Adverse Analytical Finding reported by the Laboratory, adverse passport or atypical passport findings (article 7.5 of the Code) and whereabouts failures (article 7.6 of the Code) ADAK will conduct the investigation and review required by Article 7.2, 7.3, 7.5, and 7.6 of the Code in an efficient and timely manner.
- A1.21 In relation to each Atypical Finding reported by the Laboratory, ADAK will conduct the review required by Article 7.4 of the Code in an efficient and timely manner.
- A1.22 In relation to any other potential anti-doping rule violation that comes to the attention of ADAK, ADAK will conduct the investigation and review required by Article 7.7 of the World Anti-Doping Code in an efficient and timely manner.
- A1.23 In each case, ADAK will be responsible for undertaking all necessary investigations, reviews and verification with the Laboratory and/or ADAK personnel involved in the relevant procedures and/or third parties involved (as applicable), to ensure the strength and sufficiency of the available evidence, including (without limitation) the accuracy and authenticity of all results and documentation (as applicable
- A1.24 In each case, the determination of whether there is a case to answer will be completed as quickly as practicable
- A1.25 In the case of an Adverse Analytical Finding, ADAK will use all reasonable endeavours to complete the review required by Article 7.2 of the World Anti-Doping Code within three (3) working days of receipt of the laboratory documentation package from the Laboratory.

Part 6. General

The commitments set out in this Appendix One are made for the benefit of the Sports Federations and Sports Fund, and not for the benefit of any other party. They shall not be enforceable, by virtue of the Contracts or otherwise, by any such other party.

Appendix Two

SPORTS ORGANIZATIONS Compliance with Kenya National Anti-Doping Policy

Monitoring Compliance

- A2.1 Where ADAK considers that a sports organization has failed to comply with the requirements of Kenya National Anti-Doping Policy, ADAK shall send a written notice to the federation, identifying the alleged failure(s) and requiring an explanation and/or (where the failure(s) can be remedied) a proposal for remedy of the failure(s). In the notice, ADAK should also advise the sports organization of the consequences (if any) that ADAK considers to be warranted by the alleged failure(s).
- A2.2 Save in exceptional cases where a matter is particularly urgent and so a speedier response is required, the sports organization shall have seven (7) working days from receipt of the notice to respond, failing which it shall be deemed to have admitted the failure(s) alleged and to have accepted the consequences proposed, and such admission and acceptance shall be final and binding upon it. In any response, the sports organization must:
- A2.2.1 deny or seek to justify or excuse the alleged failure(s), and set out with specificity the basis of such denial, justification or excuse; or
 - A2.2.2 admit the alleged failure(s) and (where the failure(s) can be remedied) make a proposal for remedy of the failure(s) within a specified time-period, for ADAK's consideration. (If ADAK accepts that proposal, then provided the sports organization implements that proposal to ADAK's satisfaction no further action shall be taken in respect of that/those failure(s)); and/or
 - A2.2.3 appeal the decision
- A2.3 ADAK shall advise the sports organization in writing to what extent (if any) the Federation's denial of or explanation or justification for non-compliance is accepted, giving the reasons for that view (the "Compliance Issue"). To the extent the denial or explanation or justification offered by the sports organization is not accepted, ADAK shall also advise the sports organization in writing of the consequences (if any) that ADAK considers to be warranted, giving the reasons for that view (the "Consequences Issue").
- A2.4 Save in exceptional cases where a matter is particularly urgent and so a speedier response is required, the sports organization shall have twenty one (21) working days from receipt of the notice to dispute ADAK's position on the Compliance Issue and/or the Consequences Issue. If the sports organization does not dispute the Compliance

Issue by that deadline, it shall be deemed to have admitted the non-compliance alleged by ADAK, which admission shall be final and binding upon it. If the sports organization does not dispute the Consequences Issue by that deadline, it shall be deemed to have accepted the consequences proposed by ADAK, which acceptance shall be final and binding upon it.

Referral to Arbitration

A2.5 Where the sports organization disputes the Compliance Issue and/or the Consequences Issue, ADAK shall have the right to refer that dispute to the Sports Tribunal by sending a written notice of such referral to the sports organization and Sports Fund). Notice of the referral shall be sent to Sports Fund that funds the Federation. However, the only parties to the Claim shall be ADAK (claimant) and the sports organization (respondent).

A2.6 The Sports Tribunal shall resolve the issue(s) referred to arbitration by reference to the following factors:

A2.7. Where the Compliance Issue is referred to arbitration, the issue for the Sports Tribunal shall be to determine the nature and extent of the Federation's failure(s) to comply with this Policy , ADAK Rules and the Anti-Doping Act.

A2.7.1. The decision so made is final.

A2.7.2 Where non-compliance is admitted by the sports organization or determined by arbitration in accordance with paragraph A2.7.1, and the Consequences Issue has been referred to Sports Tribunal, the issue for the Tribunal shall be what consequences (if any) are proportionate to the non-compliance in issue, having regard to the objectives of this Policy and the nature and scope of the non-compliance in question (as well as the Federation's previous record as to compliance with the Policy);

A2.8 The consequences that the Sports Tribunal may apply for failure to comply with the Policy, the Anti-Doping Act and or the ADAK Rules include one (or any combination) of the following:

A2.8.1 a warning;

A2.8.2 a reprimand;

A2.8.3 withdrawal of some or all publicly-funded services or benefits currently provided directly or indirectly by ADAK and/or the Sports Fund;

A2.8.4 withdrawal of eligibility to receive publicly-funded services or benefits from or via ADAK and/or the Sports Fund or other source in the future, with conditions provided for the reinstatement of such eligibility;

A2.8.5 withdrawal (or withholding for a stated period, on terms to be determined by the Sports Tribunal) of some or all public funding awarded but not yet paid to the federation;

A2.8.6 requiring repayment of funding paid to the sports organization during the period(s) of non-compliance;

A2.8.7 withdrawal of eligibility to receive public funding from any Sports Fund or other source in the future, with conditions provided for the reinstatement of such eligibility; and/or

A2.8.8 such other consequences as are considered appropriate in all of the circumstances of the case; such as cancellation of registration for a specified period

provided that where appropriate some or all of the consequences may be applied on a suspended basis (i.e., to come into effect only if the sports organization fails to comply with the Policy again within a specified period).

A2.9 The Sports Tribunal shall also have the power to order either party to pay some or all of the costs incurred by the other party in connection with the arbitration.

A2.10

The Sports Tribunal's award on the issue(s) referred in accordance with paragraph A2.5 and as to costs (the "Award") shall be final and binding on the parties as from the date it is made, and the parties shall be deemed to have waived irrevocably any right to appeal or review or recourse to a court of law in respect of such Award.

A.2.11 The Award shall also be final and binding on the Sports Fund and/or other body whose funding (and/or publicly-funded benefits or services) or action is implicated by the Award. Each of them shall take all necessary steps within their respective powers to give effect to the Award.

DRAFT KENYA NATIONAL ANTI-DOPING POLICY

DEFINITIONS¹

“Administration” means providing, supplying, supervising, facilitating, or otherwise participating in the *Use* or *Attempted Use* by another *Person* of a *Prohibited Substance* or *Prohibited Method*. However, this definition shall not include the actions of bona fide medical personnel involving a *Prohibited Substance* or *Prohibited Method* used for genuine and legal therapeutic purposes or other acceptable justification and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate that such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

“Adverse Analytical Finding” means a report from a WADA –accredited laboratory or other WADA -approved laboratory that, consistent with the International Standard for Laboratories and related Technical Documents, identifies in a *Sample* the presence of a *Prohibited Substance* or its *Metabolites* or *Markers* (including elevated quantities of endogenous substances) or evidence of the *Use* of a *Prohibited Method*.

“Adverse Passport Finding” means A report identified as an *Adverse Passport Finding* as described in the applicable *International Standards*.

“Agency “ means Anti-Doping Agency of Kenya (ADAK)

“Agent” means a representative of a professional sports person or of a person who earns his or her living from sport

“Anti-Doping Administration and Management System (ADAMS)” means a Web-based database management tool for data entry, storage, sharing, and reporting designed to assist stakeholders and WADA in their anti-doping operations in conjunction with data protection legislation.

“Anti-Doping Organization” means a *Signatory* that is responsible for adopting rules for initiating, implementing or enforcing any part of the *Doping Control* process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other *Major Event Organizations* that conduct *Testing* at their *Events*, WADA , International Federations, and *National Anti-Doping Organizations*.

“Athlete” means any *Person* who competes in sport at the international level (as defined by each International Federation) or the national level (as defined by each *National Anti-Doping Organization*). An *Anti-Doping Organization* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and

¹ As contained in the WADA Code 2015

thus to bring them within the definition of “Athlete.” In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organization* may elect to: conduct limited *Testing* or no *Testing* at all; analyze *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*. However, if an Article 2.1, 2.3 or 2.5 of the World Anti-Doping Code rule violation is committed by any *Athlete* over whom an *Anti-Doping Organization* has authority who competes below the international or national level, then the *Consequences* set forth in the *Code* (except Article 14.3.2 of the World Anti-Doping Code) shall be applied. For purposes of Article 2.8 and Article 2.9 of the World Anti-Doping Code and for purposes of anti-doping information and education, any *Person* who participates in competitive or recreational sport under the authority of any *Signatory*, government, or other sports organization and at venues including but not limited to private members clubs, gyms and other facilities is an *Athlete*.

“Athlete Biological Passport” means the program and methods of gathering and collating data as described in the International Standard for Testing and Investigations and International Standard for Laboratories.

“Athlete Support Personnel” means Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition*.

“Attempt” means purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation. Provided, however, there shall be no anti-doping rule violation based solely on an *Attempt* to commit a violation if the *Person* renounces the *Attempt* prior to it being discovered by a third party not involved in the *Attempt*.

“Atypical Finding” means a report from a *WADA* -accredited laboratory or other *WADA* -approved laboratory which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an *Adverse Analytical Finding*.

“Atypical Passport Finding” means A report described as an *Atypical Passport Finding* as described in the applicable *International Standards*.

“Board” means the board of Anti-Doping Agency of Kenya (ADAK)

“The Court of Arbitration for Sport” means a court set up by the International Council of Arbitration for Sport and registered as a Swiss Foundation with its seat in Lausanne.

“Cabinet Secretary” means the Cabinet Secretary who, is for the time being responsible for Sport

“Competition” means a single race, match, game or singular sport contest. For example, a basketball game or the finals of the Olympic 100-meter race in athletics. For stage races and other sport contests where prizes are awarded on a daily or other interim basis the distinction between a *Competition* and an *Event* will be as provided in the rules of the applicable International Federation.

“Complicity” means assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation or violation of Article 10.12.1 of the World Anti-Doping Code by another *Person*.

Consequences of Anti-Doping Rule Violations (“Consequences”) means a *Athlete’s* or other *Person’s* violation of an anti-doping rule may result in one or more of the following: (a) *Disqualification* means the *Athlete’s* results in a particular *Competition* or *Event* are invalidated, with all resulting *Consequences* including forfeiture of any medals, points and prizes; (b) *Ineligibility* means the *Athlete* or other *Person* is barred on account of an anti-doping rule violation for a specified period of time from participating in any *Competition* or other activity or funding as provided in Article 10.12.1 of the World Anti-Doping Code; (c) *Provisional Suspension* means the *Athlete* or other *Person* is barred temporarily from participating in any *Competition* or activity prior to the final decision at a hearing conducted under Article 8 of the World Anti-Doping Code; (d) *Financial Consequences* means a financial sanction imposed for an anti-doping rule violation or to recover costs associated with an anti-doping rule violation; and (e) *Public Disclosure or Public Reporting* means the dissemination or distribution of information to the general public or *Persons* beyond those *Persons* entitled to earlier notification in accordance with Article 14 of the World Anti-Doping Code. Teams in *Team Sports* may also be subject to *Consequences* as provided in Article 11 of the World Anti-Doping Code.

“Contaminated Product” means a product that contains a *Prohibited Substance* that is not disclosed on the product label or in information available in a reasonable Internet search.

“County” means a self-governing entity under the Constitution of Kenya

“County sports association” means a branch of a national sports body whose area of operation is a County, or a sports organization whose reach is only in a county.

“Disqualification” means *one of the consequences of Anti-Doping Rule Violations* above.

“Doping Control” means all steps and processes from test distribution planning through to ultimate disposition of any appeal including all

steps and processes in between such as provision of whereabouts information, *Sample* collection and handling, laboratory analysis, *TUEs*, results management and hearings.

“Event” means a series of individual *Competitions* conducted together under one ruling body (e.g., the Olympic Games, FINA World Championships, or Pan American Games).

“Event Venues” means those venues so designated by the ruling body for the *Event*.

“Event Period” means the time between the beginning and end of an *Event*, as established by the ruling body of the *Event*.

“*Fault*” means any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an *Athlete* or other *Person’s* degree of *Fault* include, for example, the *Athlete’s* or other *Person’s* experience, whether the *Athlete* or other *Person* is a *Minor*, special considerations such as impairment, the degree of risk that should have been perceived by the *Athlete* and the level of care and investigation exercised by the *Athlete* in relation to what should have been the perceived level of risk. In assessing the *Athlete’s* or other *Person’s* degree of *Fault*, the circumstances considered must be specific and relevant to explain the *Athlete’s* or other *Person’s* departure from the expected standard of behavior. Thus, for example, the fact that an *Athlete* would lose the opportunity to earn large sums of money during a period of *Ineligibility*, or the fact that the *Athlete* only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of *Ineligibility* under Article 10.5.1 or 10.5.2 of the World Anti-Doping Code.

“Federation” means a National Sports organization affiliated to an international federation.

“Financial Consequences” means *consequences of Anti-Doping Rule Violations* above.

“In-Competition” means the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*, unless provided otherwise in the rules of an International Federation or the ruling body of the *Event* in question

“Independent Observer Program” means team of observers, under the supervision of WADA, who observe and provide guidance on the *Doping Control* process at certain *Events* and report on their observations.

“Individual Sport” means Any sport that is not a *Team Sport*.

“*Ineligibility*”: means *consequences of Anti-Doping Rule Violations* above.

“International Event” means an *Event* or *Competition* where the International Olympic Committee, the International Paralympic Committee, an International Federation, a *Major Event Organization*, or another international sport organization is the ruling body for the *Event* or appoints the technical officials for the *Event*.

“International-Level Athlete” means an *athlete* who competes in sport at the international level, as defined by each International Federation, consistent with the International Standard for Testing and Investigations.

“International Olympic Committee” means the organization created by the Congress of Paris on June 23, 1894 and entrusted with the control and development of the modern Olympic Games;

“International Paralympic Committee” means the organization established on September 22, 1989, to enable paralympic athletes to achieve sporting excellence and to inspire and excite the world and entrusted with the control and development of the Paralympic Games;

“International Standard”: means standard adopted by WADA in support of the *Code*. Compliance with an *International Standard* (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the *International Standard* were performed properly. *International Standards* shall include any Technical Documents issued pursuant to the *International Standard*.

“Licence” means a certificate issued to a professional sports body, coach, agent, or a professional sports person for purposes of carrying out the activities of the relevant sport

“Major Event Organizations” means the continental associations of *National Olympic Committees* and other international multisport organizations that function as the ruling body for any continental, regional or other *International Event*.

“Marker” means a compound, group of compounds or biological variable(s) that indicates the *Use of a Prohibited Substance or Prohibited Method*.

“Metabolite” means any substance produced by a biotransformation process.

“Minor” means a natural *Person* who has not reached the age of eighteen years.

“National Anti-Doping Organization” means the entity designated by each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of *Samples*, the management of test results, and the conduct of hearings at the national level. If this designation has not been made by the competent public authority(ies), the entity shall be the country’s *National Olympic Committee* or its designee.

“National Event” means a sport *Event* or *Competition* involving *International- or National-Level Athletes* that is not an *International Event*.

“National-Level Athlete” means Athletes who compete in sport at the national level, as defined by each National Anti-Doping Organization, consistent with the International Standard for Testing and Investigations. In Kenya, National-Level Athletes are defined as *any Athlete* who (a) participates in the National League, County Leagues, Events or Competitions organized by their federations or by any sports organization or club; (b) is affiliated to a Federation, National League, County League, sports organization or club; (c) participates in competitions or events organized by schools, colleges or other institutions.

“National Olympic Committee” means the organization recognized by the International Olympic Committee.

“National sports organization” includes an umbrella body responsible for Olympic, non-Olympic, Paralympic or Deaflympic sports or multi-sport organization responsible for all sports disciplines or recreational bodies or body responsible for a particular sport nationally; and it may be affiliated to an international federation or not.

“No Fault or Negligence” means the *Athlete* or other *Person’s* establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had *Used* or been administered the *Prohibited Substance* or *Prohibited Method* or otherwise violated an anti-doping rule. Except in the case of a *Minor*, for any violation of Article 2.1 of the World Anti-Doping Code, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

“No Significant Fault or Negligence” means the *Athlete* or other *Person’s* establishing that his or her *Fault* or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation. Except in the case of a *Minor*, for any violation of Article 2.1 of the World Anti-Doping Code, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

“Out-of-Competition” means any period which is not *In-Competition*.

“Participant” means any *Athlete* or *Athlete Support Person*.

“Person” a natural *Person* or an organization or other entity.

“Possession” the actual, physical *Possession*, or the constructive *Possession* (which shall be found only if the *Person* has exclusive control or intends to exercise control over the *Prohibited Substance* or *Prohibited Method* or the premises in which a *Prohibited Substance* or *Prohibited Method* exists); provided, however, that if the *Person* does not have exclusive control over the *Prohibited Substance* or *Prohibited Method* or the

premises in which a *Prohibited Substance* or *Prohibited Method* exists, constructive *Possession* shall only be found if the *Person* knew about the presence of the *Prohibited Substance* or *Prohibited Method* and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation based solely on *Possession* if, prior to receiving notification of any kind that the *Person* has committed an anti-doping rule violation, the *Person* has taken concrete action demonstrating that the *Person* never intended to have *Possession* and has renounced *Possession* by explicitly declaring it to an *Anti-Doping Organization*. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a *Prohibited Substance* or *Prohibited Method* constitutes *Possession* by the *Person* who makes the purchase.

“professional sports” means sports for which a contract for engagement and remuneration has been entered into by a club or sports organization and the professional sports persons;

“professional sports person” means a person who is, on the basis of a contract for engagement and remuneration, preparing or training for the purposes of participating in the relevant sports competition at national; or international level;

“Prohibited association” means Association by an *Athlete* or other *Person* subject to the authority of an *Anti-Doping Organization* in a professional or sport-related capacity with any *Athlete Support Person* who: if subject to the authority of an *Anti-Doping Organization*, is serving a period of *Ineligibility*; or if not subject to the authority of an *Anti-Doping Organization*, and where *Ineligibility* has not been addressed in a results management process pursuant to the *Code*, has been convicted or found in a criminal, disciplinary or professional proceeding to have engaged in conduct which would have constituted a violation of anti-doping rules if *Code*-compliant rules had been applicable to such *Person*.

“Prohibited List” means the List identifying the *Prohibited Substances* and *Prohibited Methods*.

“Prohibited Method” means any method so described on the *Prohibited List*.

“Prohibited Substance” any substance, or class of substances, so described on the *Prohibited List*.

“Provisional Hearing” means, for purposes of Article 7.9 of the World Anti-Doping Code, an expedited abbreviated hearing occurring prior to a hearing under Article 8 of the World Anti-Doping Code that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.

“Provisional Suspension” means *consequences of Anti-Doping Rule Violations* above.

“Publicly Disclose or Publicly Report”: means *consequences of Anti-Doping Rule Violations* above.

“recreation” means voluntary participation in a physical or mental activity for enjoyment, improvement of general health, well-being and the development of skills of an individual;

“Regional Anti-Doping Organization” a regional entity designated by member countries to coordinate and manage delegated areas of their national anti-doping programs, which may include the adoption and implementation of anti-doping rules, the planning and collection of *Samples*, the management of results, the review of *TUEs*, the conduct of hearings, and the conduct of educational programs at a regional level.

“Registered Testing Pool” *means* the pool of highest-priority *Athletes* established separately at the international level by International Federations and at the national level by *National Anti-Doping Organizations*, who are subject to focused *In-Competition* and *Out-of-Competition Testing* as part of that International Federation’s or *National Anti-Doping Organization’s* test distribution plan and therefore are required to provide whereabouts information as provided in Article 5.6 of the World Anti-Doping Code and the International Standard for Testing and Investigations.

“Registrar” means the Sports Registrar appointed under [section 45](#) of the Sports Act (No. 25 of 2013);

“Registration certificate” means a certificate issued to a sports body for purposes of carrying out the activities of the relevant sport

“Salaries Review Commission” means the Commission established under the Constitution of Kenya for purposes of regulating salaries in the public sector

“Sports club” means a body registered for purposes of developing sports and which is affiliated to a National and or county sports organization, or a private sports club; and this shall include sports training camps, sport academies, fitness centres and gyms

“Sports Organisation” means a body registered for purposes of promoting sports by whatever name

“Sample or Specimen” *means* any biological material collected for the purposes of *Doping Control*.

“Signatories” means those entities signing the *Code* and agreeing to comply with the *Code*, as provided in Article 23 of the World Anti-Doping Code.

“Specified Substance”: See article 4.2.2 of the World Anti-Doping Code.

“Strict Liability” means the rule which provides that under Article 2.1 and Article 2.2 of the World Anti-Doping Code, it is not necessary that intent, *Fault*, negligence, or knowing *Use* on the *Athlete’s* part be demonstrated

by the *Anti-Doping Organization* in order to establish an anti-doping rule violation.

“Substantial Assistance” means for purposes of Article 10.6.1 of the World Anti-Doping Code, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement all information he or she possesses in relation to anti-doping rule violations, and (2) fully cooperate with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by an *Anti-Doping Organization* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

“Tampering” means altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring.

“Target Testing” means selection of specific *Athletes* for *Testing* based on criteria set forth in the International Standard for Testing and Investigations.

“Team Sport” means a sport in which the substitution of players is permitted during a *Competition*.

“Testing” means The parts of the *Doping Control* process involving test distribution planning, *Sample* collection, *Sample* handling, and *Sample* transport to the laboratory.

“Therapeutic Use Exemption” (TUE:) means an exemption to use a prohibited substance or prohibited method and which is obtained in a manner as described in Appendix 1 and Article 4.4. of the World Anti-Doping Code.

“Trafficking”: means selling, giving, transporting, sending, delivering or distributing (or *Possessing* for any such purpose) a *Prohibited Substance* or *Prohibited Method* (either physically or by any electronic or other means) by an *Athlete*, *Athlete Support Person* or any other *Person* subject to the jurisdiction of an *Anti-Doping Organization* to any third party; provided, however, this definition shall not include the actions of “bona fide” medical personnel involving a *Prohibited Substance* used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

“Tribunal” means the Tribunal established under section 55 of the Sports Act (No 25 of 2013)

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“UNESCO Convention” means the International Convention against Doping in Sport adopted by the 33rd session of the UNESCO General Conference on 19 October 2005, including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.

“Use” means the utilization, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance* or *Prohibited Method*.

“World Anti-Doping Code” means the Code developed by the World Anti-Doping Agency for purposes of unifying anti-doping activities globally.

“World Anti-Doping Agency (WADA)” means a sports body set up for the purposes of coordinating anti-doping activities worldwide. .

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