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**IN THE MATTER OF AN ARBITRATION PURSUANT TO THE ULTIMATE
FIGHTING CHAMPIONSHIP ANTI-DOPING POLICY & THE UFC
ARBITRATION RULES**

BETWEEN

JON JONES

(“ATHLETE”)

Applicant

and

UNITED STATES ANTI-DOPING AGENCY

(“USADA”)

Respondent

A W A R D

1. THE PARTIES

1.1 The Applicant is a 31 year old mixed martial arts (“MMA”)¹ athlete who has been a UFC Athlete since 2008. He has been subject to the UFC

¹ Capitalized words in this Award carry the meaning as ascribed to them in this Award; or in the UFC Anti-Doping Policy (“UFC ADP”); or in the World Anti-Doping Agency (“WADA”) or World Anti-Doping Agency Code (“WADAC”). Other words are capitalized to reflect common English language usage.

Anti-Doping Policy ("UFC ADP") since September 2015. The Applicant is represented by Mr. Paul J. Greene, Attorney-at-Law in Portland, Maine & Peter S. Christiansen Attorney-at-Law in Las Vegas.

1.2 The Respondent is an independent, non-profit, non-governmental agency whose sole mission is to preserve the integrity of competition, inspire true sport, and protect the rights of clean athletes. The Respondent independently administers the year-round anti-doping program for the UFC, which includes the drug testing of all UFC athletes in and out-of-competition, the investigation of potential Anti-Doping Policy Violations ("ADPV") and the results management of all potential ADPVs. The Respondent is represented by Mr. William Bock Attorney at Law in Indianapolis, Indiana.

2. LEGAL FRAMEWORK TO THE ARBITRATION

2.1. The UFC has adopted the rules, policies, and procedures set forth in the UFC Anti-Doping Policy ("UFC ADP"). Any asserted ADPV arising out of the policy or asserted violation of the anti-doping rules set forth in that policy shall be resolved through the Results Management Process described

in the policy and the pertinent arbitration rules adopted by the UFC (“the UFC Arbitration Rules”).

2.2. The Results Management Process has been outsourced to USADA to administer the UFC ADP since July of 2015. Under the UFC ADP USADA has the authority to resolve cases in accordance with the UFC ADP. A person disagreeing with USADA’s proposed resolution of their case may elect to have their case heard by a neutral arbitrator or panel of arbitrators.

2.3. Arbitration pursuant to the UFC Arbitration Rules is the exclusive forum for any appeal or any complaint by any athlete to:

- (i) *appeal or contest USADA’s assertion of an anti-doping policy violation; or*
- (ii) *any dispute that the UFC or USADA and the Chief Arbitrator determine is one over which the UFC has jurisdiction and standing and the Chief Arbitrator has agreed to appoint an arbitrator.*

2.4. The UFC has, in the UFC Arbitration Rules, selected McLaren Global Sport Solutions Inc. (“MGSS”) to provide the adjudication services and oversee the administration of the arbitration procedure.

2.5. On the 13th of September 2018, USADA and the Athlete (the “Parties”) stipulated and agreed to a document titled a “Joint Stipulated

Partial Factual Resolution and Arbitration Agreement” (hereafter the “Agreement”). The arbitration portion of the Agreement provides at paragraph 78:

“Except for the manner of appointment of the arbitrator and the provisions agreed to herein [being the said Agreement], all other substantive and procedural rules for the Hearing shall be those set forth in the UFC ADP.”

On the 13th of September 2018, the Arbitrator signed the Agreement accepting his appointment and agreeing to apply the Agreement and conduct the Hearing in accordance with it and hear the evidence produced by the Parties in 2018. A copy of the Agreement is attached to this Award.

2.6 Paragraph 79 sets out a number of matters that are not to be contested in this proceeding. The Athlete through his counsel has knowingly and voluntarily limited his rights to contest aspects of this matter under the UFC ADP.

2.7 USADA in its absolute discretion has determined that the Athlete is entitled to a thirty (30) month reduction in the sanction otherwise applicable being forty-eight (48) months. That determination is not subject

to review or challenge in this proceeding. It is agreed that information concerning the Athlete's substantial assistance may be presented to the Arbitrator in an *in camera* review particularly as such information may relate to a credibility determination to be made by the Arbitrator. However, additional details regarding substantial assistance provided by the Athlete are not set forth in this Award as per the Agreement.

2.8. A copy of the Agreement is attached to this Award. For further facts related to this proceeding, please refer to the attached Agreement.

3. STIPULATED FACTS

3.1. The Athlete was found to have committed a first ADPV following a full evidentiary hearing by a three person arbitration panel. The panel found that the Athlete's conduct warranted a one year period of ineligibility for the ingestion of a contaminated supplement containing a Prohibited Substance. The period of ineligibility ended on the 5th of July 2017.

3.2. On his return from the foregoing suspension the Athlete was tested on the 6th and 7th of July 2017 and the results were negative. He also had

five negative tests within five (5) months prior to his positive test.

3.3. On the 28th of July 2017, the day before his headliner title bout in UFC 214, the Athlete gave a urine sample. That sample was later reported as an adverse analytical finding (“AAF”) by the World Anti-Doping Agency (“WADA”) accredited Sports Medicine Research & Testing Laboratory (hereinafter “SMRTL” or the “Laboratory”).

3.4. The Laboratory AAF was for the 4 α -chloro-17 β -hydroxymethyl-17 α -methyl-18-nor-5-androst-13-en-3 α -ol (“M3 metabolite”) of a prohibited anabolic agent, which may be found in any of oral Turinabol, dehydrochlormethyltestosterone, halodrol, methylclostebol, or promagnon.

3.5. The Laboratory did not use a quantitative measurement for its analysis because the particular substance is not a threshold one. The sensitivity of the method used by SMRTL to detect the M3 metabolite is extremely high due to the advanced analytical methods used to detect prohibited anabolic agents. The concentration of the M3 metabolite was extremely low at between 20-80 picograms/milliliter (pg/ml). A picogram is

one trillionth of a gram (i.e., 0.000 000 000 001 gram). Neither the parent drug, oral Turinabol nor the short and/or medium term metabolites of oral Turinabol were found in the Athlete's urine sample.

3.6. The Athlete has not competed since the 29th of July 2017. As a result of this second ADPV he has lost the competitive result of the bout on the 29th of July. Any money forfeited by the Athlete as a result of the disqualification is owed to the UFC. USADA imposed a provisional suspension on the 22nd of August 2017. The California State Athletic Commission revoked Mr. Jones' license and fined him \$205,000 on the 27th of February 2018.

3.7. Both USADA and the Athlete and his representatives have diligently sought to determine the source of his positive test for the M3 metabolite without success. However, at all times during USADA's investigation, USADA found the Athlete and his representatives to be open, responsive and helpful.

3.8. Under Article 10.7.1, USADA has concluded that the Athlete's

maximum possible period of ineligibility under the UFC ADP would be forty-eight (48) months. However, that period may be reduced based on substantial assistance under Article 10.6. There are no aggravating circumstances in this case.

3.9. USADA in its sole discretion has assessed a thirty (30) month reduction based upon the substantial assistance of the Athlete pursuant to Article 10.6.1, and USADA has retained the right to reinstate any part of the term of reduction if the Athlete fails to continue to cooperate.

3.10. As a consequence of the reduction based on substantial assistance, the maximum period of ineligibility for the Athlete's second ADPV is eighteen (18) months.

3.11. Any further reduction beyond the substantial assistance discussed above is limited by Article 10.5.2. It permits a reduction based upon the Athlete's degree of Fault. When applied to the circumstances of this case, Article 10.5.2 provides that any further possible reduction in the period of ineligibility may not be less than one quarter of the period of ineligibility

otherwise applicable. Therefore, in this case, the lowest possible period of ineligibility would be twelve (12) months.

3.12. Pursuant to the arbitration portion of the Agreement it is necessary to determine if the period of the Athlete's maximum ineligibility of eighteen (18) months can be reduced any further down to the minimum level of ineligibility of twelve (12) months. Any such reduction under Article 10.5.2 of the UFC ADP would be based upon the Athlete's degree of Fault.

4. LIMITATIONS ON THE SCOPE OF THE ARBITRATION

4.1. The scope of the Hearing and the determinations to be made by the Arbitrator are limited by the Parties' Agreement.

4.2. Under Article 10.6.1.1 of the UFC ADP, USADA is authorized to reduce all or part of any period of ineligibility based on substantial assistance provided by an individual accused of an ADPV. USADA has in its sole discretion determined that the Athlete is entitled to a thirty (30) month reduction in his period of ineligibility pursuant to this rule. It is agreed that USADA's determination regarding substantial assistance is not subject to

review or challenge. Other than the assistance set out in the Agreement regarding substantial assistance, the Arbitration Award is not to set forth additional details.

5. FACTUAL BACKGROUND

5.1. The Athlete took a number of steps to determine the source of his positive test for the M3 metabolite. He submitted to multiple interviews by USADA in 2017 and 2018 which focused on the supplement products being used by the Athlete in 2017. He identified 14 supplements he was using in 2017 in advance of his positive test. None of these supplements has a Prohibited Substance identified on the label of the product. The 14 supplement products he was using in 2017 were laboratory tested to attempt to identify the presence of prohibited anabolic agents or any of their metabolites. None of the supplements submitted for testing demonstrated the presence of any prohibited anabolic agents or related metabolites.

5.2. It is stipulated that the Athlete took a number of steps following his first ADPV to minimize his risk of committing a second ADPV. He hired a

nutritionist; consulted with the UFC Director of Athlete Health and Safety on which supplement products he should take or not take; had his representatives review the product labels for dietary supplements he consumed and compare the listed ingredients to substances on the WADA Prohibited List; and had his representatives conduct internet research concerning the dietary supplements he used.

5.3. The Athlete openly admitted to USADA that prior to and for a period of time after the reporting of his second adverse analytical finding on July 28, 2017, the Athlete used illicit, so called “street drugs”, including cocaine. The Athlete willingly entered into a full-time rehabilitation program which has led to his having a greater understanding that his addiction is an illness.

6. UFC ADP RULES

6.1. The UFC ADP rules provide, so far as material, the following to constitute ADPVs:

2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample

2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an Anti-Doping Policy Violation under Article 2.1.

2.1.2 Sufficient proof of an Anti-Doping Policy Violation under Article 2.1 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analyzed; or, where the Athlete's B Sample is analyzed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample; or in the conditions described in the WADA International Standard For Laboratories where the Athlete's B Sample is split into two bottles and the analysis of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers.

2.1.3 Excepting those substances for which a quantitative threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample shall constitute an Anti-Doping Policy Violation.

2.1.4 . . .

10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6 or potential increase in the period of Ineligibility under Article 10.2.3:

10.2.1 *The period of Ineligibility shall be two years where the Anti-Doping Policy Violation involves a non-Specified Substance or Prohibited Method.*

10.2.2 *The period of Ineligibility shall be one year where the Anti-Doping Policy Violation involves a Specified Substance.*

10.2.3 *The period of Ineligibility may be increased up to an additional two years where Aggravating Circumstances are present.*

10.5 Reduction of the Period of Ineligibility Based on Degree of Fault

10.5.2 *For Anti-Doping Policy Violations not described in Articles 10.5.1.1 or 10.5.1.2, subject to further reduction or elimination as provided in Article 10.6, the otherwise applicable period of Ineligibility may be reduced based on the Athlete or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-quarter of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight years.*

10.6 Elimination, Reduction, or Suspension of Period of Ineligibility or other Consequences for Reasons other than Fault

10.6.1 Substantial Assistance in Discovering or Establishing Anti-Doping Policy Violations

10.6.1.1 USADA in its sole discretion may suspend all or part of the period of Ineligibility and other Consequences imposed in an individual case in which it has results management authority where the Athlete or other Person has provided Substantial Assistance to USADA or another Anti-Doping Organization, criminal authority or professional disciplinary body which results in: (i) USADA or another Anti-Doping Organization discovering or bringing forward an Anti-Doping Policy Violation by another Person and the information provided by the Person providing Substantial Assistance is made available to USADA, or (ii) which results in a criminal or disciplinary body discovering or bringing forward a criminal offense or the breach of professional rules committed by another Person and the information provided by the Person providing Substantial Assistance is made available to USADA. The extent to which the otherwise applicable period of Ineligibility and other Consequences imposed may be suspended shall be based on the seriousness of the Anti-Doping Policy Violation committed by the Athlete or other Person and the significance of the Substantial Assistance provided by the Athlete or other Person to the effort to eliminate doping in sport. If the Athlete or other Person fails to continue to cooperate and to provide the complete and credible Substantial Assistance upon which a suspension of the period of Ineligibility or other Consequences was based, USADA shall reinstate the original period of Ineligibility and other Consequences.

7. ISSUE

- 7.1. (i) Does the likely source of the Prohibited Substance have to be

identified as a necessary condition for the application of any discretion under Article 10.5.2 to reduce the period of ineligibility?

(ii) If not, then what is the appropriate period of reduction based upon the degree of Fault?

(i) Is there a requirement in Article 10.5.2 to identify the source?

7.2. Appendix 1 to the UFC ADP defines Fault. No reference is made in the definition to the need to identify the source of the Prohibited Substance that has become the basis of the ADPV to determine the degree of Fault.

7.3. That defined term is the operative requirement to the application of Article 10.5.2 when dealing with reductions in eligibility beyond a reduction for Substantial Assistance which has already been determined in this case by USADA and is outside the scope of review in this arbitration.

7.4. A review of the language of Article 10.5.2 of the UFC ADP reveals that there is no reference to the identification of the source of the Prohibited Substance. This is in contrast to Article 10.4 of the UFC ADP (No Fault or

Negligence) where identification of the source is required to establish how the Prohibited Substance entered the Athlete's system. As an illustrative comparison, Article 10.5 of the 2015 World Anti-Doping Code ("WADA Code"), the equivalent provisions to that of the UFC ADP, also has an express requirement to show source. Therefore, as a matter of strict interpretation of the UFC ADP it may be concluded that source is not a requirement for determining the degree of Fault under Article 10.5.2.

7.5. In *Mauricio Fiol Villanueva v. FINA*, CAS 2016/A/4534, the Panel engaged the *inclusion unius exclusion alterius* principle to show that there was no need to establish source. This principle stands for the proposition that if establishment of a "source" is expressly required in one rule, the omission of the need to establish "source" in another rule must be treated as deliberate and significant. The need to establish "source" is not present in Article 10.5.2 and must be considered as deliberately left out by the drafter of the UFC ADP.

7.6. The foregoing conclusion as a matter of construction can be further affirmed by reference to the case law from the WADA Code. Where the

WADA Code in Articles 10.4 and 10.5 has a specific requirement to establish likely source, the case law has in restricted circumstances found that the identification of source was unnecessary to obtain the reduction of a sanction. There are four cases where proof of source was found to be unnecessary for an athlete to obtain a reduction in sanction.

7.7. In *Mauricio Fiol Villanueva v. FINA*, CAS 2016/A/4534, the Panel accepted in interpreting articles 10.2.1.1 and 10.2.3 of the FINA Doping Control Rules² that there was a theoretical possibility that an athlete could successfully prove an absence of intent without the establishment of the source of a Prohibited Substance where the athlete's demeanor, character and history allow for such a finding. The Panel accepted a number of factors to support the proposition that the establishment of the source of a Prohibited Substance in an athlete's sample is not a *sine qua non* proof of absence of intent.

7.8. The Panel in *Arijan Ademi v. UEFA*, CAS 2016/A/4676 agreed with the Panel in *Villanueva* that it is possible for an athlete to discharge his or her

² The FINA Doping Control Rules are based on the World Anti-Doping Code .

burden of proving lack of intent without establishing the source of a Prohibited Substance. In particular, the Panel in *Ademi* focused on the testimony provided by the Player, which was supported by the evidence of the athlete's physiotherapist and the Club doctors.

7.9. The Panel in *WADA v. World Squash Federation & Nasir Iqbal*, CAS 2016/A/4919, reiterated the proposition from *Villanueva*, emphasizing that such a finding can only occur in rare cases. However, the Panel was prepared to accept that there was a narrow window of possibility in the appropriate case.

7.10. The Panel in *FINA v. Cox*, FINA Doping Panel 07/18, relied on a number of factors in determining that the athlete had met her burden of proving that her ADRV was not intentional, despite the fact that she could not establish the likely source of the prohibited substance. These factors included the athlete's own testimony, evidence heard from others which supported the evidence tendered by the athlete, and that no evidence was tendered to contradict or undermine the athlete's using the prohibited substance. Citing *Villanueva*, the Panel in *Cox* noted that demonstrating

evidence of the source of a Prohibited Substance will be extremely helpful in a case, but it is not absolutely essential.

7.11. All the foregoing cases stand for the proposition that in rare cases, it is possible for an athlete to discharge their burden of proving absence of intent without establishing the source of the Prohibited Substance in the athlete's sample.

7.12. Article 10.5.2 of the UFC ADP has no express language requiring identification of source. Relying upon the principles of interpretation of a contract and reinforced in that approach by the foregoing case law I find that the likely source of the Prohibited Substance does not need to be identified in order to activate the discretion to reduce the sanction contained in Article 10.5.2.

(ii) What is the degree of Fault here?

7.13. After the first ADPV, the Athlete took a number of steps to avoid consuming any supplements that could be contaminated with a Prohibited

Substance. The details of this are set out above in the Evidence and do not require repeating herein.

7.14. There was more that he could have done but he did not do. The Athlete could have taken the step of only using third party certified dietary supplements which may have further reduced his risk of testing positive from a contaminated supplement.

7.15. For all the foregoing reasons I conclude that the Athlete had some degree of Fault but it was not such a level as to require complete elimination of my discretion under Article 10.5.2 to reduce the period of ineligibility.

7.16. The foregoing conclusion means that an appropriate period of reduction needs to be determined. The definition of Fault provides some guidelines to the determination of the level of Fault. However, there are few guidelines as to how I ought to exercise my discretion.

7.17. I find that all of the evidence available to me leads me to conclude that the violation was not intended nor could it have enhanced the Athlete's

performance. There was absolutely no intention to use Prohibited Substances on the part of the Athlete. Other factors referred to in the definition of Fault include the perceived level of risk and the level of care and investigation that should have been exercised in relation to the perceived level of risk. In that respect, the Athlete took considerable additional steps outlined above in the Evidence to try and ensure that he never had another positive test for a Prohibited Substance while using supplements. He assumed incorrectly that he was using USADA approved supplements. The fact is that USADA lists supplements highly likely to be contaminated but does not ever approve supplements. The Athlete or his representatives ought to have recognized that mistaken assumption. This has to be part of his acceptance of a degree of Fault as stipulated in the Agreement.

7.18. The specific facts of this case, some of which because of the Agreement cannot be stated herein but affect my analysis, lead me to conclude that a reasonable reduction because of the level of Fault is appropriate.

7.19. I find the Athlete to have been a truthful witness who recognizes his past mistakes and has learned from them. His demeanor at the Hearing was of a person who is sorry for his past mistakes and recognizes that he can only improve on these errors by being an exemplary competitor who is drug free in the future. Throughout listening to the testimony, I found the Athlete to have been a very credible person who was well intended and well meaning.

7.20. Jon Jones has gone through a great deal of difficulties. He gave me the very distinct impression that he has learned a lot from the loss of the image of himself that he had as a champion MMA fighter. He has been humbled and humiliated by the experience but has learned from his misfortune. He needs the opportunity to regain his dignity and self-esteem.

7.21. The reduction in ineligibility that will give him that kick start whilst still recognizing his Fault, is to reduce the sanction to a level that permits him to compete. That means a reduction of three (3) months from the eighteen (18) months to a total sanction of fifteen (15) months based on the Athlete's level of Fault is appropriate in consideration of all relevant

circumstances.

8. CONCLUSION

8.1. For all of the foregoing reasons and in accordance with the Agreement and the UFC ADP a sanction of fifteen (15) months for the second ADPV is imposed.

ON THOSE GROUNDS

The Arbitrator orders that the period of Ineligibility which commenced on the 28th of July 2017 is to cease on the 28th of October 2018.

Dated at London, Ontario Canada this 18th day of September 2018.

A handwritten signature in cursive script, reading "Richard H. McLaren", is written over a horizontal line.

Professor Richard H. McLaren, O.C.

Chief Arbitrator

**ULTIMATE FIGHTING CHAMPIONSHIP
ANTI-DOPING POLICY**

Jon Jones)
(Athlete))
Applicant)
)
And)
)
United States Anti-Doping Agency)
(USADA))
)
Respondent)

**JOINT STIPULATED PARTIAL FACTUAL RESOLUTION AND
ARBITRATION AGREEMENT**

This Joint Stipulated Partial Factual Resolution and Arbitration Agreement (“Agreement”) is entered into by and among the United States Anti-Doping Agency (USADA) and Mr. Jon Jones (“Mr. Jones”), as of September 10, 2018.

WHEREAS, by letter dated August 22, 2017, USADA, notified Mr. Jones that urine sample number 1596822, collected in-competition on 28 July 2017, was reported by the WADA-accredited Sports Medicine Research & Testing Laboratory (hereafter “SMRTL” or the “Laboratory”) as an adverse analytical finding for the M3 metabolite of a prohibited anabolic agent; and

WHEREAS, USADA charged Mr. Jones with a second anti-doping rule violation and seeks the consequences for a second anti-doping rule violation under the rules of the UFC Anti-Doping Policy (UFC ADP); and

WHEREAS, as further described below, Mr. Jones has admitted his second UFC ADP violation (ADPV), cooperated with USADA’s investigation of his ADPV and has provided substantial assistance, all of which has allowed USADA to resolve certain aspects of Mr. Jones’ case and determine an appropriate range for the sanction for Mr. Jones’ second ADPV; and

WHEREAS, counsel for USADA and Mr. Jones have conferred but been unable to agree to what extent a further reduction, if any, in Mr. Jones’ sanction for

his second ADPV should be made based on Mr. Jones' degree of fault and wish this issue to be resolved by a neutral arbitrator following an evidentiary hearing pursuant to the terms of this Agreement and the UFC ADP;

Therefore, USADA and Mr. Jones (the "Parties") stipulate and agree as follows:

AGREED FACTUAL AND LEGAL FINDINGS

I. USADA's Administration of the UFC Anti-Doping Program

1. Since July, 2015 the U.S. Anti-Doping Agency (USADA) has administered the UFC ADP.
2. The UFC ADP is applicable to all athletes under contract with the UFC.
3. As the administrator of the UFC ADP USADA is responsible for, among other things, the drug testing of UFC athletes, the investigation of potential ADPVs, and the results management of all potential ADPVs.
4. Under the UFC ADP USADA has the authority to resolve cases in accordance with the UFC ADP, and in the event that an athlete or other person accused of a rule violation does not agree with USADA's proposed resolution of their case the athlete or other person may elect to have his/her case heard by a neutral arbitrator or arbitrators.
5. As a natural corollary of USADA's authority as the Administrator of the UFC ADP to resolve cases and/or refer cases to arbitration under the UFC ADP, USADA and an athlete or other person accused of an ADPV may agree to resolve certain issues by agreement while leaving others for resolution by an arbitrator appointed under the UFC ADP

II. Jon Jones' Participation in the UFC ADP and First ADPV

6. Jon Jones has been a UFC athlete since 2008 and subject to the UFC ADP since September 2015.
7. Mr. Jones has been tested by USADA a total of 14 times since he first enrolled in the USADA/UFC Registered Testing Pool. A chart of Jones's testing history is attached as Exhibit A and incorporated into this Agreement.

8. On June 16, 2016, Mr. Jones' sample tested positive for clomiphene from an out-of-competition doping control collected by USADA.
9. Clomiphene is a prohibited substance on the Prohibited List of the World Anti-Doping Agency (WADA) and is prohibited at all times under the UFC ADP.
10. As a result of testing positive for clomiphene Mr. Jones was pulled from the card of UFC 200.
11. As clomiphene is a specified substance, a one-year period of ineligibility was the maximum potential sanction for Mr. Jones' first ADPV absent the presence of aggravating circumstances.
12. Mr. Jones contended that his positive test for clomiphene resulted from a contaminated supplement and sought a reduction in the one-year period of ineligibility for his first ADPV.
13. USADA, however, proposed a one-year period of ineligibility, as the appropriate sanction in Mr. Jones' case and Mr. Jones elected to appeal USADA's determination to a three-member arbitration panel.
14. On November 6, 2016, following a full evidentiary hearing, a three-person arbitration panel found Mr. Jones to have committed his first ADPV. A true and correct copy of the arbitration award is attached as Exhibit B to this Agreement.
15. The arbitration panel found that Mr. Jones had met his burden under the UFC ADP to establish by a balance of the probabilities that a product that he took was contaminated and was the cause of his adverse analytical finding, but the arbitration panel nonetheless found that Mr. Jones' conduct warranted the one year period of ineligibility sought by USADA for Mr. Jones' first anti-doping rule violation.
16. Mr. Jones' period of ineligibility for his first ADPV ran from July 6, 2016 until July 5, 2017.

III. Mr. Jones' Second ADPV

17. On July 28, 2017 following his bout in UFC 214, Mr. Jones' in competition urine sample was reported by the Laboratory as an adverse analytical finding for the 4 α -chloro-17 β -hydroxymethyl-17 α -methyl-18-nor-5-androst-13-en-3 α -ol ("M3 metabolite") of the prohibited anabolic agent 4-chlorodehydromethyltestosterone (4-chloro-17 α -methylandrosta-1,4-dien-17 β -ol-3-one; DHCMT) otherwise known as oral Turinabol and/or other structurally related prohibited anabolic agents (e.g., methylclostebol (4-chloro-17 α -methyltestosterone), and/or 4-Chloro-17 α -methyl-androst-4-ene-3 β ,17 β -diol (also known as Halodrol). Because it has a 17-methyl steroid structure, the prohibited substance can be effectively taken orally. The M3 metabolite is known to be excreted after oral ingestion of the prohibited anabolic agents referred to above.
18. The Laboratory did not use a quantitative measurement for its analysis as the prohibited substance is not a threshold substance; however, the data demonstrates that urinary concentration of the M3 metabolite in Mr. Jones' July 28, 2017, sample was relatively low. However, the sensitivity of the method use for detection of the M3 metabolite is extremely high due to the advanced analytical methods used to detect prohibited anabolic agents.
19. The Laboratory estimated that the urinary concentration of the M3 metabolite in this sample was between 20-80 picograms/milliliter (pg/ml).
20. A picogram is one-trillionth of a gram (i.e., 0.000 000 000 001 gram), an extremely low amount.
21. Neither the parent drug, oral Turinabol nor the short and/or medium term metabolites of oral Turinabol were found in Mr. Jones' urine sample.

IV. USADA's Investigation of Mr. Jones' Second ADPV

22. Mr. Jones did not challenge the provisional suspension imposed on August 22, 2017, and has not competed since July 28, 2017.
23. In light of Mr. Jones' positive test, on Tuesday, February 27, 2018, the California State Athletic Commission revoked Mr. Jones' license and fined him \$205,000.

24. Both USADA and Mr. Jones and his representatives have diligently sought to determine the source of Mr. Jones' positive test for the M3 metabolite.
25. USADA has at all times during USADA's investigation found Mr. Jones and his representatives to be open, responsive and helpful.

A. Use of supplements

26. Mr. Jones submitted to multiple interviews by USADA in 2017 and 2018 in which particular emphasis was placed upon the products being used by Mr. Jones in 2017 and particularly upon those substances, which he ingested in proximity to his positive test on July 28, 2017.
27. Mr. Jones' position is that he did not intentionally use a chlorinated steroid and is unaware of what may have caused his positive test.
28. Oral Turinabol, Methyleclobol, and/or 4-Chloro-17 α -methyl-androst-4-ene-3 β ,17 β -diol and/or Halodrol are listed on the labels of some dietary supplements sold in the U.S..
29. Mr. Jones identified 14 supplements he was using in 2017 in advance of his positive test. None of these supplements has a prohibited substance identified on the label of the product.
30. Mr. Jones submitted the 14 products he was using in 2017 for laboratory testing to attempt to identify the presence of prohibited anabolic agents or any of their metabolites; however, none of the supplements submitted for testing by Mr. Jones demonstrated the presence of any prohibited anabolic agents or related metabolites.
31. USADA has found that Mr. Jones took steps following his first ADPV to minimize his risk of committing a second anti-doping rule violation by:
 - Hiring a nutritionist;
 - Consulting with the UFC Director of Athlete Health and Safety on which supplement products he should take or not take;

- Having his representatives review the product labels for dietary supplements he consumed and compare the listed ingredients to substances on the WADA Prohibited List; and
 - Having his representatives conduct internet research concerning the dietary supplements he used.
32. However, Mr. Jones did not take the step of only using third party certified dietary supplements which may have further reduced his risk of testing positive from a contaminated supplement.

B. Mr. Jones' Use of Illicit Drugs and Voluntary Participation in a Rehabilitation Program

33. Mr. Jones candidly admitted to USADA that prior to and for a period of time after the reporting of his second adverse analytical finding on July 28, 2017 Mr. Jones used illicit, so-called "street drugs," including cocaine.
34. As a result, Mr. Jones and his representatives agreed that it was necessary and appropriate for Mr. Jones to engage in a full-time rehabilitation program to regain a level of health and independence even if it meant prolonging resolution of his second anti-doping rule violation.
35. Accordingly, during the pendency of his case Mr. Jones voluntarily entered into a rehabilitation program and completed a month long in-patient program successfully.
36. Mr. Jones' voluntary participation in a rehabilitation program is evidence of Mr. Jones' cooperation and assistance to USADA in seeking the truth behind his adverse analytical finding.

C. Review of Testing History

37. From December 2015 – December 2016, Mr. Jones was tested with no-notice, out of competition by USADA on 6 occasions: December 8, 2015; March 4, 2016; April 4, 2016; April 23, 2016; June 16, 2016 and December 21, 2016. Except for the June 16, 2016 sample which was positive for clomiphene, as explained above, the remaining samples were reported by a WADA-accredited laboratory as negative.

38. In 2017, Mr. Jones was tested with no-notice, out of competition by USADA on 6 occasions: February 15, 2017; April 4, 2017; May 10, 2017; July 6, 2017; July 7, 2017; and October 11, 2017. Each of these samples was reported by a WADA-accredited laboratory as negative.
39. A longitudinal review of Jones' urine and blood passports are normal and show no atypical or adverse passport findings which would be consistent with doping or sample tampering.
40. Given the very low concentration of the M3 metabolite found in Mr. Jones in competition sample from July 28, 2017, USADA closely evaluated other samples taken in relative proximity to the positive sample.
41. USADA collected 8 urine samples from Mr. Jones within a 10-month period as follows:

Date	Sample Outcome
12/21/2016	Negative
2/15/2017	Negative
4/4/2017	Negative
5/10/2017	Negative
7/6/2017	Negative
7/7/2017	Negative
7/28/2017	Non-Negative: 20-80 <u>picograms</u> estimated concentration M3 metabolite
10/11/2017	Negative

42. As indicated in the above chart, Mr. Jones had 2 negative samples in the three-week period prior to his positive test and 5 negative tests within 5 months prior to his positive test.
43. However, excretion data regarding the M3 metabolite is extremely limited and there is no peer reviewed scientific literature firmly establishing urinary excretion patterns or interindividual variability for the M3 metabolite.
44. Mr. Jones' negative test results from July 6 and July 7 appear to be consistent with Mr. Jones' contention that a therapeutic dose of an anabolic agent did not cause his positive test on July 28.
45. Additionally, the regular spacing of tests on Mr. Jones from December 2016 through July 7, 2017, all of which were negative, appears consistent with Mr. Jones' contention that he did not engage in a systematic doping regimen using oral turinabol or any other anabolic agent whose use can be detected through identification of the M3 metabolite.
46. Nevertheless, USADA has determined that no definitive conclusions regarding the source of Mr. Jones' positive test can be drawn from the testing data or other information made available to USADA.

V. **Determination of Degree of Fault Without Proof of the Source of the Banned Substance.**

47. It is rarely the case that an athlete who has tested positive can prove lack of intent to cheat, the precise degree of fault properly attributable to his or her conduct, and/or that his or her positive test was the result of a contaminated product without identifying the likely source of the banned substance.
48. Nevertheless, while identifying the likely source is certainly extremely helpful for an athlete it is not necessarily required for an athlete to be given a reduction in sanction in every circumstance. *See, e.g., USADA v. Blazejack*, AAA Case No. 01-16-0005-1873, ¶ 7.8 (“The Panel agrees . . . that there is a doorway through which an athlete might pass on the issue of establishing lack of intention . . . but that doorway is very narrow indeed.”); *Tarnovschi v. ICF*, CAS 2017/A/5017, ¶ 54 (“the WADA Code intended to leave the door open for an athlete to prove absence of intent even if he does not know, and therefore cannot show, how the prohibited substance entered his system. . . but [the panel] wishes to emphasise that

in its opinion it is unlikely in the extreme that in a doping case under Article 2.1 ADR (presence of a prohibited substance) an athlete will be successful in proving that he acted unintentionally, without establishing the source of the prohibited substance.”); *Fiol v. FINA*, CAS 2016/A/4534, ¶ 37 (“Where an athlete cannot prove source it leaves the narrowest of corridors through such athlete must pass to discharge the burden which lies upon him.”). *In re Cox* (FINA Doping Panel reasoned decision) ¶ 5.45 (“demonstrating such evidence of source will in every case be extremely helpful (and perhaps critical) to meeting the athlete’s required legal onus – but it is not absolutely essential.”)

49. The UFC ADP and the World Anti-Doping Code (the “Code”) upon which the UFC ADP is largely modeled are premised upon the idea that athletes or others who commit intentional anti-doping rule violations, i.e., the “real cheats,” should receive harsher, less flexible penalties than those who inadvertently commit anti-doping rule violations.
50. For instance, in the current version of the Code Article 10.2.3 provides that the term “intentional” is meant to identify those athletes who cheat. The term, therefore, requires that the athlete engage in conduct which he or she knew constituted an anti-doping rule violation or knew there was a significant risk that the conduct might constitute an anti-doping rule violation and manifestly disregard that risk.
51. The UFC ADP rules related to Contaminated Products, Aggravated Circumstances and degree of fault determinations are all, likewise, premised upon the concept that cheating is to be most strongly punished and the presence of a prohibited substance in a sample which is established to have resulted from inadvertent or non-intentional ingestion may generally be (and should be) treated more leniently.
52. The UFC ADP does not explicitly require an athlete to show the origin of the substance to establish a violation was not intentional and to receive a reduced period of ineligibility based on their degree of fault.
53. For the reasons explained above, USADA accepts that Mr. Jones is entitled to present to a neutral arbitrator his evidence and arguments that his case is one where a reduction in his period of ineligibility is warranted based on his degree of fault even without establishing the likely source of the banned substance.

VI. Substantial Assistance

54. Article 10.6.1.1 of the UFC ADP authorizes USADA to reduce all or part of any period of ineligibility based on substantial assistance provided by an individual accused of an ADPV, and USADA has determined that Mr. Jones is entitled to a thirty (30) month reduction in his period of ineligibility pursuant to this rule.
55. As set forth in Article 10.6.1.1 USADA has the sole discretion to suspend all or part of the period of ineligibility or other consequences based on substantial assistance and this determination is not subject to challenge in arbitration.
56. However, USADA has agreed that additional information concerning Mr. Jones' substantial assistance may be presented to the Arbitrator at the hearing provided for below for *in camera* review by the Arbitrator, particularly insofar as this information may relate to credibility determinations to be made by the Arbitrator.
57. As provided in Article 10.6.1.1, USADA's determination regarding substantial assistance is not subject to review or challenge.
58. Additional details regarding the substantial assistance provided by Mr. Jones will not be set forth in the Arbitrator's award.

VII. Determination of Mr. Jones' Sanction Length and Additional Consequences of His Second ADPV.

59. Based on the presence of a metabolite in his sample, Mr. Jones's competitive result from his bout on July 28, 2017 is disqualified pursuant to Article 10.1 of the UFC ADP.
60. Any money forfeited by Jones as a result of this disqualification is due to UFC and not USADA.
61. Pursuant to Article 10.7.1:

For an Athlete or other Person's second Anti-Doping Policy Violation, the period of Ineligibility shall be the greater of:

- (a) six months;

- (b) one-half of the period of Ineligibility imposed for the first Anti-Doping Policy Violation without taking into account any reduction under Article 10.6; or
- (c) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Policy Violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.

The period of ineligibility established above may then be further reduced by the Application of Article 10.6.

- 62. USADA has found that aggravating circumstances are not at issue in this case as Mr. Jones has fully and truthfully cooperated with USADA's investigation.
- 63. Therefore, pursuant to UFC ADP Article 10.7.1 USADA has concluded that Mr. Jones' maximum possible period of ineligibility under the UFC ADP is forty-eight (48) months, which is twice the period of Ineligibility otherwise applicable to his second ADPV treated as if it were a first violation and without taking into account any reduction under Article 10.6.
- 64. USADA has determined that Mr. Jones' sanction should be reduced based on substantial assistance pursuant to Article 10.6.
- 65. USADA has in its sole discretion assessed a thirty (30) month reduction in Mr. Jones' period of ineligibility based on substantial assistance. As provided in Article 10.6.1.1 Mr. Jones is under a continuing duty of cooperation in relation to his substantial assistance and USADA reserves the right in USADA's sole discretion to reinstate any part of this 30 month reduction in the event Mr. Jones fails to continue to cooperate and/or to provide the complete and credible substantial assistance upon which the suspension of a part of his period of ineligibility is based.
- 66. As a consequence of the foregoing reduction based on substantial assistance (and absent any subsequent reinstatement of the portion of Mr. Jones' sanction that has been suspended based on substantial assistance) Mr. Jones' maximum period of ineligibility for his second ADPV shall be 18 months.

67. To reach a final determination of Mr. Jones' period of ineligibility Article 10.5.2 of the UFC ADP must be applied to the circumstances of Mr. Jones' case.
68. Article 10.5.2 provides that "the otherwise applicable period of Ineligibility may be reduced based on the Athlete or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-quarter of the period of Ineligibility otherwise applicable."
69. Mr. Jones therefore is eligible for a reduction down to one-quarter of the period of ineligibility otherwise applicable or 12 months pursuant to Article 10.5.2.
70. Therefore, the Arbitrator shall, pursuant to the arbitration agreement, as set forth below, determine the appropriate period of Mr. Jones' period of ineligibility between a maximum of 18 months and 12 months.
71. Because Mr. Jones submitted to a rehabilitation program and a Cooperation Agreement with USADA, the parties have agreed his sanction will start on July 28, the date of sample collection pursuant to UFC ADP Article 10.11.1.
72. The final determination of sanction length by the neutral arbitrator shall be based solely upon the issue of whether Mr. Jones' maximum 18-month sanction can be reduced any further under Article 10.5.2 of the UFC ADP based on Mr. Jones' degree of fault and the appropriate degree of reduction within the range set forth above.
73. In addition, Mr. Jones is reminded, and the parties agree, that the State of California will have its own process to determine the appropriate outcome of Mr. Jones' case based on the rules of the California Commission. The California process is not controlled by this Agreement and neither USADA nor any other Party or third party has made any representation regarding the California process.
74. In the event the State of California were to impose a lengthier period of ineligibility than that ultimately determined under this Agreement Mr. Jones would be required to serve the full extent of that period of ineligibility before returning to competition within the UFC.

75. Finally, the UFC ADP provides that a third ADPV will result in a minimum period of ineligibility of double the period of ineligibility for a second violation and up to lifetime ineligibility. Nothing herein shall be construed as altering the applicable penalties for a third ADPV.

ARBITRATION AGREEMENT

VIII. Agreement to Arbitrate Issue of Any Further Sanction Reduction Based on Degree of Fault

76. Mr. Jones has voluntarily accepted the foregoing sanction range determined by USADA and knowingly and voluntarily limited his right to contest USADA's determination as provided herein.
77. All issues pertaining to any further sanction reduction will be heard in a single consolidated hearing (the "Hearing") to be conducted in the United States by a single arbitrator who shall be appointed in the manner set forth in the current UFC ADP and who shall agree to apply the terms of this Agreement and conducted the Hearing provided for herein by executing the acceptance by arbitrator set forth below.
78. Except for the manner of appointment of the arbitrator and the provisions agreed to herein, all other substantive and procedural rules for the Hearing shall be those set forth in the UFC ADP.
79. Any and all claims and defenses available to Mr. Jones in relation to his degree of fault may be raised in the Hearing except that, the jurisdiction and/or authority of the Arbitrator to hear the case, the Laboratory findings, the provisions agreed to herein, the determination of USADA regarding the reduction attributable to Mr. Jones' substantial assistance, and the determination by USADA to pursue the charges against Mr. Jones shall not be contested.
80. There shall be no appeal from an award or decision of the Arbitrator, which shall be final and binding upon the parties.
81. This Agreement is not confidential and may, following the conclusion of the Hearing, be provided by USADA, UFC, Mr. Jones or the Arbitrator to any person or entity and may be referenced in the Arbitrator's Award. This Agreement shall not be publicly disclosed until after the conclusion of the Hearing. A copy of this arbitration agreement may be used as an original.

The foregoing has been agreed to by the undersigned, who are fully authorized to bind the parties they represent.

JON JONES

UNITED STATES ANTI-DOPING AGENCY

By: Paul Greene
Paul Greene
Legal Counsel

By: William Bock
William Bock
General Counsel

ACCEPTANCE BY ARBITRATOR:

Having reviewed the foregoing Joint Stipulated Partial Factual Resolution and Arbitration Agreement between the U.S. Anti-Doping Agency and Jon Jones, I hereby accept the appointment to hear evidence to be presented by USADA and Mr. Jones and agree to make a determination regarding whether any further sanction reduction is appropriate based on the stipulated facts set forth above and upon the evidence to be presented at the Hearing in accordance with the terms of the UFC ADP. I accept to issue a partial award without reasons within three (3) days of the Hearing and my final reasoned award within ten (10) days of the Hearing.

By: Richard McLaren
Richard McLaren
Arbitrator

Date: September 13, 2018