

**MAJOR LEAGUE BASEBALL'S  
JOINT DRUG PREVENTION AND TREATMENT PROGRAM**

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## **MAJOR LEAGUE BASEBALL'S JOINT DRUG PREVENTION AND TREATMENT PROGRAM**

Major League Baseball's Joint Drug Prevention and Treatment Program (the "Program") was established by agreement of the Office of the Commissioner of Baseball and the Major League Baseball Players Association (the "Commissioner's Office," the "Players Association" and, jointly, the "Parties") to: (i) educate Players on the risks associated with the use of Prohibited Substances (defined in Section 2 below); (ii) deter and end the use of Prohibited Substances by Players; and (iii) provide for, in keeping with the overall purposes of the Program, an orderly, systematic, and cooperative resolution of any disputes that may arise concerning the existence, interpretation, or application of this Program. Except as otherwise provided herein, any dispute arising under the Program shall be subject to resolution through the Grievance Procedure of the Basic Agreement.

The Program covers: (i) all Players on the Major League Clubs' 40-man rosters; (ii) any Player who becomes a free agent under Article XIX or Article XX of the Basic Agreement; and (iii) any Player who is released from a Major League roster unless the Player voluntarily retires or signs a Minor League contract or a contract with a club in an unaffiliated professional baseball league ("Players").

### **1. OVERSIGHT AND ADMINISTRATION**

#### **A. Independent Program Administrator**

##### **1. Selection and Tenure**

(a) The Parties shall jointly select an individual to serve as the Independent Program Administrator ("IPA"). Such individual shall have no affiliation with the Commissioner's Office, any Major League Club or the Players Association.

(b) The IPA shall be appointed for an initial term commencing with the Effective Date of the Program and ending on December 31, 2015 ("Initial Term"). If neither Party provides written notice to the other by October 31, 2015 of an intention to replace the IPA, the IPA shall serve an additional term of three (3) years ("Subsequent Term"). Thereafter, the IPA shall continue to serve successive three (3) year Subsequent Terms until either Party serves the other with written notice to replace the IPA at least sixty (60) days prior to the expiration of the IPA's term. If the IPA resigns, or is removed pursuant to the procedures set forth in Sections 1.A.1(c), 1.A.1(d), 1.A.1(e) and 1.A.1(f) below prior to the expiration of the Initial Term or a Subsequent Term, the new IPA shall be appointed for a term that expires on the third December 31 following the appointment.

(c) During the Initial Term or any Subsequent Term, the IPA may be removed for acting in a manner inconsistent with the Program or for misconduct that affects his ability to perform as IPA. A Party shall immediately notify the other (and the Panel Chair) if it believes that grounds exist for the removal of the IPA. The Parties will then jointly serve written notice on the IPA of their intention to remove him. Within seven (7) days of the service on the IPA of the written notice, the Parties shall attempt to agree on an Interim IPA who shall serve until the IPA is reinstated or until a new IPA begins his appointed term. The Interim IPA shall have no affiliation with the Commissioner's Office, any Major League Club or the Players Association. In the event the Parties are unable to agree on an Interim IPA within the seven (7) day period, they shall present a list of candidates to the Panel Chair, as defined in Article XI(A)(9) of the Basic Agreement, by 5:00 P.M. ET on the first business day following the end of the seven (7) day period. Within five (5) days of receipt of the list, the Panel Chair, after consultation with the Parties, will select the Interim IPA.

(d) Within seven (7) days of receipt by the IPA of a written notice of removal, a proceeding before the Arbitration Panel, as defined in Article XI(A)(9) of the Basic Agreement, shall be commenced to determine whether grounds exist for the removal of the IPA. Both Parties and the IPA shall have the right to present evidence to the Arbitration Panel, which shall render a decision within ten (10) days of the close of the hearing.

(e) If the IPA is removed by decision of the Arbitration Panel, the Parties shall have thirty (30) days to attempt to select a successor. If the Parties are unable to select a successor by the 30<sup>th</sup> day, they shall present a list of candidates to the Panel Chair by 5:00 P.M. ET on the first business day following the end of the 30-day period. Within ten (10) days of receipt of the list, the Panel Chair, after consultation with the Parties, will select the new IPA.

(f) If an IPA's term is not renewed by the Parties, or an IPA resigns prior to the expiration of his term, the Parties shall appoint an Interim IPA who shall serve until a permanent IPA is selected. In the circumstance when an IPA's term is not renewed, the Parties shall attempt to agree by December 1 on an Interim IPA who shall serve in the event that a permanent IPA is not selected by the Parties by December 31. In the circumstance when an IPA resigns, the Parties shall attempt to agree on an Interim IPA within seven (7) days of notification by the IPA of his or her resignation decision. In the event the Parties are unable to agree on an Interim IPA by December 1 (in the case of a non-renewal), or within the seven (7) day period (in the case of a resignation), they shall present a list of candidates to the Panel Chair by 5:00 P.M. ET on the first business day following the end of the applicable period. Within five (5) days of receipt of the list, the Panel Chair, after consultation with the Parties, will select the Interim IPA.

2. The IPA shall have the following duties and responsibilities:
  - (a) To administer the Program's testing requirements, from the scheduling of the collection of urine and blood specimens (consistent with Section 3 below) to the reporting of test results to the Parties;
  - (b) To monitor, maintain and supervise the collection procedures, laboratory analysis and testing protocols set forth in the Collection Procedures and Testing Protocols of the Program;
  - (c) To audit the test results of the Program and to review all aspects of the operation of the Program, including the performance of Comprehensive Drug Testing, Inc. ("CDT") and the Montreal Laboratory (as defined in Section 1.D below);
  - (d) To communicate with CDT and the Montreal Laboratory regarding the collection, transmission and analysis of urine and blood specimens;
  - (e) To administer the Therapeutic Use Exemption process as set forth in Section 3.I below;
  - (f) To develop, in consultation with the Parties, educational programs and materials supporting the objectives of the Program and consistent with Section 9 below;
  - (g) To prepare and publicly release a report by December 1 of each year that sets forth the number of tests conducted, the number of adverse analytical findings reported by the Montreal Laboratory that resulted in discipline, the substances involved in the adverse analytical findings that resulted in discipline, the number of non-analytical positives that resulted in discipline, and the number of Therapeutic Use Exemptions broken down by category of medication (ADD/ADHD, hypertension, etc.). In addition, in the December 1, 2015 public report, the IPA shall include the total number of in-season tests and off-season tests conducted during the previous five (5) years; and
  - (h) To take any and all other reasonable actions necessary to ensure the proper administration of the Program and confidentiality of Program records.
3. The IPA shall have no authority to discipline Players for violations of the Program. All such authority shall repose in the Commissioner's Office. Other than with respect to determinations made under Sections 3.F.2, 3.F.3 and 3.I, the IPA shall have no authority to investigate or make findings with respect to possible violations of the Program.

4. The IPA will schedule quarterly joint status conferences with the Parties to provide information regarding the operation of the Program, including a review of the collection procedures and testing protocols, and any proposals regarding changes thereto. The IPA may invite CDT and/or the Medical Testing Officer to participate in these conferences.

5. Other than as expressly authorized in the Program, the IPA shall discuss the Program and its operation only with representatives of the Parties.

## **B. Treatment Board**

1. The Treatment Board shall be responsible for supervising the treatment of Players who are involved or suspected to be involved with a Drug of Abuse as defined in Section 2.A. below. As described in Section 4 of the Program, the Treatment Board shall be responsible for the evaluation and treatment of Players who use, or are suspected of using, Drugs of Abuse, including evaluating such Players; developing, or participating in the development of, individualized programs for Players when appropriate (“Treatment Programs”); and monitoring and supervising the progress of Players in Treatment Programs and compliance with such Treatment Programs.

2. The Treatment Board shall be composed of one medical representative (“Medical Representative”) from each of the Parties (each of whom shall be a licensed physician expert in the diagnosis and treatment of chemical use and abuse problems), and one other representative (“Party Representative”) from each of the Parties (each of whom shall be a licensed attorney). The respective representatives shall be appointed and removed by the Commissioner’s Office or the Players Association at will and shall not serve a minimum term.

3. The Treatment Board shall endeavor to reach a unanimous decision with respect to all matters committed to it. When a unanimous decision cannot be reached, a majority decision shall govern. If a majority decision cannot be reached, the following procedures will be followed:

(a) The Party Representatives shall select two (2) individuals to be available as fifth members of the Treatment Board (the “Fifth Member”). The Fifth Members shall be labor arbitrators who are affiliated with either the American Arbitration Association or the National Academy of Arbitrators. The two (2) individuals selected as potential Fifth Members will serve for one-year terms beginning on January 1 and ending on December 31. Unless a Party notifies the other in writing by October 31 of each year of its intent to replace a Fifth Member, the Fifth Member’s term will be automatically renewed for an additional year.

(b) If the Treatment Board cannot reach a majority decision on any issue, either Party shall have the right to appoint a Fifth Member to resolve the dispute by providing written notice to the other Party. The Fifth Member shall be appointed within twenty-four (24) hours of the time that written notice is served by the Party requesting the appointment. Unless a provision of the Program provides for a specific time period (e.g., Reasonable Cause Testing), the Fifth Member shall hold a telephone conference with the other members of the Treatment Board as soon as practicable following his or her appointment, and a vote of the Treatment Board (including the Fifth Member) will occur within a time frame agreed upon by the Parties, or as determined by the Fifth member.

(c) The Parties shall alternate the appointment of the two (2) Fifth Members. However, if one of the Fifth Members is not available to resolve the dispute in the time frame set forth in subparagraph 3(b) above, and the other Fifth Member is available, the Fifth Member who is available will be appointed absent a contrary agreement by the Parties.

**C. Collection Services**

For the term of this Program, CDT will collect all urine and blood specimens under the Program and will be responsible for the transport of such specimens.

**D. Laboratory Analysis**

For the term of this Program, laboratory analysis under the Program shall be performed by the World Anti-Doping Agency certified laboratory known as Laboratoire de Controle du Dopage (IRNS – Institut Armand-Frappier) in Montreal, Quebec, Canada (the “Montreal Laboratory”).

**E. Medical Testing Officer**

1. The Director of the Montreal Laboratory shall be the Medical Testing Officer and shall conduct all of the testing of Player specimens collected pursuant to Sections 3 and 4 below.

2. The Medical Testing Officer shall also make the determinations called for in Section 3.H of the Program and, by notification to the IPA, shall advise on other scientific issues associated with the testing required by the Program; provided, however, that, unless jointly requested by the Parties, the Medical Testing Officer shall not test any specimen or substance other than urine and blood specimens collected from Players pursuant to Sections 3 and 4 below.

**F. Expert Panel on ADD/ADHD**

The Parties shall appoint three (3) independent psychiatrists with an expertise in adult ADD/ADHD to serve on the Expert Panel on ADD/ADHD (“Expert Panel”). The members of the Expert Panel shall serve one-year terms beginning on January 1 and ending on December 31. The Parties shall also select one of the members of the Expert Panel to serve as the Chairperson. Unless a Party notifies the other in writing on or before October 31 of each year of its intent to replace a member of the Expert Panel, the member’s term will be automatically renewed for an additional year. The Expert Panel shall perform the functions set forth in Section 3.I of the Program.

**G. Medical Advisory Panel**

The Parties shall appoint two (2) board-certified endocrinologists, one board-certified physician with expertise in general medicine, and one board-certified physician with expertise in sports medicine to the Medical Advisory Panel. The members of the Medical Advisory Panel shall serve one-year terms beginning on January 1 and ending on December 31. Unless a Party notifies the other in writing on or before October 31 of each year of its intent to replace a member of the Medical Advisory Panel, the member’s term will be automatically renewed for an additional year. The Medical Advisory Panel shall perform the functions set forth in Section 3.I of the Program.

**H. Annual Review of Program**

Within thirty (30) days of the conclusion of the World Series, the Parties will meet with the IPA, the Medical Testing Officer, a representative from CDT, and the Chairperson of the Expert Panel regarding potential changes to the Program based on developments during the previous year. The Parties shall have an obligation to meet and confer on any recommendations or suggestions offered by the IPA, Medical Testing Officer, CDT representative, or Chairperson of the Expert Panel, or offered by either Party, in an effort to agree on the implementation of those recommendations or suggestions.



## **2. PROHIBITED SUBSTANCES**

All Players shall be prohibited from using, possessing, selling, facilitating the sale of, distributing, or facilitating the distribution of any Drug of Abuse, Performance Enhancing Substance and/or Stimulant (collectively referred to as “Prohibited Substances”).

### **A. Drugs of Abuse**

Any and all drugs or substances included on Schedules I and II of the Code of Federal Regulations’ Schedule of Controlled Substances (“Schedule I or Schedule II”), as amended from time to time, shall be considered Drugs of Abuse covered by the Program; provided, however, that the drugs and substances defined as Stimulants in Section 2.C below shall be treated as Stimulants rather than as Drugs of Abuse where expressly indicated in the Program. The following substances and their analogs are covered by the Program as Drugs of Abuse, their Schedule classification notwithstanding:

1. Natural Cannabinoids (e.g., THC, Hashish and Marijuana)
2. Synthetic THC and Cannabimimetics (e.g., K2 and Spice)
3. Cocaine
4. LSD
5. Opiates (e.g., Oxycodone, Heroin, Codeine, and Morphine)
6. MDMA (Ecstasy)
7. GHB
8. Phencyclidine (PCP)

### **B. Performance Enhancing Substances**

Any and all anabolic androgenic steroids covered by Schedule III of the Code of Federal Regulations’ Schedule of Controlled Substances (“Schedule III”), as amended from time to time, and the categories of hormones and agents with antiestrogenic activity that are set forth in Nos. 68 - 73 below, shall be considered Performance Enhancing Substances covered by the Program. Anabolic androgenic steroids and agents (including hormones) with antiestrogenic activity, that may not be lawfully obtained or used in the United States (including, for example, “designer steroids”) also shall be considered Performance Enhancing Substances irrespective of whether they are covered by Schedule III. The following is a non-exhaustive list of substances that shall be considered Performance Enhancing Substances covered by the Program:

1. Androstadienedione
2. Androstenediol
3. Androstenedione
4. Androstatrienedione (ATD)
5. Androstenediol
6. Androstenedione
7. Androstenedione (6-OXO)
8. Bolandiol
9. Bolasterone

10. Boldenone
11. Boldione
12. Calusterone
13. Clenbuterol
14. Clostebol
15. Danazol
16. Dehydrochloromethyltestosterone
17. Desoxy-methyltestosterone
18.  $\Delta^1$ -dihydrotestosterone
19. 4-dihydrotestosterone
20. Drostanolone
21. Epi-dihydrotestosterone
22. Epi-testosterone
23. Ethylestrenol
24. Fluoxymesterone
25. Formebolone
26. Furazabol
27. 13 $\alpha$ -ethyl-17 $\alpha$ -hydroxygon-4-en-3-one
28. Gestrinone
29. 4-hydroxytestosterone
30. 4-hydroxy-19-nortestosterone
31. Mestanolone
32. Mesterolone
33. Methandienone
34. Methandriol
35. Methasterone (Superdrol)
36. Methenolone
37. Methyl-dienolone
38. Methyl-nortestosterone
39. Methyltestosterone
40. Methyltrienolone (Metribolone)
41. Mibolerone
42. 17 $\alpha$ -methyl- $\Delta^1$ -dihydrotestosterone
43. Nandrolone
44. Norandrostenediol
45. Norandrostenedione
46. Norbolethone
47. Norclostebol
48. Norethandrolone
49. Oxabolone
50. Oxandrolone
51. Oxymesterone
52. Oxymetholone
53. Prostanazol
54. Quinbolone
55. Selective Androgen Receptor Modulators (SARMs)

56. Stanozolol
57. Stenbolone
58. Testosterone
59. Tetrahydrogestrinone
60. Tibolone
61. Trenbolone
62. Zeranol
63. Zilpaterol
64. Any salt, ester or ether of a drug or substance listed above
65. Human Growth Hormone (hGH)
66. Insulin-like Growth Factor (IGF-1), including all isomers of IGF-1 sometimes referred to as Mechano Growth Factors
67. Gonadotrophins (including LH and hCG)
68. Aromatase Inhibitors, including Anastrozole, Letrozole, Aminoglutethimide, Exemestane, Formestane, and Testolactone
69. Selective Estrogen Receptor Modulators, including Raloxifen, Tamoxifen and Toremifen
70. Other Anti-estrogens, including Clomiphene, Cyclofenil, and Fulvestrant

**C. Stimulants**

The following substances shall be considered Stimulants covered by the Program:

1. Adrafinil
2. Amfepramone (Diethylpropion)
3. Amiphenazole
4. Amphetamine
5. Amphetaminil
6. Armodafinil
7. Benfluorex
8. Benzphetamine
9. Benzylpiperazine
10. Bromantan
11. Carphedon
12. Cathine (Norpseudoephedrine)
13. Chloroamphetamine
14. Clobenzorex
15. Cropropamide
16. Crotetamide
17. Dimethylamphetamine
18. Ephedrine
19. Etamivan
20. Ethylamphetamine
21. Etilefrine
22. Famprofazone
23. Fenbutrazate

24. Fencamfamine
25. Fenethylline
26. Fenfluramine
27. Fenproporex
28. Furfenorex
29. Heptaminol
30. Isometheptene
31. Meclofenoxate
32. Mefenorex
33. Mesocarb
34. Mephentermine
35. Methamphetamine (Methylamphetamine)
36. Methylenedioxyamphetamine
37. Methylephedrine
38. Methylhexaneamine (Dimethylamylamine, DMAA)
39. Methylphenidate
40. Modafinil
41. Nikethamide
42. Norfenefrine
43. Norfenfluramine
44. Octopamine
45. Oxilofrine
46. Pemoline
47. Pentetrazol
48. Phentermine
49. Phenpromethamine
50. Prenylamine
51. Prolintane
52. Phendimetrazine (Phenmetrazine)
53. Propylhexedrine
54. Pyrovalerone
55. Sibutramine
56. Tuaminoheptane

**D. Adding Prohibited Substances to the Program**

During the term of the Program, Prohibited Substances may be added to this Section 2 by the agreement of the Parties, except that the addition by the federal government of a substance to Schedule I, II or III shall automatically result in that substance being added to this Section 2, as a Drug of Abuse, Performance Enhancing Substance or Stimulant, as appropriate.

### **3. TESTING**

#### **A. Performance Enhancing Substances and Stimulants**

1. In-Season Testing. During each championship season covered by the Program (which, for purposes of this Section only, shall commence with the first spring training voluntary reporting date and conclude with the final day of the post-season), all Players shall be tested for the presence of Performance Enhancing Substances and Stimulants as follows:

(a) Each Player shall be tested upon reporting to spring training. Urine specimen collections under this Section 3.A.1(a) will be made in conjunction with the Clubs' spring training physicals, to the extent practicable for CDT and taking into consideration the facilities utilized by the Club for its spring training physicals.

(b) All Players will be selected for an additional unannounced urine specimen collection on a randomly selected date.

2. Additional Random Testing. In addition to the testing conducted pursuant to Section 3.A.1 above, an additional 1,400 tests shall be conducted of randomly-selected Players at unannounced times for the presence of Performance Enhancing Substances and Stimulants. Of these additional tests, the IPA may conduct collections at unannounced times during the off-season (i.e., the period not covered by the definition of the championship season contained in Section 3.A.1); provided, however, that any off-season collections shall only be for the presence of Performance Enhancing Substances. The IPA shall conduct up to 200 off-season tests during the 2012-13 off-season; up to 225 off-season tests during the 2013-14 off-season; and up to 250 off-season tests for all other off-seasons covered by this Program. Each Player shall remain subject to additional tests under this Section 3.A.2 regardless of the number of tests taken by the Player during any calendar year.

3. Blood Collections for hGH

(a) Each Player will be subject to an unannounced blood collection during spring training. The blood specimen will be tested for the presence of hGH only.

(b) Reasonable cause testing as described in Section 3.C.1 of the Program may include blood testing for the presence of hGH only.

(c) The IPA may schedule unannounced, random testing for hGH during the off-season. Any off-season blood specimen collections will be conducted with urine specimen collections.

(d) The Parties will jointly study additional issues related to blood testing for hGH, including further examination of the science; improvements in collection and testing procedures; and the possibility of implementing in-season testing. The Parties recognize the desirability of using the best available science and developing a comprehensive program of testing that is consistent with the unique demands of daily competition in Major League Baseball. Among other steps, each Party will appoint an additional expert on the scientific issues related to hGH testing and the Parties will conduct experimental collections on game days, on a voluntary basis, commencing in spring training 2012, with specimens discarded after collection with no analysis.

4. Any follow-up tests conducted pursuant to Section 3.D below, shall not count against the number of tests permitted pursuant to Section 3.A.1 and 3.A.2 above.

5. Testing will be conducted only pursuant to a scientifically-validated test. If a scientifically-validated test is not currently available for a Prohibited Substance, but becomes available during the term of this Program, testing will be conducted for that Prohibited Substance.

6. Consistent with the terms of the Program, and unless otherwise specified, the schedule and timing of the testing shall be conducted under the direction of the IPA.

## **B. Drugs of Abuse**

Except as set forth in Sections 3.C.2, 4.A or 4.B, Players shall not be subject to testing for any Drugs of Abuse. Testing ordered by the Treatment Board under Section 3.C below or as part of a Treatment Program established under Section 4.B below may be conducted on a continuing basis as determined by the Treatment Board.

## **C. Reasonable Cause Testing**

### **1. Performance Enhancing Substances and Stimulants**

(a) In the event that either Party has information that gives it reasonable cause to believe that a Player has, in the previous 12-month period, engaged in the use, possession, sale or distribution of a Performance Enhancing Substance (including hGH) or Stimulant, the Party shall provide the other Party, either orally or in writing, with a description of its information (“Reasonable Cause Notification”), and the Player will be subject to an immediate urine and/or blood specimen collection, or a program of testing, as determined by the IPA, to commence no later than 48 hours after the Reasonable Cause Notification was provided.

(b) Notwithstanding the foregoing, if a Party receiving Reasonable Cause Notification disputes the existence of reasonable cause, that Party shall have the right to commence a proceeding before the Panel Chair within 48 hours after receipt of the Reasonable Cause Notification, and the Panel Chair will determine

whether reasonable cause exists to subject the Player to testing. No reasonable cause testing of the Player will occur until the completion of the proceeding before the Panel Chair. The proceeding before the Panel Chair may be conducted by conference call at the request of either Party, and shall be completed within 48 hours from the time the Panel Chair was notified of the existence of the dispute. The Panel Chair shall issue his decision within 24 hours of the completion of the proceeding, and if the Panel Chair finds that reasonable cause exists, the testing or testing program shall commence within 48 hours of his decision.

2. Drugs of Abuse

(a) In the event that either Party has information that gives it reasonable cause to believe that a Player has, in the previous 12-month period, engaged in the use, possession, sale or distribution of a Drug of Abuse, the Party shall provide Reasonable Cause Notification to the Treatment Board, and the Player will be subject to an immediate test, or program of testing, as determined by the Treatment Board, to commence no later than 48 hours after the Reasonable Cause Notification was provided.

(b) Notwithstanding the foregoing, if the Treatment Board fails to reach a majority vote on the existence of reasonable cause, a Fifth Member shall cast the decisive vote on whether reasonable cause exists to subject the Player to testing. No reasonable cause testing of the Player will occur until the Fifth Member casts his or her vote. The Treatment Board will conduct a conference call within 48 hours after the appointment of the Fifth Member. The Fifth Member shall issue his or her decision within 24 hours of the completion of the conference call, and if the Fifth Member finds that reasonable cause exists, the testing or testing program shall commence within 24 hours of his or her decision.

**D. Follow-Up Testing**

A Player who is disciplined under Sections 7.A, 7.B, 7.E, 7.F or 7.G, or has otherwise violated the Program through the use or possession of a Performance Enhancing Substance or Stimulant, shall be subject to the following mandatory follow-up testing program, administered by the IPA:

1. Performance Enhancing Substances: Three (3) unannounced tests over the twelve (12) months following the violation that resulted in the follow-up testing;
2. Stimulants: Six (6) unannounced tests over the twelve (12) months following the violation that resulted in the follow-up testing.

Follow-up testing shall be in addition to any testing conducted pursuant to Section 3 above or Section 4.B below. A positive test result from any follow-up test shall be treated as any other positive test result from a test conducted pursuant to Section 3.A

above, including for disciplinary purposes. Follow-up testing shall be for the presence of Performance Enhancing Substances and Stimulants, and not for Drugs of Abuse.

#### **E. Collection Procedures and Testing Protocols**

All testing conducted pursuant to the Program shall be conducted in compliance with the Collection Procedures and Testing Protocols of the Program and the protocols of the Montreal Laboratory.

#### **F. Positive Test Results**

Any test conducted under the Program will be considered “positive” under the following circumstances:

1. Except as set forth in Section 3.H, 3.I or 8.B below, if any substance identified in the test results meets the levels set forth in the Collection Procedures and Testing Protocols of the Program.
2. A Player refuses or, without good cause, fails to take a test pursuant to Section 3.A, 3.C, or 3.D, or otherwise engages in activity that prevents the collection of a specimen for testing as contemplated by the Program.
3. A Player attempts to substitute, dilute, mask or adulterate a specimen or in any other manner alter a test.

The determination of whether a test is “positive” under Section 3.F.2 and 3.F.3 shall be made by the IPA. The presence of a diuretic or masking agent in a Player’s specimen shall result in the Player being re-tested. The presence of a diuretic or masking agent in a Player’s specimen shall be treated as a positive test result if the IPA determines that the Player intended to avoid detection of his use of a Prohibited Substance.

#### **G. Notification**

The IPA shall notify the Parties upon receipt of a positive test result. The Players Association shall notify the Player of a positive test result as promptly as possible, but in no event later than 72 hours from the IPA’s notification to the Parties of the positive test result, or, in the case of a non-analytical positive, the Commissioner’s Office’s notification of the Association.

#### **H. Multiple Disciplines for the Same Use**

Players shall not be subjected to multiple disciplines as a result of the same use of a Prohibited Substance. Whenever a Player alleges that a positive test result under the Program is the result of the same use of a Prohibited Substance that produced a prior positive test result (under either this Program or Major League Baseball’s Minor League Drug Prevention and Treatment Program), the IPA shall refer the matter to the Medical



Testing Officer for a determination as to whether, in the Medical Testing Officer's opinion, the subsequent positive test result was from the same use. The Medical Testing Officer should treat the subsequent positive test as resulting from a separate use of a Prohibited Substance only if she concludes with reasonable certainty that it was not from the same use of that substance that caused the initial positive test. (See Section 8.C.1(b) below.)

## **I. Therapeutic Use Exemption**

1. A Player authorized to ingest a Prohibited Substance through a valid, medically appropriate prescription provided by a duly licensed physician shall receive a Therapeutic Use Exemption ("TUE"). To be "medically appropriate," the Player must have a documented medical need under the standards accepted in the United States or Canada for the prescription in the prescribed dosage. A specimen which is found to contain a Prohibited Substance will not be deemed a positive test result if such specimen was provided by a Player with an effective TUE for that substance. A Player with a TUE for a Prohibited Substance does not violate the Program by possessing or using that substance.

2. A Player seeking a TUE must notify, or cause the issuing physician to notify, the IPA of the existence of the prescription. Whenever requested to do so by the IPA, the Player shall provide, or cause the issuing physician to provide, documentation supporting the issuance of the prescription. If the issuing physician is not duly licensed in the United States or Canada, the IPA shall request that the Player provide such documentation. The IPA shall notify the Player and the Players Association of any request for documentation.

3. The IPA shall adhere to the following process when ruling on new TUE applications for a Stimulant:

(a) For TUE applications in which the Player: (i) was diagnosed with ADD/ADHD by an MLB-Certified Clinician through the use of the Conners' Adult ADHD Diagnostic Interview for DSM-IV ("CAADID"), or is diagnosed by an MLB-Certified Clinician for another neurobehavioral or psychological condition requiring treatment with a Stimulant; and (ii) submits all required TUE documentation in support of the application, the IPA may grant the application without referring the application to the Expert Panel. The IPA may speak to the MLB-Certified Clinician, and request that the MLB-Certified Clinician provide additional information, in determining the disposition of the application. If the IPA is not prepared to grant the application, he shall refer the application to the Expert Panel, and the procedures described in Section 3.I.3(b) below will be followed.

(b) For TUE applications in which the Player was not diagnosed by an MLB-Certified Clinician, or in which the IPA is not prepared to grant the application pursuant to Section 3.I.3(a) above, the IPA shall, after the Player submits all required documentation, refer the application to the Chairperson of the Expert Panel, and the Chairperson will assign the application to a member of the Expert

Panel. In evaluating each application, the Expert Panel member shall have the authority to: (i) request additional information from the Player or his physician; (ii) request that the Player's physician perform additional diagnostic tests; (iii) request to speak to the Player and/or his family members; and/or (iv) request that the Player be evaluated by an MLB-Certified Clinician. The Chairperson shall report to the IPA the Expert Panel member's recommendation regarding whether the TUE should be granted or denied. If the Expert Panel member recommends that a TUE application be denied, the Expert Panel member shall provide a concise written summary of his or her reasons, including whether the information submitted to the Expert Panel was insufficient to support a diagnosis or the use of the prescribed medication. The IPA will then issue a denial pursuant to Section 3.I.6 below. The Player retains his right to challenge any denial pursuant to Section 8.C of the Program. If the Expert Panel member recommends that the TUE be granted, the IPA will grant the application.

4. The IPA shall adhere to the following process when ruling on new TUE applications for non-Stimulants:

(a) The IPA will refer new TUE applications to the member of the Medical Advisory Panel in the appropriate specialty. If no member of the Medical Advisory Panel has the appropriate expertise to evaluate the TUE application, the IPA may refer the matter to an outside expert of his choosing.

(b) The member of the Medical Advisory Panel assigned the application shall have the authority to: (i) request additional information from the Player or his physician; (ii) request that the Player's physician perform additional diagnostic tests; (iii) request to speak to the Player; and/or (iv) request that the Player be evaluated by a specialist in a particular area of medicine.

(c) The member of the Medical Advisory Panel who reviewed the application shall provide a recommendation to the IPA regarding whether the TUE should be denied or granted. If the Medical Advisory Panel member recommends that a TUE application be denied, he or she shall provide a concise written summary of the reasons, including whether the information submitted to the Panel member was insufficient to support the diagnosis of the condition or use of the prescribed medication. The IPA is not required to accept the recommendation of the Medical Advisory Panel Member, but must disclose to the Parties when a TUE decision differs from the recommendations of the Medical Advisory Panel and provide a concise written summary of the reasons he or she is not accepting the recommendation. The Player retains his right to challenge any denial pursuant to Section 8.C of the Program.

5. The IPA shall have authority to determine whether to grant an application to renew an existing TUE, or to terminate an existing TUE, without referring the application to the Expert Panel or Medical Advisory Panel. The Player retains his right to challenge any denial pursuant to Section 8.C of the Program.

6. The IPA shall report the determination on a TUE application to the Player and to the Parties and, in the event of a denial, forward to the Parties the documentation received and all other material reviewed in reaching that determination. (See Section 8.C.1(c) below.) A Player may challenge any denial pursuant to Section 8.C of the Program.

7. A TUE shall be effective from the date the Player notified, or caused the issuing physician to notify, the IPA of the existence of the prescription involved, and shall not be effective for any use or possession of a Prohibited Substance prior to that date. A Player who is determined not to qualify for a TUE may not challenge a determination that he violated the Program by contending, in connection with a “no fault or negligence” defense or otherwise, that he believed he would qualify or had qualified for a TUE; however, a Player is not otherwise precluded from introducing evidence of medical treatment in support of such a challenge.

#### **4. EVALUATION AND TREATMENT FOR DRUGS OF ABUSE**

A Player will be referred to the Treatment Board as a result of the use or suspected use of a Drug of Abuse. After a Player has tested positive for a Drug of Abuse for the first time, or is otherwise found to have used or possessed a Drug of Abuse, all subsequent positive test results for a Drug of Abuse, or other evidence of use or possession of a Drug of Abuse by the Player, will be referred to the Treatment Board for a determination whether the Player has complied with his Treatment Program and whether a new or revised Treatment Program is warranted.

##### **A. Initial Evaluation**

A Player found to have used or possessed a Drug of Abuse through a positive test result or otherwise, or who is suspected of having done so, will be referred to the Treatment Board for an Initial Evaluation (the “Initial Evaluation”). The purpose of the Initial Evaluation is to ascertain whether the Player shall be placed on a Treatment Program and, if so, the type of Treatment Program that, in the opinion of the Treatment Board, would be most effective for the Player involved. The Initial Evaluation shall include at least one meeting between the Player and one or both of the Medical Representatives. After the first meeting, the Medical Representatives may determine that additional meetings and/or medical examinations, including a drug test, are necessary to complete the Initial Evaluation.

##### **B. Treatment Program**

1. After concluding the Initial Evaluation, and consulting with the other Treatment Board members, the Medical Representatives shall determine whether the Player should be placed on a Treatment Program, and, if so, the type of Treatment Program that, in the opinion of the Treatment Board, would be most effective. In devising the Treatment Program, the Medical Representatives may consult with other treating physicians or experts in the field and, unless the Treatment Board agrees otherwise, may not divulge the Player’s name. The Treatment Program may include any or all of the following: counseling, inpatient treatment, outpatient treatment and follow-up testing.

2. The Treatment Program must be in writing and signed by the Player. The Medical Representatives must inform the Player of the initial duration and content of the Treatment Program. During the course of the Player's Treatment Program, the Medical Representatives may change the duration (either longer or shorter) and the content of the Treatment Program, depending on the Player's progress. The Treatment Program may, upon determination by the Medical Representatives, be administered by someone other than the Medical Representatives (including a Club's EAP and/or physician), but the Medical Representatives shall maintain overall supervision of the Treatment Program. The health care professionals treating the Player must provide the Medical Representatives, at a frequency identified in the Treatment Program, with regular written status reports on a standardized form that detail the Player's progress and compliance with the Treatment Program.

### **C. Failure to Comply with a Treatment Program**

1. The Treatment Board will determine whether a Player has failed to cooperate with his Initial Evaluation or has failed to comply with his Treatment Program.

2. If the Treatment Board fails to reach a majority vote on whether a Player has failed to cooperate with his Initial Evaluation, or has failed to comply with his Treatment Program, the Fifth Member shall cast the deciding vote. The Fifth Member shall base his or her determination on the criteria set forth in Section 4.C.3 below.

3. The Treatment Board, including the Fifth Member when necessary, will make its determination whether a Player has failed to cooperate with an Initial Evaluation, or comply with a Treatment Program, by applying the following criteria:

(a) A Player who refuses to submit to an Initial Evaluation, including any follow-up meetings or tests requested by the Medical Representatives, will be deemed to have violated Section 4.A of the Program.

(b) A Player who consistently fails to participate in mandatory sessions with his assigned health care professional will be deemed to have failed to comply with his Treatment Program.

(c) Absent a compelling justification, a Player will be presumed to have failed to comply with his Treatment Program if his assigned health care professional informs the Treatment Board in a status report that the Player is not cooperating with the requirements of his Treatment Program.

(d) If a Player tests positive for a Drug of Abuse after his evaluation by the Treatment Board and written commitment to a Treatment Program (excluding residual positives), the Player shall have the burden of convincing the Treatment Board (including any Fifth Member) that the positive test result did not result from a lack of commitment by the Player to his Treatment Program. In determining whether the Player has met his burden, the Treatment Board shall consider, among other things: (a) the Player's history of positive test results; (b)

the evaluation of the Player's treating professional; and (c) the Player's willingness to consider other treatment options such as in-patient therapy.

4. Players who fail to cooperate with their Initial Evaluations or comply with their Treatment Programs will be subject to immediate discipline as set forth in Section 7.C of the Program.

#### **D. Salary Retention**

A Player shall be entitled to salary retention, over the course of his career, for the first thirty (30) days he is required under a Treatment Program to be in inpatient or outpatient treatment necessitating his absence from the Club. A Player shall be entitled to one-half salary retention, over the course of his career, for the 31<sup>st</sup> through 60<sup>th</sup> days he is required, under a Treatment Program, to be in inpatient treatment, or outpatient treatment necessitating his absence from the Club. A Player shall not be entitled to salary retention, over the course of his career, for any period beyond the 60<sup>th</sup> day in the event he is required, under a Treatment Program or otherwise, to be in inpatient treatment or outpatient treatment necessitating his absence from the Club.

### **5. CONFIDENTIALITY**

The confidentiality of Player information is essential to the Program's success. To best ensure that confidentiality is protected in all aspects of the Program's operation, the Parties agree to the following confidentiality provisions:

A. Except as provided in Section 6 below, the Commissioner's Office, the Players Association, the Treatment Board, the IPA, the Medical Testing Officer, Club personnel, and all of their members, affiliates, agents, consultants and employees, are prohibited from publicly disclosing information about an individual Player's test results or testing history, Initial Evaluation, diagnosis, Treatment Program prognosis or compliance with a Treatment Program. Notwithstanding the foregoing, nothing in this Section 5 or in Section 6 below prohibits the IPA from issuing the reports contemplated by Section 1.A.2(g) above or the Commissioner's Office or the Players Association from providing a summary of the results of tests conducted pursuant to the Program (including the number of tests conducted and the number of positives broken down by Prohibited Substance) to a Congressional committee (or other legislative body with appropriate jurisdiction) requesting such information pursuant to a subpoena or other investigative effort, provided that the annual report or the summary provided by one or more of the Parties does not disclose the name(s) (or other identifying characteristics) of any particular Player(s).

B. Testing records shall be maintained in accordance with the procedures set forth in the Document Retention section of the Program's Collection Procedures and Testing Protocols.

C. For purposes of this Section 5, a "governmental investigation" shall mean any subpoena issued, warrant obtained, or other investigative effort employed by any

governmental body (including a court acting at the request of a private party) with the intention of securing information relating to the drug test results of a particular Player or particular Players (as opposed to the summary information referenced in Section 5.A above). Notwithstanding the foregoing, any such subpoena, warrant or other effort to secure information (i) that is supported by individualized probable cause regarding a particular Player or Players, and (ii) in which the evidence supporting such cause did not arise from the operation of the Program, and (iii) in which the information requested or obtained relates only to that particular Player or those particular Players shall not be considered a “governmental investigation” within the meaning of this Section 5. Moreover, a subpoena issued by a court at the request of a private party shall not be considered a “governmental investigation” unless a court has issued an order requiring compliance with the subpoena or otherwise requiring the disclosure of the drug test results of a particular Player or particular Players.

D. Either Party shall notify the other upon learning of a governmental investigation. Both Parties shall resist any governmental investigation by all reasonable and appropriate means including, when necessary, initiation and prosecution of legal proceedings. In addition, the Parties will also use all reasonable means to resist any effort by a private party to obtain confidential information about the testing program through civil litigation, including, but not limited to, the filing of a motion to quash in the appropriate court. The Parties shall divide equally the costs incurred in connection with such efforts to resist and shall confer as to other aspects of their efforts.

E. Unless the Parties agree otherwise, all testing pursuant to Sections 3.A.1 and 3.A.2 above shall be suspended immediately upon the Parties’ learning of a governmental investigation. Such a suspension will remain in effect until the governmental investigation is withdrawn, or until the Parties have successfully resisted the governmental investigation at the trial court level, or until the Parties otherwise agree to resume testing. If the Parties have successfully resisted an investigation at the trial court level, and that decision thereafter is set aside by an appellate court, all testing pursuant to Section 3.A.1 and 3.A.2 shall again be suspended. If a suspension is in place for 12 months consecutively, either Party may reopen the Program by providing notice within twenty (20) days thereafter. The Program will remain in effect for thirty (30) days after such notice to reopen is provided.

## **6. DISCLOSURE OF PLAYER INFORMATION**

### **A. Disclosure of Information**

1. The Commissioner’s Office shall notify a Club’s General Manager when a Player is placed on a Treatment Program. A Club whose Player is on a Treatment Program is prohibited from disclosing any information regarding a Player’s Treatment Program, his progress thereunder, and any discipline imposed upon the Player by the Commissioner’s Office to the public, the media or other Clubs. Notwithstanding this prohibition, a Club is permitted to discuss a Player’s Treatment Program progress with another Club that is

interested in acquiring such Player's contract if the Club receives the Player's prior written consent to release his Treatment Program history.

2. Any and all information relating to a Player's involvement in the Program, including, but not limited to, the fact or the results of any Prohibited Substance testing to which the Player may be subject, and any discipline imposed upon the Player by the Commissioner's Office shall remain strictly confidential. Notwithstanding the foregoing, if the Player is suspended by the Commissioner's Office, pursuant to Section 7 below, the suspension shall be entered in the Electronic Baseball Information System as a suspension for a specified number of days for a violation of the Program, and the only public statement from the Commissioner's Office shall be that the Player was suspended for a specified number of days for a violation of the Program. If the Player has tested positive for a Prohibited Substance, the specific substance and the category of Prohibited Substance (e.g., Performance Enhancing Substance or Stimulant) for which he tested positive may also be disclosed by the Commissioner's Office. If the Player's suspension is for a violation of Section 3.F.2 or 3.F.3, the Commissioner's Office may so disclose. A Player's Club may issue a public statement in response to a Player's suspension provided that a draft of the statement is sent to the Players Association at least 60 minutes prior to its issuance, and the Club considers in good faith any comments provided by the Players Association.

In addition, other than in the case of a first positive test for a Stimulant, the Commissioner's Office may, without a Player's consent, disclose the Player's status under the Program, including a Player's likely availability to his Club, and/or the reason for any discipline imposed on the Player to the General Manager of the Player's Club, who shall keep such information confidential, except that the General Manager, and only he, may disclose such information to the General Manager of a Club that has expressed an interest in acquiring such Player's contract via assignment, and that General Manager also shall keep such information confidential.

3. Decisions of the Arbitration Panel, and the record of proceedings before the Panel in matters arising under the Program, shall not be disclosed by the Parties, other than to their respective constituents (and with instructions that prohibit further disclosure), unless the Parties agree or the Panel directs otherwise. (See also Section 8.C below.)

4. Notwithstanding anything to the contrary in the Program, either Party may disclose publicly details of a Player's test results, testing history and/or the Player's challenge to discipline imposed pursuant to Section 7 below to the extent necessary to respond to any inaccurate or misleading claims by that Player that could undermine the integrity and/or credibility of the Program.

**B. Method of Providing Information**

Any information authorized to be provided to General Managers pursuant to this Section 6 shall be provided by the Commissioner's Office with the Players Association's prior agreement or, if the Parties agree, by the IPA.

**7. DISCIPLINE**

**A. Performance Enhancing Substance Violations**

A Player who tests positive for a Performance Enhancing Substance, or otherwise violates the Program through the use or possession of a Performance Enhancing Substance, will be subject to the discipline set forth below.

1. First violation: 50-game suspension;
2. Second violation: 100-game suspension; and
3. Third violation: Permanent suspension from Major League and Minor League Baseball; provided, however, that a Player so suspended may apply, no earlier than one year following the imposition of the suspension, to the Commissioner for discretionary reinstatement after a minimum period of two (2) years. The Commissioner shall hear any such reinstatement application within thirty (30) days of its filing and shall issue his determination within thirty (30) days of the closing of the application hearing. A Player may challenge the Commissioner's determination on such application under the Grievance Procedure set forth in Article XI of the Basic Agreement and any such challenge may include a claim that a suspension beyond two (2) years would not be for just cause; provided, however, that the Arbitration Panel shall have no authority to reduce any suspension imposed pursuant to this Section 7.A.3 to a period of less than two (2) years.

**B. Stimulant Violations**

A Player who tests positive for a Stimulant, or otherwise violates the Program through the use or possession of a Stimulant, will be subject to the discipline set forth below.

1. First violation: Follow-up testing pursuant to Section 3.D.2 above;
2. Second violation: 25-game suspension;
3. Third violation: 80-game suspension; and
4. Fourth and subsequent violation: Suspension for just cause by the Commissioner, up to permanent suspension from Major League and Minor League Baseball, which penalty shall be subject to challenge before the Arbitration Panel.



### **C. Failure to Comply with an Initial Evaluation or a Treatment Program**

A Player who is determined by the Treatment Board to have not complied with an Initial Evaluation or a Treatment Program for a Drug of Abuse (other than Marijuana, Hashish and Synthetic THC) will be subject to the discipline set forth in this Section 7.C. If the Treatment Board determines that a Player refused to submit to an Initial Evaluation, or refused to participate in mandatory sessions with his assigned health professional, the Player will be subject to discipline for just cause by the Commissioner without regard to the progressive discipline schedule set forth below. For all other violations, the Player will be subject to the following discipline schedule:

1. First failure to comply: At least a 15-game but not more than a 25-game suspension;
2. Second failure to comply: At least a 25-game but not more than a 50-game suspension;
3. Third failure to comply: At least a 50-game but not more than a 75-game suspension;
4. Fourth failure to comply: At least a one-year suspension; and
5. Any subsequent failure to comply by a Player shall result in the Commissioner imposing further discipline on the Player. The level of the discipline will be determined consistent with the concept of progressive discipline.

### **D. Marijuana, Hashish and Synthetic THC Violations**

A Player on a Treatment Program for the use or possession of Marijuana, Hashish or Synthetic THC shall not be subject to suspension. A Player on a Treatment Program for Marijuana, Hashish or Synthetic THC who is determined by the Treatment Board to not have complied with his Treatment Program shall be subject to fines, which shall be progressive and which shall not exceed \$35,000 for any particular violation. Notwithstanding the foregoing, if the Treatment Board concludes that a Player has demonstrated flagrant disregard for his Treatment Program, either by refusing to submit to an Initial Evaluation or by failing to comply with a Treatment Program, or if the Commissioner determines that the Player's use of Marijuana, Hashish or Synthetic THC represents a threat to the safety of other Players, the Player shall be subjected to discipline for just cause by the Commissioner without regard to the limitations on discipline contained in this Section 7.D. In addition, any Player who participates in the sale or distribution (as those terms are used in the criminal code) of Marijuana, Hashish or Synthetic THC will be subject to the discipline set forth in Section 7.F below.

**E. Conviction for the Use or Possession of a Prohibited Substance**

A Player who is convicted or pleads guilty (including a plea of *nolo contendere* or similar plea but not including an adjournment contemplating dismissal or a similar disposition) to the possession or use of any Prohibited Substance (including a criminal charge of conspiracy or attempt to possess or use) shall be subject to the following discipline:

1. First offense: At least a 60-game but not more than an 80-game suspension, if the Prohibited Substance is a Performance Enhancing Substance, or at least a 25-game but not more than a 50-game suspension, if the Prohibited Substance is a Stimulant or a Drug of Abuse;
2. Second offense: At least a 120-game but not more than a one-year suspension, if the Prohibited Substance is a Performance Enhancing Substance, or at least a 50-game but not more than a 100-game suspension, if the Prohibited Substance is a Stimulant or a Drug of Abuse;
3. Third offense involving a Performance Enhancing Substance: Permanent suspension from Major League and Minor League Baseball; provided, however, that a Player so suspended may apply, no earlier than one year following the imposition of the suspension, to the Commissioner for discretionary reinstatement after a minimum period of two (2) years. The Commissioner shall hear any such reinstatement application within thirty (30) days of its filing and shall issue his determination within thirty (30) days of the closing of the application hearing. A Player may challenge the Commissioner's determination on such application under the Grievance Procedure set forth in Article XI of the Basic Agreement and any such challenge may include a claim that a suspension beyond two (2) years would not be for just cause; provided, however, that the Arbitration Panel shall have no authority to reduce any suspension imposed pursuant to this Section 7.E.3 to a period of less than two (2) years; and
4. If the Prohibited Substance is a Stimulant or a Drug of Abuse, a third offense shall result in a one-year suspension, and any subsequent offense shall result in a suspension for just cause by the Commissioner, up to permanent suspension from Major League and Minor League Baseball, which penalty shall be subject to challenge before the Arbitration Panel.

**F. Participation in the Sale or Distribution of a Prohibited Substance**

A Player who participates in the sale or distribution of a Prohibited Substance shall be subject to the following discipline:

1. First offense: At least an 80-game but not more than a 100-game suspension, if the Prohibited Substance is a Performance Enhancing Substance, or at least a 60-game but not more than a 90-game suspension, if the Prohibited Substance is a Stimulant or a Drug of Abuse;

2. Second offense involving a Performance Enhancing Substance: Permanent suspension from Major League and Minor League Baseball; provided, however, that a Player so suspended may apply, no earlier than one year following the imposition of the suspension, to the Commissioner for discretionary reinstatement after a minimum period of two (2) years. The Commissioner shall hear any such reinstatement application within thirty (30) days of its filing and shall issue his determination within thirty (30) days of the closing of the application hearing. A Player may challenge the Commissioner's determination on such application under the Grievance Procedure set forth in Article XI of the Basic Agreement and any such challenge may include a claim that a suspension beyond two (2) years would not be for just cause; provided, however, that the Arbitration Panel shall have no authority to reduce any suspension imposed pursuant to this Section 7.F.2 to a period of less than two (2) years; and

3. If the Prohibited Substance is a Stimulant or a Drug of Abuse, a second offense shall result in a two-year suspension, and any subsequent offense shall result in disciplinary action for just cause by the Commissioner, up to permanent suspension from Major League and Minor League Baseball, which penalty shall be subject to challenge before the Arbitration Panel.

#### **G. Other Violations**

1. For purposes of the penalties in Sections 7.A and 7.B above, a positive test result reported prior to the first 2006 spring training voluntary reporting date shall not be considered in determining the number of times that a Player has tested positive under the Program.

2. A Player may be subjected to disciplinary action for just cause by the Commissioner for any Player violation of Section 2 above not referenced in Section 7.A through 7.F above.

#### **H. Suspensions**

1. For purposes of this Section 7, a "game" shall include all championship season games and post-season games in which the Player would have been eligible to play, but shall not include spring training games, extended spring training games or affiliated Winter League games. For a Player whose contract has been assigned to the Minor Leagues, or who is signed to a Minor League contract, a "game" shall include all Minor League regular season games for which he would have been eligible to play. A Player is ineligible to be elected or selected to the All-Star Game (and will not receive any benefits connected with such an election or selection) if he is suspended for violating the Program at any time during the off-season, spring training or the championship season prior to the All-Star Game. A Player shall be deemed to have been eligible for a post-season game if he was on the Club's active roster (as that term is used in Article XV(E)(1) of the Basic Agreement) immediately preceding his suspension; a Player on a Club's Disabled List immediately preceding his suspension shall be deemed to have been eligible for a post-season game if it is reasonable to conclude that he would have been eligible but for his

suspension. A Player whose suspension begins during (or extends into) the off-season shall begin (or resume) serving his suspension with the next “game” for which he otherwise would have been eligible to play.

2. All suspensions imposed pursuant to this Section 7 shall be without pay. The number of days of pay a Player shall lose while suspended shall equal the number of games (excluding post-season games) for which he is suspended, regardless of the number of days that he is on the Restricted List as a result of the suspension. In addition, a Player whose suspension includes a majority of his Club’s post-season games and who, by operation of Major League Rule 45(b)(3), would be entitled to a full share of the Players’ Pool created pursuant to Article X of the Basic Agreement, shall have his share reduced by the proportion of his Club’s regular season games he missed due to the suspension. During the term of his suspension, a Player may consent to an assignment to a Minor League affiliate of his Club under the terms of Article XIX(C)(1) and (3) of the Basic Agreement, except as modified above with respect to salary and except that such assignment shall not exceed five (5) days (eight (8) days for pitchers) for a Player suspended for a period of 25 games or less, and shall not exceed ten (10) days (16 days for pitchers) for a Player suspended for a period of between 26 and 50 games.

#### **I. Placement on and Reinstatement from Restricted List**

A Player shall be placed on the Restricted List during the term of any suspension imposed under this Section 7. A Player suspended under this Section 7 shall receive Major League Service while suspended during any period he would have received such service but for his placement on the Restricted List as a result of violating the Program. Notwithstanding anything to the contrary in Major League Rule 16(a), a Player suspended under this Section 7 shall be reinstated from the Restricted List immediately at the conclusion of the specified period of ineligibility.

#### **J. Completion of Minor League Discipline**

A Player suspended under Major League Baseball’s Minor League Drug Prevention and Treatment Program (the “Minor League Program”) who is selected to or otherwise placed on a 40-man roster before such suspension is complete shall be suspended at the Major League level for the lesser of: (a) the remainder of the suspension imposed under the Minor League Program or (b) the difference between the maximum penalty that could have been imposed under this Program (had each of the Player’s violations occurred while he was on a 40-man roster) and the number of games already served by the Player at the Minor League level. A Player who tests positive under the Minor League Program, or who has otherwise violated the Minor League Program, and who is not notified of that positive test result or of the violation until after his promotion to a 40-man roster shall be treated as if the Player tested positive under or violated this Program. Notwithstanding the preceding sentence, in any such challenge to a positive test result or violation that occurred under the Minor League Program, the terms of the Minor League Program (including, but not limited to, its Collection Procedures and Testing Protocols) shall govern, except with respect to the level of discipline imposed and

the Player's appeal rights, which shall be governed by Sections 5, 6, 7 and 8 of this Program. Except as provided in this Section 7.J, a violation of the Minor League Program shall not be considered as a violation of this Program for any purpose under this Section 7.

#### **K. Multiple Substances**

1. If a single specimen is positive (within the meaning of Section 3.F.1) for more than one category of Prohibited Substances (Performance Enhancing Substance, Stimulant and/or a Drug of Abuse), the Player shall serve the longer applicable suspension only, and the Commissioner's Office will disclose, pursuant to Section 6.A.2 above, the specific substance and the category of Prohibited Substance which resulted in the suspension of that length. However, for purposes of determining the appropriate level of discipline for future positive and non-analytical positive test results, the Player shall be treated as if he was disciplined for each positive test result separately.

2. A Player who violates Section 3.F.2 shall be considered to have tested positive for the category of Prohibited Substance that, given his testing history, will result in the longest suspension. A violation of Section 3.F.2 shall be considered a prior offense only if the Player subsequently tests positive for, or is otherwise determined to have used or possessed, that category of Prohibited Substance.

3. A Player who violates Section 3.F.3 shall be considered to have tested positive for the category of Prohibited Substance that, given his testing history, will result in the longest suspension. Such a violation shall be considered a prior offense only if the Player subsequently tests positive for, or is otherwise determined to have used or possessed, that category of Prohibited Substance. Notwithstanding the preceding sentence, if the Player can demonstrate by clear and convincing evidence that his conduct was not related to the category of Prohibited Substance for which he was considered to have tested positive, he shall be considered to have tested positive for the category of Prohibited Substance for the use of which he was attempting to avoid detection. Such a violation shall be considered a prior offense only if the Player subsequently tests positive for, or is otherwise determined to have used or possessed, the category of Prohibited Substance for the use of which the Player was attempting to avoid detection. If a Player demonstrates that he was attempting to avoid detection of a Stimulant, and he has never previously tested positive for a Stimulant, he shall be suspended for 25 games, but he shall be considered to have only one prior offense should he subsequently test positive for, or is otherwise determined to have used or possessed, a Stimulant.

#### **L. Notice of Violation**

If the notification requirements of Section 3.G are satisfied, a Player will not be disciplined for a second or subsequent violation involving a Prohibited Substance that occurred prior to the time that the Player received actual notice of his first positive test result or non-analytical positive for the same Prohibited Substance, provided that the Player's discipline for his first violation was not overturned or rescinded.

## **M. Exclusive Discipline**

All authority to discipline Players for violations of the Program shall repose with the Commissioner's Office. No Club may take any disciplinary or adverse action against a Player (including, but not limited to, a fine, suspension, or any adverse action pursuant to a Uniform Player's Contract) because of a Player's violation of the Program. Nothing in this Section 7.M is intended to address whether: (i) a Club may take adverse action in response to a Player's failure to render his services due to a disability resulting directly from a physical injury or mental condition arising from his violation of the Program; or (ii) a Club may withhold salary from a Player for any period he is unavailable because of legal proceedings or incarceration arising from his violation of the Program.

## **8. APPEALS**

### **A. Arbitration Panel Review**

The Arbitration Panel shall have jurisdiction to review any determination that a Player has violated the Program, or any determination made pursuant to Section 3.I (Therapeutic Use Exemption). Any dispute regarding the level of discipline within the ranges set forth in Section 7 is also subject to review by the Arbitration Panel and any such review shall include whether the level of discipline imposed was supported by just cause; provided, however, that the Arbitration Panel shall have no authority to reduce the discipline imposed by the Commissioner's Office below the stated minimum level established for the specific violation as set forth in Section 7.

### **B. Challenges to a Positive Test Result**

1. **The Burden of Proving the Violation:** In any case involving an alleged violation of Section 3.F.1, the Commissioner's Office shall have the burden of establishing that a Player's test result was "positive" (as that term is defined therein), and that the test result was obtained pursuant to a test authorized under the Program and was conducted in accordance with the Collection Procedures and Testing Protocols of the Program and the protocols of the Montreal Laboratory (herein collectively "the Collection Procedures"). The Commissioner's Office is not required to otherwise establish intent, fault, negligence or knowing use of a Prohibited Substance on the Player's part. The Commissioner's Office may establish that a test result was "positive" by introducing the Certificate of Analysis provided by the Medical Testing Officer, and by demonstrating that the test result was for a Prohibited Substance as defined in Section 2 of the Program at the level required by the Testing Protocols. The Commissioner's Office may rely solely on the information contained in the litigation package described in Section 8.C.1(a) to demonstrate that the test was conducted in accordance with the Collection Procedures, including, without limitation, that the chain of custody of the specimen was maintained.

In addition, in any case involving a positive test result for hGH, the Commissioner's Office shall have the burden of establishing the presence of hGH in the

Player's blood specimen. As part of meeting that burden, the Commissioner's Office shall be required to establish the accuracy and reliability of the blood test administered to the Player. The Players Association and the Player may present any evidence in response, and the Parties' agreement to allow the test to be conducted shall be irrelevant to the Arbitration Panel's determination as to whether the Commissioner's Office has met that burden. The Commissioner's Office is not required to otherwise establish intent, fault, negligence, or knowing use of hGH on the Player's part to establish a violation.

2. **Challenges to the Proof of the Violation:** The Player may challenge the initial showing by the Commissioner's Office that the result was "positive" or that it was obtained pursuant to a test authorized under the Program and was conducted in accordance with the Collection Procedures.

If the Player alleges a deviation from the Collection Procedures, the Commissioner's Office will carry its burden (a) by demonstrating that there was no deviation; (b) by demonstrating that the deviation was authorized by the parties or by the IPA in an individual case (provided that the IPA acted within the authority delegated to him under the Program); or (c) by demonstrating that the deviation did not affect the accuracy or reliability of the test result.

3. **Affirmative Defense:** A Player is not in violation of the Program if the presence of the Prohibited Substance in his test result was not due to his fault or negligence. The Player has the burden of establishing this defense. A Player cannot satisfy his burden by merely denying that he intentionally used a Prohibited Substance; the Player must provide objective evidence in support of his denial. Among other things, such objective evidence may question the accuracy or reliability of the "positive" test result.

**C. Procedures for Appeal of a Positive Test Result for a Performance Enhancing Substance or a Second and Subsequent Positive Test Result for a Stimulant**

The following procedures shall apply when the Medical Testing Officer reports to the IPA a test result for a Player that may be a positive test result for a Performance Enhancing Substance or a second or subsequent positive test result for a Stimulant. All information associated with or generated by these procedures is subject to the confidentiality protections of Sections 5 and 6 above. Unless expressly authorized by the Program or the Panel Chair, neither the IPA, the Commissioner's Office nor a Club may disclose any information obtained in connection with these procedures (other than to individuals within or retained by the Commissioner's Office directly involved in the processing of a challenge to a positive test result or to potential fact witnesses in the case).

1. As required by Section 3.G above, the IPA shall immediately provide notice to the Parties of a reported positive test result, including a copy of the Certificate of Analysis provided by the Medical Testing Officer. The Players Association shall then

notify the Player of the reported result within the time parameters set forth in Section 3.G.

(a) After having provided notice to the Parties, the IPA shall provide to the parties as soon as practical but in any event at least one day before the “B” specimen test is conducted, the documentation package prepared by the Medical Testing Officer for the “A” specimen. The IPA also shall direct the Medical Testing Officer to make arrangements for a “B” specimen test, which may be observed by a representative of the Player, the Players Association and/or the Commissioner’s Office. Absent extraordinary circumstances, such test shall be completed within seven (7) days. The IPA shall provide to the Parties as soon as practical the documentation package prepared by the Medical Testing Officer for the “B” specimen. (The documentation packages for the “A” and “B” specimens collectively will be referred to as the “litigation package.”)

(b) If a Player wishes to invoke Section 3.H above (“Multiple Discipline for the Same Use”), he shall make application to the IPA within three (3) business days of being notified of the positive test result. The IPA shall then refer the matter to the Medical Testing Officer, consistent with Sections 1.E and 3.H. The Medical Testing Officer shall forward his or her opinion to the IPA. The IPA shall forward such opinion to the Parties as part of the litigation package.

(c) If a dispute arises regarding the application of Section 3.I above (“Therapeutic Use Exemption”) in connection with a positive test result, information regarding that dispute shall be gathered and distributed to the Parties as part of the litigation package.

2. The Parties shall confer regarding the reported positive test result within three (3) business days following the day of their receipt of all of the information called for in Section 8.C.1 above. The Parties’ discussions shall be considered confidential and not admissible in any Grievance challenging the reported test result. If the Parties agree that the result is not a positive test result within the meaning the Program, notice thereof shall be provided to the Player.

3. Unless such notice is provided to the Player, the Commissioner’s Office, by 5:00 P.M. ET of the next business day following the day the Parties completed the conference described in Section 8.C.2 above, shall notify the Player and the Players Association of the discipline imposed for the reported test result. Any suspension imposed shall be effective on the third business day after the discipline has been issued. If the Player or the Players Association grieves the suspension before the effective date, the Player’s suspension shall be stayed until the Arbitration Panel issues its Award; provided, however, that a Player who previously had a suspension stayed pursuant to this Section 8.C.3 (or its predecessors in the 2005 and 2008 Programs) or Section 8.D.1 (or its predecessor in the 2008 Program) shall not be entitled to a second stay unless his prior suspension was overturned or rescinded.



4. Any such Grievance shall be deemed automatically appealed to the Arbitration Panel. The Parties nonetheless shall conduct a Step 2 meeting prior to the hearing. The Panel shall convene a hearing as soon as practicable and, absent good cause shown, no later than ten (10) days after the Grievance was filed. The hearing shall be conducted under the Rules of Procedure, but the Panel Chair shall have the authority to employ such procedures as he or she deems appropriate given the Parties' mutual desire for expedition. The Panel Chair, in employing such procedures, shall make all reasonable efforts to close the record at such time so as to permit an Award to issue within twenty-five (25) days following the opening of the hearing. The Panel shall issue its written opinion within thirty (30) days of issuing its Award.

5. If the Panel sustains a suspension, the Club and the Player shall be notified and the Player shall begin serving his suspension immediately. If the Panel determines that no discipline is appropriate, all aspects of the proceedings shall remain confidential.

6. A Player may challenge a positive test result at any time on the basis of newly discovered scientific evidence that questions the accuracy or reliability of the result. Such a challenge may be brought even if the result previously has been upheld by the Arbitration Panel. Should such a challenge be upheld, the Panel, in fashioning a make-whole remedy consistent with Article XII (A) of the Basic Agreement, may consider management sources other than the Player's Club at the time the suspension is served and, notwithstanding Article XII (A) (3) of the Basic Agreement, shall determine, under the particular circumstances, whether and to what extent an Award of Interest is appropriate.

#### **D. Appeal of Discipline Issued Pursuant To Section 7.G.2**

The following procedures shall apply when the Commissioner, pursuant to Section 7.G.2 of the Program, disciplines a Player for a first-time violation of the Program involving a Performance Enhancing Substance and a second-time violation of the Program involving a Stimulant. All information associated with or generated by these procedures is subject to the confidentiality protections of Sections 5 and 6 above. Unless expressly authorized by the Program or the Panel Chair, neither the IPA, the Commissioner's Office nor a Club may disclose any information obtained in connection with these procedures (other than to individuals within or retained by the Commissioner's Office who are potential fact witnesses in the case). The Commissioner's Office may publicly announce the discipline of a Player if the allegations relating to a Player's violation of the Program previously had been made public through a source other than the Commissioner's Office or a Club (or their respective employees and agents). In addition, the Commissioner's Office or a Club can publicly disclose information relating to the discipline to respond to inaccurate or misleading public claims by the Player or his representatives that could undermine the integrity or credibility of the Basic Agreement, the Major League Rules, the Program, or any other agreement between the Parties.

1. Any discipline imposed on a Player pursuant to Section 7.G.2 for a first time violation involving a Performance Enhancing Substance or a second time violation

involving a Stimulant shall be effective on the third business day after the discipline has issued. If the Player or the Association grieves the discipline before the effective date, the Player's discipline shall be stayed until the Arbitration Panel issues its Award; provided, however, that a Player who previously had discipline stayed pursuant to Section 8.C.3 (or its predecessors in the 2005 or 2008 Programs) or this Section 8.D.1 (or its predecessor under the 2008 Program) shall not be entitled to a second stay unless his prior suspension was overturned or rescinded.

2. Any such Grievance shall be deemed automatically appealed to the Arbitration Panel. The Parties nonetheless shall conduct a Step 2 meeting prior to the hearing. The Panel shall convene a hearing as soon as practicable and, absent good cause shown, no later than twenty (20) days after the Grievance was filed. The hearing shall be conducted under the Rules of Procedure, but the Panel Chair shall have the authority to employ such procedures as he or she deems appropriate given the Parties' mutual desire for expedition. The Panel Chair, in employing such procedures, shall make all reasonable efforts to close the record at such time so as to permit an Award to issue within twenty-five (25) days following the opening of the hearing. The Panel shall issue its written opinion within thirty (30) days of issuance of its Award.

3. If the Panel sustains a suspension, the Club and the Player shall be notified and the Player shall begin serving his suspension immediately. If the Panel determines that no discipline is appropriate, all aspects of the proceedings shall remain confidential to the extent required by this Section 8.D.

#### **E. Other Appeals**

In any case involving an alleged violation of Section 3.F.2 or 3.F.3, or any determination made by the Medical Testing Officer under Section 3.H or the IPA under Section 3.I, the Panel's review of the IPA's or Medical Testing Officer's determination shall be *de novo*. Neither Party shall have the burden of proof with respect to whether the determination of the Medical Testing Office or the IPA, as the case may be, should be affirmed by the Panel.

## **9. EDUCATIONAL PROGRAMS AND MATERIALS**

Pursuant to Section 1.A.2(f) above, the IPA, in consultation with the Parties, shall develop educational programs and materials supporting the objectives of the Program.

### **A. Educational Programs**

The IPA and the Parties shall develop an educational program for Players each season. A component of the educational program will include instruction on proper nutrition, training and conditioning, and the Parties and the IPA shall seek input from the Strength and Conditioning Advisory Committee on that subject.

### **B. Educational Materials**

The IPA will prepare, in consultation with the Parties, educational materials containing information pertinent to the Program. Educational materials will be distributed to all Major League Clubs and Players in spring training each season.

## **10. STRENGTH AND CONDITIONING ADVISORY COMMITTEE**

### **A. Purposes of the Committee**

The Parties shall maintain a Strength and Conditioning Advisory Committee which shall consist of an equal number of members representing the Commissioner's Office and the Players Association. The purposes of the Committee shall be:

1. To establish and maintain minimum credentials and professional qualifications for strength and conditioning coaches employed by Major League Clubs;
2. To advise Clubs and Players on the existing regulations of the Commissioner's Office related to strength and conditioning;
3. To maintain standards applicable to all Clubs concerning the availability of food and nutritional supplements products for Players in Major League clubhouses;
4. To advise the Parties and the IPA on the content of educational programs, as described in Section 9 above, involving proper nutrition, training and conditioning; and
5. To address other matters relating to the strength and conditioning of Players.

### **B. Committee Meetings**

A meeting of the Strength and Conditioning Advisory Committee may be called by any Committee member who believes that there is an immediate need to address a matter set forth in Section 10.A above. In addition, the Committee shall have at least two (2) regular meetings during each calendar year.

**C. Personal Trainers**

Consistent with existing regulations of the Commissioner's Office, personal trainers shall not be provided with access to Major League clubhouses.

**11. COSTS OF THE PROGRAM**

Any costs for the treatment and testing of Players on a Treatment Program which are not covered by the Major League Baseball Players Benefit Plan ("Plan"), shall be borne by the Club then holding title to the Player's contract. A Club that has unconditionally released a Player who is on a Treatment Program shall be responsible for any costs of such Program that are not covered by the Plan through the season in which the Player was released. The costs of all other testing conducted pursuant to the Program shall be borne by the Commissioner's Office. Notwithstanding the foregoing, it is expressly agreed that the laboratory utilized for testing under the Program has been jointly selected by the Parties and, shall be equally responsible to each of the Parties in the conduct of its affairs. Each Party shall pay the expenses associated with its Medical Representative.

**12. RIGHTS OF THIRD PARTIES**

The provisions of the Program are not intended to and shall not create any rights that run to the benefit of third parties, including but not limited to, the IPA, CDT, and the Montreal Laboratory.

**13. TERM**

The termination date of the Program shall be December 1, 2016.