

**STANDARD OPERATING PROCEDURE**  
**FOR ACCESSING AND USE OF INFORMATION COLLECTED FROM ELECTRONIC DEVICES IN THE**  
**CONTEXT OF INVESTIGATIONS AND HEARINGS CONDUCTED UNDER THE FIA FORMULA E**  
**FINANCIAL REGULATIONS**

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**1. SCOPE**

1.1 This Standard Operating Procedure is maintained by the Cost Cap Administration to govern the manner in which it exercises its right under the FE Team Financial Regulations and the FE Manufacturer Financial Regulations (together, the “**FIA Formula E Financial Regulations**”) to access, copy, and use data copied and/or downloaded from or via Electronic Devices. Unless specifically defined in this Standard Operating Procedure, capitalised terms used in this Standard Operating Procedure have the meaning attributed to them in the FIA Formula E Financial Regulations. This Standard Operating Procedure may be amended and/or supplemented by the Cost Cap Administration from time to time.

1.2 The FIA Formula E Financial Regulations require an FE Team and an FE Manufacturer to do the following, and to procure that the other members of its Legal Group and any Technical Partner(s) (where applicable) do the same:

(a) make the Electronic Devices of the FE Manufacturer and/or of its Personnel, and/or the Electronic Devices of any member of the FE Manufacturer’s Legal Group and/or its Technical Partner(s) (if any), and/or of their respective Personnel, available immediately for inspection and/or for copying/download of the data stored on or transmitted using such Electronic Devices (including data on any messaging services or platforms located on or used by the Electronic Devices and data stored on any cloud-based services used by the Electronic Devices), where so requested by the Cost Cap Administration, the Cost Cap Adjudication Panel, and/or the ICA, to assist them in assessing compliance with these FE Team Financial Regulations;

(b) procure access for the Cost Cap Administration, the Cost Cap Adjudication Panel, and/or the ICA to the data referenced in Article 8.14(c), including providing the user name, password, and/or any other information or means required to access and download the data stored in such services or platforms or otherwise on such Electronic Devices;

but also requires the Cost Cap Administration to comply at all times with this Standard Operating Procedure in relation to Electronic Devices and/or related data to which it is given access further to such provisions, in order to protect the privacy interests of those involved and to ensure that the procedures used by the Cost Cap Administration to extract, store and use data and other information from Electronic Devices are fit for purpose and will ensure that the data are processed, stored, and used appropriately, proportionately, and lawfully.

1.3 The Cost Cap Administration will maintain a written record of its compliance with the requirements of this Standard Operating Procedure.

- 1.4 The Cost Cap Administration may require the FE Teams and FE Manufacturers to enter (and to procure that each of the other members of its Legal Group and each of its Technical Partner(s), if any, enters) data processing agreements and/or data sharing agreements, as required for purposes of regulating any data processing or sharing under Articles 8.14(c) and (d) of the FIA Formula E Financial Regulations and/or this Standard Operating Procedure.

## 2. CONDITIONS FOR REQUIRING ACCESS TO ELECTRONIC DEVICES AND RELATED DATA

- 2.1 The Cost Cap Administration may only require access to Electronic Devices for the purpose of copying and/or downloading data (a “**Demand**”) where the Cost Cap Administration considers that the requirement is necessary to further the purposes of the FIA Formula E Financial Regulations, proportionate to the achievement of those purposes, and lawful.

(a) **Necessity.** A Demand may be considered necessary to further the purposes of the FIA Formula E Financial Regulations where the Cost Cap Administration has reasonable grounds to believe that there may be data contained on or accessible via the Electronic Device in question that may evidence or lead to the discovery of evidence of non-compliance with the FIA Formula E Financial Regulations.

(b) **Proportionality.** A Demand may be considered a proportionate means of achieving the purposes of the FIA Formula E Financial Regulations where it goes no further than is necessary to achieve those purposes and does not have adverse effects that outweigh the benefit of doing so.

(i) In determining whether the Demand is a proportionate means of achieving the purposes of the FIA Formula E Financial Regulations, it is necessary to:

(A) balance the scope of the Demand against the nature of the breach(es) being investigated;

(B) consider whether there are any reasonable alternative means of obtaining the data in question; and

(C) seek to limit the intrusion to the privacy of the user of the Electronic Device in question to the greatest extent possible.

(ii) Further to paragraph 2.1(b)(i)(C), Electronic Devices may store data that is not relevant to the Cost Cap Administration’s investigation. Where possible, only data that the Cost Cap Administration considers might reasonably be likely to contain relevant information should be copied/downloaded. Such limiting parameters should be considered on a case by case basis.

(iii) If limiting parameters are not appropriate in a particular case, and instead an image has to be taken of all of the data on an Electronic Device, in accordance with paragraph 5 below tailored searches will be made of the image taken (including by date and by keywords, where appropriate) to identify potentially relevant information to be pursued as part of the Cost Cap Administration’s investigation, and to exclude irrelevant information from consideration.

(c) **Legality.**

(i) The Cost Cap Administration will act at all times in accordance with the law of the country/countries in which it is operating. If there is any indication that

accessing the Electronic Devices and/or downloading or copying data or other information from such sources in the manner proposed may breach any applicable laws, legal advice must be obtained.

- (ii) The Cost Cap Administration is subject to and will comply with the applicable data privacy and security requirements, including those set out in the European Union Regulation (EU) 2016/679 (the General Data Protection Regulation, or “GDPR”). In accordance with the GDPR, all personal data collected by the Cost Cap Administration will be:
  - (A) processed lawfully, fairly, and in a transparent manner in relation to the data subject;
  - (B) collected for specified, explicit, and legitimate purposes, and not processed in a manner that is incompatible with those purposes;
  - (C) adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed;
  - (D) accurate and (where necessary) kept up to date, with every reasonable step to be taken to ensure that personal data that are inaccurate (having regard to the purposes for which they are processed) are erased or rectified without delay;
  - (E) kept in a form that permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; and
  - (F) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures.

### **3. THE COPYING/DOWNLOADING PROCESS**

- 3.1 References in this paragraph 3 to an FE Team or FE Manufacturer includes any member of that FE Team’s or FE Manufacturer’s Legal Group and any Technical Partner(s).
- 3.2 A Demand may be served in person or by email or courier or other convenient method. It may require the FE Team or FE Manufacturer in question and/or any Personnel engaged by such FE Team or FE Manufacturer to give the Cost Cap Administration immediate access to their Electronic Device(s) to enable immediate downloading and/or copying of the data and/or other information on such source(s).
- 3.3 Compliance with the Demand:
  - (a) The copying and/or downloading of information from the Electronic Device(s) may take several hours. The length of this process will not provide a basis to object to immediate compliance with the Demand.
  - (b) The obligation on FE Teams and FE Manufacturers and their Personnel to provide access to Electronic Devices includes the obligation to provide the user name, password, and/or any other information or means required to access and download

the data stored in such services or platforms or otherwise on such Electronic Devices (**Login Information**). As set out in paragraph 3.5 below, the data copying and/or downloading process will be completed in the presence of the FE Team or FE Manufacturer and/or affected Personnel (and/or their representative) if they so wish. If the user of the Electronic Device is present, they must correctly enter their Login Information in order to permit access to (and downloading from) the Electronic Device. Where they are not present, and where the Cost Cap Administration considers it necessary to access the Electronic Device in their absence in order to continue the investigation, the FE Team or FE Manufacturer must provide the Login Information to the Cost Cap Administration. The obligation to provide Login Information continues for the duration of the investigation.

- (c) The FE Team or FE Manufacturer in question and/or any affected Personnel are entitled to take legal advice in relation to a Demand before complying, if they see fit. If they choose to do so, reasonable and appropriate steps must be taken to ensure that the integrity of the Electronic Device(s) is not compromised, and that potential evidence is not altered or destroyed. For example, where the Electronic Device is a portable device, the Cost Cap Administration may insist on taking possession of the device pending consultation with the legal advisor, in which case the Electronic Device will be secured in a tamper-proof bag or a sealed and signed envelope, with the device powered off or switched to non-transmission mode, and no attempt will be made to copy or download information from the device pending the consultation with the legal advisor.
- (d) If the relevant FE Team or FE Manufacturer and/or affected Personnel subsequently refuses to give the Cost Cap Administration access to the Electronic Device(s), the Cost Cap Administration must return the device(s) to the relevant FE Team or FE Manufacturer and/or affected Personnel without delay, without copying or downloading any information from the device. However, the refusal may constitute a breach of the FIA Formula E Financial Regulations by the FE Team or FE Manufacturer and/or Personnel involved for which any of the sanctions set out in Article 10.5 or 11 (as applicable) of the FIA Formula E Financial Regulations may apply, depending on the circumstances in issue, and taking into account any mitigating or aggravating factors, and in particular taking into account whether the FE Team or FE Manufacturer took all appropriate measures, including legal action, to obtain access to the Electronic Device(s) in accordance with applicable laws.

3.4 The Cost Cap Administration may engage a digital forensics service provider ("**Service Provider**") to use data extraction and/or forensic imaging equipment to download and/or copy data and/or other information from Electronic Device(s), and/or the Cost Cap Administration may carry out those functions itself. Any Service Provider appointed by the Cost Cap Administration will only act as a technical assistant to the Cost Cap Administration and may only provide advice in relation to technical matters, such as the most effective, efficient, and/or secure way of accessing, copying, or downloading data from the Electronic Device(s). The Service Provider will act solely on the Cost Cap Administration's instructions and will not have any access to details about the Cost Cap Administration's investigation or any discretion as to what data or other information to copy or download from Electronic Devices.

3.5 The data copying and/or downloading process may take place either in person or (where appropriate) remotely. It will be completed in the presence of the FE Team or FE Manufacturer and/or affected Personnel (and/or their representative) if they so wish. Once it is completed,

the Electronic Device(s) will be returned to the FE Team or FE Manufacturer and/or affected Personnel (unless the process was undertaken remotely, in which case the FE Team or FE Manufacturer and/or affected Personnel will retain possession of the Electronic Device(s) throughout).

- 3.6 Only the Electronic Devices mentioned in the Demand may be accessed, and only the data or other information specified in the Demand may be copied and/or downloaded from those sources. Any limiting parameters identified in the Demand (see paragraph 2.1(b)(ii) above) must be respected. The data copied from an Electronic Device may include (for example) data in the form of text messages (i.e. SMS and MMS), and/or data stored on any cloud-based services used by the Electronic Devices, and/or (where keywords relevant to the matter in issue are identified in the messages using automated search tools or where access is authorised by consent of the Electronic Device user or by judge order) data in personal messaging services or platforms located on or used by the Electronic Devices (such as iMessage with personal iCloud ID, WhatsApp, Facebook Messenger, Signal, or similar).
- 3.7 The data and/or other information copied and/or downloaded from the Electronic Device(s) in accordance with the Demand will be copied onto an encrypted device and delivered without delay to the Cost Cap Administration by secure means, with the transfer properly documented and recorded by the Cost Cap Administration. If a Service Provider is involved, it will not retain a copy of the data and/or other information.

#### **4. CHAIN OF CUSTODY, STORAGE, AND ACCESS**

- 4.1 All data and/or other information copied and/or downloaded from Electronic Device(s) in accordance with a Demand will be governed by the following strict internal evidence management and administration procedures designed to ensure the security and confidentiality of that data and other information at all times:
- (a) The Cost Cap Administration will maintain a carefully documented chain of custody, starting from when it first receives the copy of the data and/or other information and continuing until the copy is deleted and/or otherwise disposed of.
  - (b) Data and/or other information copied and/or downloaded from an Electronic Device will be stored securely by the Cost Cap Administration.
    - (i) The Cost Cap Administration will upload the data or other information to a secure encrypted file storage system located within the EU and under the control of the Cost Cap Administration. The Cost Cap Administration will ensure that access to this system is password-protected and that strict access controls are maintained.
    - (ii) The Cost Cap Administration will store any portable drives containing such data and/or other information (e.g. encrypted pen drive or external hard drive) in a locked safe when not in use.
  - (c) The Cost Cap Administration will ensure that access to data and/or information from Electronic Devices is strictly controlled and limited to those persons requiring such access for the purposes set out in paragraph 6.1, below.
  - (d) The Cost Cap Administration will keep a record of all access to data and/or other information copied and/or downloaded from Electronic Devices through internal access and analysis logs.

## **5. IDENTIFICATION OF RELEVANT INFORMATION**

- 5.1 The Cost Cap Administration will take appropriate steps to identify from the data and/or other information copied and/or downloaded from an Electronic Device:
- (a) any information that is not relevant to its investigation;
  - (b) any information that may be legally privileged; and/or
  - (c) any information that is relevant and not privileged but may be considered particularly sensitive or personally embarrassing information (particularly where specifically flagged by the affected person(s)).
- 5.2 The steps taken to identify such information may include using software to conduct automated searches for key words or phrases and/or date range searches, and/or engaging legal counsel to identify irrelevant and/or legally privileged information. In exceptional circumstances, it may be appropriate to engage independent legal counsel to review the information.
- 5.3 Once irrelevant and/or legally privileged data or other information have been identified, the Cost Cap Administration will take all steps necessary to ensure that they are designated as such, that they are not considered by the Cost Cap Administration as part of its investigation, and that they are destroyed and/or otherwise disposed of as soon as is practicable.
- 5.4 If the Cost Cap Administration or legal counsel identify any data or other information that are relevant and not privileged but may be considered particularly sensitive or personally embarrassing information, the Cost Cap Administration will obtain and follow legal advice on any special handling of the information that may be appropriate.

## **6. USE OF RELEVANT INFORMATION**

- 6.1 In accordance with the FIA Formula E Financial Regulations, any information obtained pursuant to a Demand may be made available by the Cost Cap Administration to the Cost Cap Adjudication Panel and/or the ICA (as the case may be). In particular, such information may be:
- (a) used by the Cost Cap Administration solely for the purposes of investigating, enforcing, and/or bringing proceedings for breach of the FIA Formula E Financial Regulations; and/or
  - (b) used by the Cost Cap Adjudication Panel and/or the ICA solely for the purposes of adjudicating allegations of breach of the Financial Regulations.
- 6.2 The confidentiality provisions of the FIA Formula E Financial Regulations must be observed with respect to such information.

## **7. RETENTION**

- 7.1 Subject to any retention periods under applicable law or relevant privacy notice, the Cost Cap Administration will retain copies of the data and other information copied and/or downloaded from Electronic Devices for as long as necessary to achieve the purposes of the FIA Formula E Financial Regulations, or (in relation to personal data specifically) for the duration of the

investigation(s) and any related hearing process(es) (including first instance and appeal) and related litigation (if any).

- 7.2 Where retention of the data/information is no longer necessary pursuant to paragraph 7.1, the Cost Cap Administration will delete it.
- 7.3 The Cost Cap Administration will regularly review the data and other information that it holds that has been copied and/or downloaded from Electronic Devices to ensure that it complies with these requirements.