



## **Athlete Commercial Agreement Template (Annotated)**

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## **IMPORTANT NOTICE TO ATHLETE AND NATIONAL SPORT ORGANIZATION (“NSO”)**

Between 2015 and 2019, AthletesCAN, together with system stakeholders, experts, NSO and athlete leaders undertook a detailed review of athlete agreements in the Canadian sport landscape. As a result, they created the template Athlete Agreement, which is now recommended by Sport Canada and available for adoption.

One central recommendation that came out of the review process was to separate the athlete / NSO commercial and performance relationships into parallel agreements. What followed was a process where athlete and NSO leaders, together with marketing and legal experts, created the Athlete Commercial Agreement Template. The Athlete Commercial Agreement Template is intended for both athletes and NSOs to come to a mutually beneficial, reciprocal agreement to foster their commercial relationship.

The ACA is intended to:

- invoke an honest and transparent relationship between NSO and the athlete;
- recognize the significant investment NSOs are making in the development of athletes, the significant sacrifices athletes make to represent their NSO and country on the international stage, and the role athletes have in the achievement of NSO’s marketing objectives;
- honour the value of athletes (as people, high performance athletes and ambassadors for sport);
- inform and educate the athlete on their role as an ambassador; and
- ensure the joint responsibility NSOs and athletes have with respect to the success of the business of the organization.

Underpinning the ACA is the notion that an NSO is the exclusive rights holder of its marks, logos, and uniforms, and has the authority to designate the equipment and uniform that athletes use/wear at events, activities and competitions; and that athletes are the exclusive rights holder to their marketing rights and should have priority and full say over commercial exploitation of those rights. The ACA outlines what NSOs and athletes have agreed to in terms of transferring certain rights to each other.

It is best practice, before an athlete signs the ACA, to carefully examine it to be sure that all terms and conditions agreed upon have been incorporated, and that they fully understand these terms and conditions as presented. To aid the parties in this process, the ACA has been annotated to further define the various sections in plain language. Annotations appear through the ACA in **bold text boxes**. Should an athlete have any questions or concerns, they should address them immediately with the designated NSO contact.



## Athlete Commercial Agreement

THIS AGREEMENT, is made as of the [date] (the “Effective Date”)

BETWEEN:

[NAME OF ATHLETE]

(the “Athlete”)

AND:

[NAME OF NSO], a registered Canadian amateur athletic association having its registered office at:

[ADDRESS] \_\_\_\_\_

(the “National Sport Organization” or “NSO” and together with the Athlete, collectively the “Parties” or individually a “Party”)

**WHEREAS** the Athlete has signed an athlete agreement (the “Athlete Agreement”) with the NSO, which governs the terms and conditions relating to eligibility, performance and personal conduct pertaining to the Athlete being part of a Canadian National [SPORT] Team program;

**AND WHEREAS** this athlete commercial agreement (“ACA”) addresses the terms under which the Athlete has sponsorship and commercial relationships with third parties that are independent and separate from the sponsorship and commercial relationships entering into between the NSO and third parties, and forms an agreement that is separate and distinct from the Athlete Agreement;

**AND WHEREAS** the Athlete is interested in fostering the high-performance relationship with the NSO outlined in the Athlete Agreement and in this ACA;

**AND WHEREAS** the Athlete has a right to and is interested in growing and promoting their own image and commercial interests;

**AND WHEREAS** subject to the terms contained herein the Athlete has agreed to assist the NSO by participating in NSO promotional projects, activities, and events and allowing the NSO to use the Athlete’s commercial rights;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

## ARTICLE 1: DEFINITIONS



It is important to read these terms and understand their definitions, as they will appear throughout this agreement and directly inform your involvement in the organization.

For the purposes of this ACA, the following words or phrases shall have the meanings set out below:

**“Apparel”** means any clothing or equipment provided by the NSO to the Athlete.

**“Athlete’s Imagery”** has the meaning ascribed to it in Section 3.1(d).

**“Collective Use”** means the NSO’s Commercial Use of the images of [#] or more high performance program (“HPP”) athletes, which images must be portrayed with [#] or more athletes in one promotional piece, or may be a mosaic of [#] or more individual athlete images forged into one promotional piece where all individual athletes are equally prominent in the image. Collective use shall not imply that any individual athlete endorses any product and/or service.

**“Commercial Use”** means NSO’s promotional activities pursuant to an agreement between the NSO and an NSO Commercial Partner, including those featuring any of NSOs or NSO Commercial Partners’ names, marks, brands, logos or other identifying intellectual property.

**“Conflict of Interest”** for purpose this Agreement means a situation where the requirements or obligations under contract owing by a Party are incompatible or inconsistent with the requirements or obligations under contract by the other Party. Without limiting the foregoing, Conflicts of Interest can arise from clauses that restrict entering into agreements with businesses that are competitors to the contracting party, agreements that mandate or restrict usage or placements of marks and/or logos of a person, and/or agreements with entities that could reasonably bring a Party’s reputation into disrepute.

**“Contract Territory”** means worldwide. [Note to NSOs: Different rules may apply depending on where your HPP teams compete based on IF or other federation rules, so you will need to consider whether worldwide rights are really needed or not. AthletesCAN would recommend that an NSO clearly articulates to the Athlete whenever there is an opportunity for them to feature their personal endorsements on the field of play, in accordance with any NSO/IF rules that apply.]

**“Dress Code”** means the direction provided by the NSO to the Athlete regarding the wearing of Apparel, non-designated apparel, accessories or products. [Note to NSOs: As a reciprocal obligation, specifics regarding apparel minimums should be provided to the Athlete in a Dress Code].

**“Force Majeure”** means acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, pandemics, epidemics, labour stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

**“Fundraising Activity”** means a staged event created for the purpose of raising funds through donations, silent auctions or other means.

**“IF”** means [\* Insert Name of applicable international sports federation].

**“In-Uniform Athlete Imagery”** means photographs, videos or film images, or other likenesses or images of the Athlete where the Athlete is wearing Apparel or NSO team logos or marks.



**“Marketing Rights”** means promotional and advertising rights to the Athlete’s imagery, voice, name, personality, likeness and fame gained in **[specific sport]** as a member of the NSO’s HPP to promote the NSO and the NSO’s athletes, and includes all Athlete images whether captured at NSO Sanctioned Activities or otherwise and used in any media whatsoever.

**“Media Appearance”** means an event arranged for the purpose of interacting with media representatives, including print, television, radio, and online to promote the NSO, the NSO’s athletes, and the NSO’s Partners.

**“Meet and Greet”** means an informal, non-speaking engagement aimed at establishing personal relationships with potential partners and the Canadian public.

**“Non-Commercial Use”** means any use of Marketing Rights by the NSO other than with NSO Commercial Partners and solely for the purposes of promoting the NSO using NSO marks on a stand-alone basis, or in conjunction with non-NSO Commercial Partners marks, such as **[IF]** marks or NSO/**[IF]** event marks provided further that such use is not affiliated or attached to any NSO partner promotion, activation or activity.

**“NSO Commercial Partners”** means all commercial entities with whom NSO has an agreement other than: government entities, Canadian provincial or national sports federations, IFs, International Olympic Committee and the Canadian Olympic Committee.

**“NSO IP”** means the trademarks, logos, brand, marks owned by the NSO, including the phrases “Canadian **[Sport]** National Team”, “Canadian **[Sport]** World Championship Team”, “Canadian **[Sport]** High Performance Program”.

**“NSO Partners”** includes all NSO Commercial Partners and non-NSO Commercial Partners.

**“NSO Sanctioned Activities”** means NSO training camps, competitions, fitness testing, NSO or **[IF organized meetings – if applicable]**, Press Conferences, Fundraising Activities, Meet and Greets and Personal Appearances/Promotional Days.

**“Out-of-Uniform Athlete Imagery”** means photographs, video or film images, or other likenesses or images of the Athlete without NSO team logos or marks or Apparel.

**“Personal Appearance/Promotional Day”** means a planned engagement arranged by the NSO or NSO Partner involving the Athlete designed at least in part to highlight or promote a specific achievement or achievements by the Athlete where such Athlete was competing on behalf or otherwise representing the NSO, or to promote the Athlete generally.

**“Press Conference”** means an event to which the Athlete has been invited and which is held in conjunction with an NSO and/or a non-NSO Commercial Entity competition or event to promote the competition or event in connection with the Athlete.

**“Production Day”** means a planned engagement to which the Athlete has been invited at the request of the NSO or an NSO Partner for the purposes of creating and developing commercial and promotional assets to support the NSO’s marketing, public relations and communications strategy and program in connection with the Athlete.

**“Social Media”** includes, but is not limited to, the following platforms: Facebook, Twitter, blogs, personal websites, Pinterest, Instagram, SnapChat, WhatsApp and all other digital platforms accessible by the public, or a defined user-group.

**“Social Media Posts”** means digital media entries, reports, messages or endorsements written by the Athlete or provided by the NSO for Athlete’s use on Social Media.

“Term” means the same duration as that set out in the Athlete Agreement, unless terminated in accordance with the termination provisions herein.



## ARTICLE 2: GENERAL OUTLINE OF MARKETING RIGHTS

As a member of the national team, the Athlete has two (2) roles: as a high-performance Athlete (as outlined in the Athlete Agreement) and as an ambassador for their sport and organization (as outlined in this ACA). Both roles are of equal importance, as the Athlete’s contributions to the NSO in the role of an ambassador will help drive the business of the NSO which helps finance the pursuit of the Athlete’s athletic endeavors.

The NSO will make a significant investment in the Athlete’s growth and development, and in return, requires the Athlete’s support in the role of an ambassador. The NSO also enjoys the benefit of the Athlete’s personal sacrifices to achieve successes on behalf of the NSO as well as the personal character and grass roots support that the Athlete brings to the sport in which the Athlete trains and competes.

Some common marketing objectives for the NSOs include driving awareness and growing participation in their sport, which leads to increased engagement with Canadians, which will ultimately help recruit new sponsors. New sponsors are often integral to the continued financial health of an NSO and allow the Athlete to continue pursuing their athletic goals with an appropriate amount of support in return. As such, the Athlete’s role as an ambassador is very valuable to the NSO and the Athlete’s marketing rights are the basis of what the Athlete has to offer.

Athletes also provide value to the NSO by contributing content through their athletic performances that can be packaged and sold to broadcasters, sponsors and ticket buyers. Content is increasingly valuable and is being used in activations and other marketing vehicles.

This section outlines the proper use of the Athlete’s marketing rights, of which there are two (2) general applications: non-commercial purposes (i.e. for the NSO to promote the Athlete’s sport or its events) and commercial purposes (usually attached to a business outcome for a sponsor). This section also outlines how the Athlete’s marketing rights can be used to secure team sponsors and personal sponsors.

Any sponsor of the NSO is considered a team sponsor, and the NSO can only use Athlete’s marketing rights commercially for a team sponsor. Any marketing campaigns for a team sponsor must have a minimum of [x] athletes present in equal prominence – this is defined as “Collective Use” and is important because it respects and protects the Athlete’s marketing rights for personal sponsors. The NSO cannot use the Athlete’s individual marketing rights for its own sponsor, unless they are compensating the Athlete.

The Athlete can secure their own personal sponsors, so long as they do not conflict with any team sponsors (i.e. be in the same business category). It is best practice for the Athlete to provide the NSO with an updated list of their personal sponsors each season, to ensure clear communication and business practices.

Note: The standard minimum number of athletes for the promotion of a team sponsor is three (3) for individual sports and five (5) for team sports.

This section also addresses, in part, how to help prevent and address conflicts of interest.



## **The Parties agree that:**

### **2.1 Acknowledgement**

- (a) Subject to the terms contained herein, the Athlete may enter into separate commercial and non-commercial agreements with persons that impact the use of the Athlete's Marketing Rights and the NSO IP.
- (b) Except as otherwise expressly set out herein, the NSO shall not use the Athlete's Marketing Rights without the prior written consent of the Athlete, such consent not to be unreasonably withheld or delayed; and the Athlete shall not allow the use of the Athlete's Marketing Rights which contain marks, brands, logos, uniform, or other identifying intellectual property of the NSO, or marks, brands, logos, uniform, or other identifying intellectual property of the NSO Commercial Partner without the prior written consent of the NSO, such consent not to be unreasonably withheld or delayed.

### **2.2 NSO Rights**

- (a) Non-Commercial Use
  - (i) During the Term, the Athlete grants the NSO permission to use the Marketing Rights for Non-Commercial Use.
  - (ii) After the Term, the NSO may only continue to make Non-Commercial Use of the Athlete's Marketing Rights with the prior written consent of the Athlete which may be given or withheld at the Athlete's sole discretion.
- (b) Commercial Use – Non-Collective Use.
  - (i) For each non-Collective Use NSO wishes to make of the Marketing Rights, NSO must obtain the Athlete's prior written consent, which may be given or withheld at the Athlete's sole discretion, and such use shall be subject further to the terms of Appendix "1" to this Agreement.
- (c) Collective Use.
  - (i) During the Term, the Athlete grants the NSO permission to Collective Use of the Marketing Rights.
  - (ii) After the Term, the NSO may make Collective Use of the Athlete's Marketing Rights only with the prior written consent of the Athlete, which may be given or withheld at the Athlete's sole discretion.

### **2.3 Other Restrictions on NSO Use of Marketing Rights.**

In all instances,

- (a) Any use of Out-of-Uniform Athlete Imagery requires the prior written consent of the Athlete, which may be given or withheld at the Athlete's sole discretion.
- (b) The NSO must obtain prior written consent from the Athlete to assign its rights under this ACA to a third-party, such Athlete consent not to be unreasonably withheld or delayed. This provision shall survive termination of this Agreement.



## 2.4 Athlete's Rights

- (a) **Non-Commercial Use.** The Athlete has the right to use their own individual image from NSO Sanctioned Events and NSO marketing activities, regardless of who captures the image, and NSO grants Athlete a worldwide, perpetual right for purposes that do not generate fees or other compensation for the Athlete, use of marks, logos, and Apparel to Athlete. The Athlete shall not remove or conceal any NSO sponsor logos from Apparel without the prior written consent of the NSO, such consent not to be unreasonably withheld or delayed.
- (b) **Commercial Use**
  - (i) The NSO acknowledges and agrees that the Athlete may seek personal endorsements, sponsorship or participate in other commercial activities for the Athlete's personal gain.
  - (ii) In relation to all agreements pursuant to which the Athlete may be paid a fee or provided certain other compensation ("commercial agreement"), the Athlete must obtain prior written consent from the NSO to use the name, marks, logos, uniforms or other intellectual property of the NSO, or if the Athlete enters into a commercial agreement that includes openly identifying the Athlete with an NSO-related team or NSO marketing activities, denotes the Athlete as a member of the NSO's HPP, or implies an affiliation with any other NSO controlled program or entity, such consent not to be unreasonably withheld or delayed.
- (c) The Athlete must obtain prior written consent from the NSO to assign its rights under this ACA to a third-party. The NSO consent for Commercial Use and allowing assignment of rights must not be unreasonably withheld or delayed. This provision shall survive termination of this Agreement.
- (d) Upon prior written consent from NSO, such consent not to be unreasonably withheld or delayed, the Athlete may add the logo of a third-party to Apparel, as long as it conforms to the requirements of all applicable rules, including placement of the logo.



## ARTICLE 3: ATHLETE COMMITMENT TO MARKETING RIGHTS



In exchange for the investment the NSO is making in the Athlete, the Athlete is asked to give Marketing Rights, time and effort in a clearly defined list of activities each season, as part of their role as an ambassador. These are outlined in Appendix 1.

It's important to note that the NSO cannot 'carry over' marketing appearances or activities outlined in Appendix 1 from season to season or outside of the Term of this ACA.

All expenses related to the Athlete's fulfillment of marketing appearances or activities outlined in Appendix 1 (travel, food, etc.) are the responsibility of NSO or the team sponsor to cover.

The NSO is only required to provide the Athlete with additional compensation if they want to use the Athlete's individual Marketing Rights for Commercial Use. Ultimately, the Athlete has the decision as to whether this happens or not, and they should be negotiating directly with the sponsor inquiring.

### 3.1 The Athlete agrees to:

- (a) Attend at all NSO Sanctioned Activities, as agreed upon in and subject to the terms of Appendix "1", provided that:
  - (i) the Athlete is provided with advance notice of no later than thirty (30) calendar days prior to the NSO Sanctioned Activity (unless expressly waived by the Athlete);
  - (ii) that the NSO Sanctioned Activities do not unreasonably interfere with the Athlete's training program, work or competition schedule;
  - (iii) that the Athlete is compensated as agreed upon in Appendix "1"; and
  - (iv) costs associated with attendance, including travel, accommodation, and expenses are borne by the NSO. If the NSO does not have an internal travel policy, the Travel Directive as published by the National Joint Council shall apply.
- (b) Comply with the Dress Code while traveling to and during any NSO Sanctioned Activities or other HPP-related events. Specifically, the Athlete shall not remove or conceal any NSO sponsor logos on Apparel at any time or contravene the Dress Code without the prior written consent of the NSO.
- (c) Not wear apparel, accessories or products during any NSO Sanctioned Activity without the prior written consent of the NSO that will:
  - (i) contravene the Dress Code; or
  - (ii) contravene the agreements with NSO's commercial partners.
- (d) Use best efforts to provide responses within ten (10) business days of any proposed use by the NSO of any In-Uniform Athlete Imagery or Out-of-Uniform Athlete Imagery (collectively, the "**Athlete's Imagery**") (the "**Approval Period**"). Failure by Athlete to respond within the Approval Period shall be deemed to be a



lack of approval by the Athlete, however, the Athlete shall use commercially reasonable efforts to provide reasons for any lack of approval. **[All approvals on behalf of the Athlete shall be administered through *insert authorized agent, if any*].**

## ARTICLE 4: NSO COMMITMENT TO MARKETING RIGHTS



This section relates to the parameters around the NSO's use of the Athlete's Marketing Rights to assist with the achievement of the NSO's marketing objectives.

To assist the Athlete in securing personal sponsors, the NSO may be willing to provide the Athlete with an area on their equipment or apparel to display the logo of their personal sponsor when the Athlete is competing in an NSO sanctioned event. The placement of the logo on the Athlete's equipment or apparel is to be decided by the NSO and/or Athlete's IF, if designated rules exist. If the Athlete's events are broadcast on television or live-streamed online, the Athlete's personal sponsor should be able to view their logo in the designated area, which can assist the Athlete with their marketing objectives.

### 4.1 The NSO agrees:

- (a) To allow the Athlete to add the logo of at least one (1) personal commercial partner to each of piece of Apparel, as long as it conforms to the requirements of the IF rules and any competition-specific rules. The NSO will advise the Athlete as to the placement of the logo.
- (b) Not to create or exploit any item used in connection with the Athlete's Imagery unless and until the same has been approved by the Athlete in writing, provided that such proposed use of the Athlete's Imagery in connection with the created or exploited item does not constitute Collective Use, in which case approval of the Athlete is not required pursuant to Section 2.3(c).
- (c) Provide to the Athlete, upon written request and within a reasonable time, the Athlete's Imagery when owned or procured by the NSO, which the Athlete may use to advance their own non-commercial and/or commercial interests in accordance with the terms of this Agreement, provided that all commercial markings of the NSO and the NSO's Partners in said imagery will not be altered nor removed without the prior written consent of the NSO. The NSO will not unreasonably withhold or delay such consent.
- (d) From time to time, provide the Athlete with resources to assist the Athlete in promoting their involvement with the NSO's HPP. Resources may include, but are not limited to traditional media training, social media training, key messaging, talking points, media briefing documents or template messages to be deployed on social media platforms.
- (e) Not disparage the Athlete's partners and generally adhere to the NSO's Code of Conduct appended to the Athlete Agreement **[and available on the NSO's website]**.

## ARTICLE 5: NSO MARKETING RIGHTS



This section outlines the other assets the NSO has to market the organization including its logo and marks. The NSO can affix its logo to any of the Athlete's apparel and equipment they are competing in when representing the NSO, or at NSO sanctioned events which include non-competition activities.

### 5.1 The NSO represents and warrants, and the Athlete acknowledges, that the NSO:

- (a) Owns and controls the use of the NSO IP.
- (b) Has the right to licence the use of the NSO's logos, marks, materials, phrases, and representations identified in Section 5.1(a) above to the NSO's Partners, including sponsors, suppliers, licensees, and such other commercial partners as it may choose.
- (c) Subject to any restrictions set out in this ACA, in its sole discretion, the NSO has the right to designate the Dress Code for NSO Sanctioned Activities and to affix the logos, images or names of the NSO's Partners on Apparel worn by the Athlete in NSO Sanctioned Activities and all other HPP events so long as such affixation of logos, images or names does not create a Conflict of Interest with the Athlete's commercial partners, as further outlined in **Appendix "#"**.



## ARTICLE 6: Conflicts of Interest

This section outlines the obligations of both the Athlete and the NSO regarding the management of conflict of interest between the NSO and third party commercial agreements. A conflict of interest is a situation where the contractual or business requirements or obligations of one Party are incompatible or inconsistent with the requirements or obligations of other Party. Conflicts of interest can arise from clauses that restrict entering into agreements with businesses that are competitors to the contracting party, agreements that mandate or restrict usage or placements of marks and/or logos of a person, and/or agreements with entities that could reasonably bring a Party's reputation into disrepute. Put simply, the parties' interests are in conflict with one another.

5.2 In addition to the restrictions set out in Article,

- (a) The parties acknowledge that the Athlete's and the NSO's ability to prevent and navigate any Conflicts of Interests will depend, in part, on timely and ongoing communication between the Athlete and the NSO regarding commercial agreements with third parties that may impact the other Party's interests. Each of the Athlete and NSO covenant to communicate to the other in a timely manner regarding all agreements that have been or are about to be entered into with persons which may impact the other Party's ability to use the Marketing Rights; provided however that each Party shall respect obligations of confidentiality mandated by any such third-party entity.
- (b) In support of the foregoing, the (i) NSO shall, on an ongoing basis, provide the Athlete a listing of all NSO commercial partners, outlining any exclusivities granted to the NSO's commercial partners and all terms that may impact the Athlete's ability to exploit for commercial or non-commercial purposes the Athlete's marketing Rights and (ii) the Athlete agrees to provide to the NSO, on an ongoing basis, a list of all entities with whom the Athlete has an agreement, outlining any exclusivities granted to Athlete's commercial partner in order to make the NSO aware of any potential conflicts with its own existing or future commercial partners.
- (c) In the event that a Conflict of Interest arises with respect to the matters described in this Agreement, the provisions outlined in the NSO's [\[Dispute Resolution Policy\]](#) shall govern the actions taken by the Parties.

## ARTICLE 6: ATHLETE COMMERCIAL CONTRACTS



This section is related to the Athlete's pursuit of personal sponsorships which most often take the form of an exchange of rights to market the Athlete's image and story in exchange for something of value. This usually takes the form of money or "value in kind" – meaning something of value other than cash, such as a free phone or a vehicle.

As agreed above, the Athlete must make reasonable efforts to ensure that any of their personal commercial partners that conflict with any of NSO's team sponsors (i.e. commercial partners in the same business category) do not negatively affect the NSO's relationship with their own commercial partners. For example, if the NSO's team sponsor is Petro-Canada, Esso would be an example of competing sponsors and therefore conflicting – likewise for McDonalds and Subway. Exchanging lists of commercial partners at the start of each season will help avoid these situations. As well, the Athlete and NSO should ask their commercial partners who they consider to be their competition, since business conflicts are not always obvious. For example, because of their exclusive relationship with Coke, McDonalds considers Pepsi to be a conflicting entity.

### 6.1 The Athlete may enter into individual, personal contracts that promote, advance or further the Athlete's own reputation and commercial interests, provided:

- (a) The contract(s) do not violate [IF] rules and regulations, specifically including the [NSO's please provide specific references here to your set of IF rules that pertain to marketing, competition apparel or equipment logos/branding, etc. for the ease of reference of the Athlete] attached as [Appendix "#"] to this ACA, as they may be updated from time to time.
- (b) The contract(s) do not require the Athlete to engage in any conduct or activities that would put the Athlete in conflict with their obligations set out in this ACA or in the Athlete Agreement. [NSOs to consider their Codes of Conduct and any specific provisions that may apply to image, reputation and goodwill of the NSO and NSO brand may be added or referred to here.]
- (c) The Athlete will not disparage any NSO partners and will generally adhere to the NSO's Code of Conduct appended to the Athlete Agreement [and available on the NSO's website].
- (d) The Athlete agrees to abide by the NSO's process [as set out in Appendix "#"] to this ACA] with respect to the clearance of the Athlete's personal endorsements by the NSO. The NSO will not unreasonably refuse to provide its consent to any Athlete personal endorsement so long as it is in compliance with including but not limited to Sections 2.5 and 3.1 and any other applicable provision in this ACA. Further, the NSO agrees to provide its response to Athlete within ten (10) business days.



## ARTICLE 7: INDEMNITY

This section explains that the NSO affords the Athlete certain protections from liability in the event of conflict or negative consequences that may arise from the NSO's use of the Athlete's Marketing Rights at an NSO Sanctioned Event, or with an NSO team sponsor or commercial partner. For example, if the NSO used an image of the athlete and did not properly credit the photographer, and the photographer took issue with the NSO, the NSO could not take action against the athlete for that error.

- 7.1 The NSO agrees to protect, indemnify and save harmless the Athlete from and against any and all expenses, liabilities, damages, claims, suits, actions, judgments and costs whatsoever, including, without limitation, legal fees and court costs arising out of, or in any way connected to:**
- (a) Any actions or omissions of the NSO including, but not limited to, the infringement of any patent, trademark or other proprietary or contractual rights to any third party, any claim or action for personal injury, death or other cause of action, or any use of the Athlete Marketing Rights by the NSO, including any claims related to advertising or marketing materials furnished by or on behalf of the NSO.
  - (b) In connection with any contests or sweepstakes conducted or promoted by the NSO or on behalf of NSO.

## ARTICLE 8: MEDIA RELATIONS AND SOCIAL MEDIA



This section outlines the responsibility that the Athlete and the NSO have in being professional in their joint interactions with members of the media.

It is important for the Athlete to be in constant communication with the staff member(s) of the NSO tasked with managing media requests and interviews, especially if the Athlete is dealing with any sensitive subject matter that could impact the NSO, for example, injury/illness or funding.

If the Athlete requires coaching or assistance for managing their interactions with the media, they should ask the staff member(s) of the NSO for assistance.

The use of social media platforms are critical to the success of both the Athlete and the NSO achieving their marketing objectives as well as satisfying the demands of the NSO's commercial partners and the Athlete's personal sponsors.

In order to ensure the financial health of the NSO, and for the Athlete to continue to pursue their athletic goals as an ambassador, it is important for the Athlete to assist the NSO with social media requests from sponsors from time to time where appropriate. To protect the Athlete's individual marketing rights the Athlete should use the term "team sponsor" in any of their posts, tweets, etc. regarding the NSO's commercial partners.

As an ambassador, it is also the Athlete's responsibility to act in an appropriate manner on social media platforms as the Athlete has a public profile and their comments could be used against them. The Athlete should refrain from posting anything that would negatively impact their ability to secure personal sponsors or that could negatively impact the NSO or their teammates. Referring to the NSO's Social Media Policy is a helpful way to learn more important social media tactics and restrictions.

### **8.1** The Parties agree that:

- (a) The NSO's Code of Conduct and the NSO's **Social Media Policy** will govern each respective Party's behaviour with respect to all media interaction and use of social media.





## ARTICLE 9: GENERAL

### 9.1 The Parties agree that:

- (a) Any dispute under this ACA will be attempted to be resolved pursuant to the NSO's [Dispute Resolution Policy] as may be amended from time to time.
- (b) The ACA shall be interpreted by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- (c) Any legal suit, action, litigation, or proceeding of any kind whatsoever in any way arising out of, from or relating to this ACA, shall be instituted in the courts of the Province of Ontario, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, litigation or proceeding. Service of process, summons, notice, or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action, litigation or other proceeding brought in any such court. Each Party agrees that a final judgment in any such suit, action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The Parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.
- (d) If any term or other provision of the ACA is determined to be invalid, illegal or incapable of being enforced for any reason, all other terms and provisions of the ACA shall nevertheless remain in full force and effect.
- (e) The ACA contains the entire agreement between the Parties. There are no other agreements, understandings, representations or warranties, collateral, oral or otherwise with respect to the commercial relationship as between the Parties.
- (f) Each Party has read the entire ACA and understand its contents.
- (g) Amendments: No modification or amendment to this Agreement may be made unless agreed to by the Parties hereto in writing.
- (h) Each Party has had an opportunity to obtain their own independent legal and financial advice with respect to this ACA and that each Party is fully aware of the nature of their rights and obligations hereunder.
- (i) Each Party has received adequate consideration for the obligations set out under this ACA.
- (j) Unless earlier terminated in accordance with this Section 9.1, the initial term of this ACA will begin on the Effective Date and will conclude in accordance with the Athlete Agreement. In addition, the Athlete may terminate this ACA, effective immediately upon written notice to the NSO, if: (i) the NSO breaches any provision in this ACA and does not cure the breach within thirty (30) days after receiving written notice thereof from the Athlete; (ii) the NSO fails to pay the Athlete any portion of the fees payable by the NSO under this ACA and ancillary documents when due; or (iii) the NSO is in default under any other agreement entered into between the Athlete and the NSO. Upon termination or expiration of this Agreement, the NSO shall not have any rights to use the Athlete's Marketing Rights except with the prior written consent of the Athlete.



- (k) Upon termination or expiration of this ACA for any reason, any amounts owed to the Athlete under this ACA before such termination or expiration will be immediately due and payable, all licensed Marketing Rights granted in this Agreement will immediately cease to exist and the NSO must promptly discontinue all further use of the Marketing Rights and all further use and distribution of the Marketing Rights. Notwithstanding the expiration or termination of this ACA, the Parties hereto shall continue to be bound by the provisions of this ACA which, by their nature, shall survive such completion or termination including, without limitation, provisions relating to warranties, indemnification and confidentiality (as applicable).
- (l) Currency: All reference to currency herein is to lawful money of Canada, unless otherwise specified herein.
- (m) This ACA may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.



## ACKNOWLEDGEMENT AND ACCEPTANCE

**[Note to NSO's:** The assumption is that your ACA is presented at the same time as the n signature of the HP Athlete Agreement.]

Each Party agrees to and accepts the terms and conditions of this ACA. Each Party acknowledges that they each have the right to obtain independent legal advice before signing this ACA. The Parties also hereby acknowledge that either such advice has been obtained or that they do not wish to seek or obtain such independent legal advice. Each Party further acknowledges and agrees that they have read this ACA and fully understand its terms, and that all such terms are reasonable and that they are signing this ACA freely, voluntarily and without duress.

**IN WITNESS WHEREOF**, the Parties hereto have caused this ACA to be executed, as of the date first above written.

**[ATHLETE NAME]**

**[NSO]**

\_\_\_\_\_  
Athlete Name:

By: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Guardian Name:  
**(if Athlete is under the age of majority)**



## APPENDIX 1 MARKETING RIGHTS

[Note to NSO's: This Appendix is highly customizable and will need to be changed to use the language adopted by your sport]

Pursuant to the framework established in the Athlete Commercial Agreement, the Athlete acknowledges and agrees that the Athlete will provide the following Marketing Rights to the NSO during the Term:

**2 Meet and Greets** as requested by the NSO provided that notice of such Meet and Greets is provided to the Athlete in writing no later than ten (10) business days prior to the Meet and Greet. NSO represents and warrants that Meet and Greets will last no more than two (2) consecutive hours.

**Personal Appearance/Promotional Days** as requested by the NSO provided that notice of such Personal Appearance/Promotional Days is provided to the Athlete in writing no later than ten (10) business days prior to the Personal Appearance/Promotional Days. Personal Appearance/Promotional Days shall last no more than four (4) consecutive hours on any one occasion. Personal Appearance/Promotional Days exclude requests made by the Government of Canada, the Canadian Olympic Committee, or the Canadian Paralympic Committee through the NSO.

**Fundraising Activity** as requested by the NSO provided that notice of such Fundraising Activities is provided to the Athlete in writing no later than ten (10) business days prior to the Fundraising Activities.

**2 Media Appearances** as reasonably requested by NSO provided that notice of such Media Appearances is provided to the Athlete in writing no later than ten (10) business days prior to the Media Appearances.

**3 Social Media Posts** as reasonably requested by NSO, for Non-Commercial Use.

**2 Social Media Posts** as reasonably requested by NSO, for Commercial Use, where conflicts do not exist.

A **reasonable number of Non-Commercial Use** promotional activities that may be requested by Sport Canada on behalf of the Government of Canada, the Canadian Olympic Committee, or the Canadian Paralympic Committee where the arrangements for such activities are made through NSO.

[Note to NSO's: You may need to add an exception here to clarify whether Athlete is required to perform certain marketing functions on behalf of the IF or at World Cups/World Series events, such as:

The above list of Marketing Rights provided by the Athlete will not apply to World Cup activities or related events, all of which will be included in the athlete's commitment to NSO marketing activities as these marketing uses are required by the IF/Governing Body and are not a requirement imposed by the NSO.]

The Athlete will provide the above Marketing Rights on the following terms and conditions:



**Compensation for NSO Sanctioned Activities.** The Athlete agrees to provide the services outlined above in exchange for compensation set out in the Athlete Marketing Schedule below.

**Compensation for Excess NSO Sanctioned Activities:** For attendance at an NSO Sanctioned Activity in excess of the minimum number set out in parts 1-7 above, the NSO agrees to pay the Athlete either:

When the NSO is directly responsible for paying the Athlete's fee, **\$X per occurrence**; or

When the fee will be paid directly by the NSO's commercial partner, the rate set out in the "Athlete Marketing Schedule" below.

All monies payable to the Athlete under the terms of this ACA and Appendix 1 must be made payable directly to the Athlete, unless otherwise directed in writing by the Athlete.

The NSO will issue T4A slips for any payment if the NSO makes a direct payment to Athlete.

**Expenses.** The NSO or NSO Partner shall pay all expenses of the Athlete directly related to the Athlete's Marketing Rights and participation in any agreed-upon NSO Sanctioned Activity, including, but not limited to, any and all types of transportation, parking, entrance fees, hotel accommodations and meals.

Unless mutually agreed to otherwise, the NSO (and/or the NSO Partner) will make the necessary arrangements for airfare, ground transportation, hotel accommodation, and any other necessary arrangements. The Athlete acknowledges that other than a Force Majeure (as defined in the ACA), the following shall apply:

Airfare will be booked in economy class at the lowest fare available where reasonable and taking into consideration the health and wellbeing of the Athlete;

Ground transportation will include taxis or car rentals and exclude airport limousine services;

Hotel accommodation will be booked based on double occupancy at a hotel with no less than a 2-star/diamond rating, or its equivalent;

Meals will include **\$X** CDN per day, including travel days, for combined breakfast, lunch and dinners that are not provided by NSO, the NSO Partner or the NSO Sanctioned Activity host. If no meals are provided by NSO, the NSO Partner or the NSO Sanctioned Activity host, the following meal per diem will be provided:

Breakfast = **\$X** CDN

Lunch = **\$X** CDN

Dinner = **\$X** CDN

**[NOTE to NSO's:** The below is an example of rate carding expectations. Please provide your Athlete Marketing Schedule, designations, etc. customized for your sport and as per your negotiations with your Athlete representatives/teams/etc., again as specific to your sport. Some sports may need to individually negotiate these rights with each Athlete, or with your star athletes.]



Athlete Marketing Schedule		
Level	Description & Role Clarity	Rate
Level 1	<ul style="list-style-type: none"><li>• First or second year member of the National Team in any discipline, hasn't had a podium finish in any IF competition, no Olympic medal</li><li>• <b>Role:</b> sign autographs, meet-and-greet, no formal speaking role, social media support</li></ul>	\$X
Level 2	<ul style="list-style-type: none"><li>• Member of the National Team in any discipline, podium finish in any IF competition</li><li>• <b>Role:</b> sign autographs, meet-and-greet, pictures with the medal, no formal speaking role, social media support</li></ul>	\$X
Level 3	<ul style="list-style-type: none"><li>• Member of the National Team in any discipline, has an Olympic medal</li><li>• <b>Role:</b> sign autographs, meet-and-greet, pictures with the medal, no formal speaking role, social media support</li></ul>	\$X
Level 4	<ul style="list-style-type: none"><li>• Olympic Champion, <b>[World/World Series/etc.]</b> Games Champion</li><li>• <b>Role:</b> sign autographs, meet-and-greet, pictures, keynote speaking role</li></ul>	\$X
Additional Notes: <ul style="list-style-type: none"><li>• <b>Rates are the base rate provided to the Athlete and do not include travel expenses (ground or air travel, accommodations, etc.)</b></li></ul>		



**POTENTIAL APPENDICES FOR NSO TO CONSIDER ADDING:**

- DRESS CODE
- SPORT-SPECIFIC MARKETING RULES IMPOSED BY IF/Regional Governing Bodies
- NSO SPONSORS/LICENSEES/FUNDING CONTRIBUTORS
- ATHLETE CONSENT FOR PERSONAL ENDORSEMENT (Form provided by NSO)
- SOCIAL MEDIA/MARKETING GUIDELINES or POLICY
- DISPUTE RESOLUTION POLICY
- CODE OF CONDUCT

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