

U S Olympic Committee Policy



Policy Name: NGB Athlete Agreements

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Policy Owner: USOC General Counsel

Applies to: NGBs

Purpose:

The NGB Athlete Agreements policy sets out basic parameters for certain agreements that an NGB should explicitly *require* of its athletes as a condition of participation, and optional commercial agreements that must remain voluntary, in a way that balances the rights and needs of both NGBs and athletes.

For clarity, in this Policy “NGB” refers broadly to a USOC-recognized sport organization that manages or governs a sport on the Olympic, Paralympic, Pan American, or Parapan American Games program, an organization that fulfills management responsibilities under a contract with the USOC, or the USOC where the USOC fulfills a sport governance role.

Policy Statement:

1. Balanced Rights and Obligations Generally

The USOC recognizes the right of NGBs to require certain agreements on the part of athletes as a condition of participation in membership, events, teams, or programs of the NGB. These agreements may include terms that help the NGB comply with International Olympic Committee (“IOC”), International Paralympic Committee (“IPC”), Pan American Sports Organization (“PASO”), International Federation (“IF”), and USOC requirements, field successful and competitive teams, and promote and generate support for the NGB itself (including via the use of athlete names, images, and likenesses other than for *Commercial Use*). The USOC also recognizes the right of each NGB to control the use of its name, marks, and other indicia.

At the same time, the USOC recognizes the right of each athlete to be treated fairly and consistently and to clearly understand what is required of him/her in order to participate, as well as the right of each athlete to control the commercial use of his/her name, image, and likeness.

In order to balance these NGB and athlete rights, NGBs must:

- Set out clearly and consistently those agreements and actions that are required of athletes as a condition of participation, in *Participation Agreements*;
- apply those requirements consistently among its athletes;
- keep *Participation Agreements* clearly separate from any *Commercial Agreements*, which may only be entered into mutually and voluntarily by athletes and NGBs;
- never condition an athlete’s right to participate on agreeing to a *Commercial Term* or signing a *Commercial Agreement*;
- allow adequate time for athletes to review, understand, and seek advice on (should the athlete so choose) both *Participation* and *Commercial Agreements* prior to signing; and
- ensure that its own conduct and all of its athlete requirements and agreements comply with applicable laws as well as IOC/IPC, PASO, IF, and USOC rules and requirements (as a reference, selected excerpts of some of these governing rules are attached as Appendix 1 hereto).

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2. Agreements That May Be Required of Athletes

Each of the following *Participation Agreements* may be required of athletes. The USOC recommends that each of these agreements be delineated as separate documents, or with clear subheadings. These agreements cannot contain *Commercial Terms*.

a. Baseline Participation Agreement

Each NGB should implement a clear *Participation Agreement* that all its athletes must comply with, without amendment or alteration in any particular case. This baseline *Participation Agreement* should specify the terms and obligations an athlete must meet in order to be eligible for participation in programs, events and competitions conducted, authorized or sanctioned by the NGB, including competitions in which the NGB has entered the athlete. These terms may include, for example, IOC/IPC/PASO or IF eligibility requirements, good standing requisites, compliance with anti-doping requirements, adherence to SafeSport standards, possession of a valid passport, completion of a physical examination indicating competitive readiness, and compliance with selection procedures. It also may include a requirement that athletes not make or authorize any *Commercial Use* of any NGB name, design, uniform, or logo.

This agreement should refer to compliance with the NGB Code of Conduct and the General Media Release.

b. Code of Conduct

Each NGB should maintain, and may require its athletes to adhere to, a Code of Conduct that outlines prescribed/prohibited conduct. This Code of Conduct should exist as a stand-alone document and should clearly designate to whom it applies and for what period of time.

c. General Media Release

Athletes may be required, whether generally or in connection with participation in membership, events, teams or programs, to execute a media release in favor of the NGB. This form of release should set out simple terms and should apply without amendment or alteration to all applicable athletes.

This General Media Release may pertain to an athlete's name, image, and likeness, and contemplate any and all technology and platforms for usage over a specific period of time.

The General Media Release must not cover *Athlete-Featuring* images for *Commercial Use* by the NGB or any third party.

The General Media Release may cover *Team-Featuring* images and footage for use by the NGB and its *Commercial Partners* in promoting the NGB, its sport, and the *Commercial Partner* and/or its relationship with the NGB.

It may cover event images and footage, whether depicting NGB athletes singly or in groups, and whether *Athlete-Featuring* or *Team-Featuring*, for the NGB's own *Non-Commercial Use*.

Always consistent with the terms of the General Media Release, the NGB may require athletes to participate in media events in connection with a specific competition/event (e.g., World Championships) as an official team function. Further, NGBs may wish to ask athletes to participate in additional media opportunities and events (though on a limited basis – general practice has been not more than twice per year). Although athletes are strongly encouraged to participate in these opportunities to help promote their sport, NGBs must respect the athlete's privacy, time constraints, and training and competitive schedule. NGBs should provide reasonable reimbursement for any associated expenses incurred by the athlete in attending such events.

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d. National Team/Event Agreements

Each NGB should implement clear National Team and/or Event agreements when prescribing/prohibiting conduct or requiring additional obligations above and beyond what is set forth in its baseline *Participation Agreement*.

This agreement should clearly set out all athlete rights and requirements that pertain to participation on a National Team (or other special team) or at a specific Event (e.g., World Championships), as well as what additional services and commitments the NGB is providing to the athlete. For example, they should define expectations and requirements as to behavior, training, camps, competition participation, travel gear, etc., as well as applicable *Basic Services* and benefits that the NGB provides to the athlete. NGBs may include a requirement of attendance and the wearing of team-provided and branded clothing at official team functions during those competitions/events but the parameters of those functions and the related requirements must be fair, reasonable, clearly defined, and communicated in advance to the athletes.

3. Commercial Agreements

Separately from the agreements and requirements contemplated in Section 2 above, an NGB and any athlete are free to negotiate and enter into one or more *Commercial Agreements*. *Commercial Agreements* must be made in writing.

No *Commercial Agreement*, nor any *Commercial Term*, can be required as a condition of membership, or participation on a National Team or in an Event.

The *Commercial Terms* in these agreements may include athlete obligations that increase one or more of the obligations contemplated in Section 2 (e.g., *Commercial Use* of an athlete's name and likeness) and/or may add further obligations (e.g., athlete appearances, apparel and equipment commitments, media opportunities, participation in certain programs or competitions.)

In any *Commercial Agreement*, NGBs must include additional consideration, which may include rights, benefits, and/or other compensation to the athlete that come over and above *Basic Services* and/or the commitments contemplated in Section 2.

For clarity, each of the following athlete requirements would be considered *Commercial Terms* and can only be mutually and voluntarily agreed upon by athletes and NGBs via a *Commercial Agreement*:

- Requiring attendance at a function that is not an official team practice, team meeting, or other NGB meeting or that is for *Commercial Use*
- Granting any right to a third party of an athlete's name, likeness, or image for *Commercial Use* (other than as part of a *Team-Featuring* image)
- Granting any right of first negotiation or refusal to any NGB *Commercial Partner* or other commercial entity
- Obligating disclosure of the terms of an athlete *Commercial Partner* agreement (though NGBs may require disclosure of the identity of any athlete *Commercial Partners*)
- Relinquishing any legal rights relating to an athlete's membership or participation in the sport

Any remedy for breach of a *Commercial Agreement* must include only commercial recourse and must not impact any athlete right as stated in Section 1.

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4. Specialized Equipment

Consistent with the IOC Olympic Charter and PASO Statute the USOC will, and in each case after consultation with the NGB and the AAC representative for the NGB's sport, designate *Specialized Equipment* for athletes to use in protected competition. Although the IPC does not have a similar rule, the USOC extends this right to all Paralympic athletes. The USOC Athlete Ombudsman will be available to assist all parties in such consultation.

The USOC will maintain and publish a clear listing of the *Specialized Equipment* for each sport.

The NGB must not include in any *Participation Agreement* any restriction or requirement as to an athlete's right to choose his/her *Specialized Equipment* or the branding that may appear on such equipment, other than what is mandated by applicable IOC, USOC, IPC, PASO or IF rules.

5. Key Concepts Defined

Athlete-Featuring: An image in which a particular athlete is identifiable and prominently depicted, in the context of whatever else is depicted in the image. Such an image might depict the athlete alone or with one or more other people. When used in connection with the brand of a company, product, or service, a reasonable person may infer that the athlete endorses or is affiliated with that company, product or service.

Basic Services: A set of NGB-provided equipment and services that applies equally to all participants in the NGB's national or event team. All NGBs are required to provide a certain level of basic services, but those services may differ from one NGB to another. *Basic Services* may include, for example, coaching, travel to certain competitions, and special access to training camps or facilities. *Basic Services* are not specific to any particular athlete but apply to all athletes on the national or event team. If an NGB has different tiers of Teams, NGBs may provide different *Basic Services* to these different teams.

Commercial Agreement: An agreement that includes *Commercial Terms* and opportunities for an athlete and/or team.

Commercial Partner: A commercial entity that enters into an agreement with an NGB or athlete whereby it provides consideration to the NGB or athlete in exchange for status as the NGB or athlete's sponsor, supplier, licensee, etc. In all cases, *Commercial Partners* receive certain rights to associate with the NGB or athlete in marketing and promotional programs.

Commercial Terms: Party-specific rights, benefits, or other compensation of a nature contemplated in Section 3 hereof, granted by one party to another in exchange for other specific rights, benefits, or other compensation from that other party. In the case of any relationship between an NGB and an athlete, *Commercial Terms* do not include any of the rights or obligations contemplated in Section 2.

Commercial Use: Use in connection with the promotion of any commercial entity and/or its relationship with an NGB or athlete, including without limitation one that expresses or implies an endorsement of any company, product, or service.

Non-Commercial Use: Use by an NGB solely in connection with promotion of an NGB itself (or in the case of an athlete's use, of the athlete him/herself), including without limitation fundraising, attracting members, or generating interest in the NGB, its events, or its sport.

Participation Agreement: An agreement setting out items that are required of athletes as a condition of participation in membership, events, teams, or programs of the NGB, as applicable.

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Specialized Equipment: Items of apparel and equipment, approved by the USOC, used by an athlete in the course of participation in a competition, which have a material effect on the performance of the athlete due to the specialized characteristics of the item. Also known as “personal performance gear.”

Team-Featuring: An image depicting an NGB athlete or athletes, which is not *Athlete-Featuring* but represents an NGB team in any fashion. When used in connection with the brand of a company, product, or service, a reasonable person may infer that the team (rather than any particular athlete) endorses or is affiliated with that company, product or service.

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APPENDIX 1 Rules Excerpts

Key governing rules include but are not limited to the Olympic Charter, the IPC Handbook, the PASO Statutes, the Ted Stevens Olympic and Amateur Sports Act and the USOC Bylaws. Selected excerpts, to serve as a starting point in an NGB's exploration of these rules:

1. "The mission of the IOC is to promote Olympism throughout the world and to lead the Olympic Movement. The IOC's role is to oppose any political or commercial abuse of sport and athletes;" *Olympic Charter, Rule 2, Section 10* and "to encourage and support the efforts of sports organizations and public authorities to provide for the social and professional future of athletes." *Olympic Charter, Rule 2, Section 11*.
2. "[The National Olympic Committees (NOCs)] have the sole and exclusive authority to prescribe and determine the clothing and uniforms to be worn, and the equipment to be used, by the members of their delegations on the occasion of the Olympic Games and in connection with all sports competitions and ceremonies related thereto. This exclusive authority does not extend to specialised equipment used by athletes of their delegations during the actual sports competitions. For the purposes of this rule, specialised equipment shall be limited to such equipment acknowledged by the NOC concerned as having a material effect on the performance of athletes, due to the specialised characteristics of the equipment." *Olympic Charter, Bye-law to Rules 27 and 28, Section 2.3*.
3. NGBs shall "not have eligibility criteria related to amateur status or to participation in the Olympic Games, the Paralympic Games or the Pan American Games that are more restrictive than those of the appropriate international sports federation." *Ted Stevens Act, 36 U.S.C. §220522(a)(14)*.
4. "No member of the [USOC] may deny or threaten to deny any amateur athlete the opportunity to participate in the Olympic Games, the Pan American Games, the Paralympic Games, a World Championship competition, or other such protected competition." *USOC Bylaws Section 9.1*.