



INDIVIDUAL ATHLETE SPONSORSHIP

GUIDANCE AND ADVICE

www.BritishDisabledSkiTeam.co.uk

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INTRODUCTION

This booklet is for all alpine athletes competing in IPCAS (International Paralympic Committee Alpine Skiing) competition at all levels, whether currently sponsored or seeking sponsorship.

It aims to:

- Remind alpine athletes of the rules and regulations with which they must comply
- Remind alpine athletes that it is their responsibility to abide by these rules and regulations
- Provide the information necessary to construct sound sponsorship agreements
- Offer practical help and advice on agreeing sponsorship terms and managing a sponsor
- Make alpine athletes aware of the help and support available from the British Disabled Ski Team (BDST)
- Ensure that alpine athletes do not enter into an agreement that might endanger their FIS/IPC/BPA status
- Highlight Team and Paralympic obligations which must be adhered to

It is vital, whether you had an agreement or not that you make yourself familiar with the new rules and requirements.

The BDST is acutely aware of the importance of sponsors to the financial viability of our sport and the huge contribution that they can make. Successful or promising alpine athletes have a commercial value and sponsorship can be a great way to get extra funding to support alpine activities. Looking for and maintaining a sponsorship deal can take a lot of time and effort the commitment involved should not be underestimated. However, if you have the determination, it can be extremely worthwhile and this booklet is designed to assist you with the process.

Please note that the information provided in this booklet is only intended to be a general guide and should not be relied upon in place of specific advice.

YOUR RESPONSIBILITIES

It is **YOUR** responsibility to ensure that you are aware of the rules regarding sponsorship and that you follow this guidance – if you do not, ultimately it could stop you competing. It is also your responsibility to ensure your sponsor is aware of these rules.

The main rules you need to be aware of are:

The FIS General Regulations – rules for Sponsorship and Advertising. The relevant extract from these rules is reproduced on P10 and can also be accessed at

<http://www.fis-ski.com/uk/disciplines/alpine-skiing-rules/alpine-skiing-rules/icr.html>

The FIS Specifications for Competition Equipment and Commercial Markings – updated each year and to be read as an adjunct to the FIS General Regulation. A link to the 2007-2008 document can be found on the BDST website at

http://britishdisabledskiteam.co.uk/Documents/FIS_Equipment_edition-2007.pdf.pdf

The IPC Alpine Skiing Rule Book - rules for Sponsorship and Advertising. The relevant extract from these rules is reproduced on P9 and can also be accessed at:

http://www.paralympic.org/opencms/release/Winter_Sports/Alpine_Skiing/About_the_sport/Rules/Draft_IPC_AS_Rule_Book_07-08.pdf

The IPC specific regulations for the Paralympic Games.

Specific legislation relating to the Olympic and Paralympic Games such as the Olympic Symbols Protection Act 1995, the London Games and Paralympic Games Act 2006 and rules within the Olympic Charter. The IPC Handbook provides further details under IPC Handbook Paralympic Games Chapter (Chapter 3):

http://www.paralympic.org/release/Main_Sections_Menu/IPC/IPC_Handbook/Section_1/Sec_i_Chapter_3_Paralympic_Games_Principles.pdf

The BDST rules - these state that: "Sponsorship agreements may provide Alpine athletes with financial assistance for the preparation for and participation in Alpine Events. Such agreements must not contravene these rules, or those rules or bye-laws of the FIS, IPC, BPA, UK Sport or any Testing Authority or the provisions of any Great Britain Paralympic Team agreement."

A full copy of the BDST athlete agreement can be downloaded from the BDST website.

http://britishdisabledskiteam.co.uk/Documents/Athlete%20Agreement%20_Final%20for%202007-08%20Season_.pdf

Athletes are strongly advised to insert provisions in their ongoing agreements with their sponsors following the guidance in this booklet.

AVOIDING CLASHES WITH OTHER OBLIGATIONS

The key to successful sponsorship is about more than just getting a legally sound agreement. You need to consider carefully what you can, realistically and actually, offer your sponsor.

It is extremely important that you do not commit yourself to something that you cannot deliver or mislead your sponsor regarding the commitments you can make. In particular, as your career progresses you will become subject to a number of restrictions and obligations, whether under the rules and regulations of the BDST, the FIS, the BPA, the IPC and/or the provisions of any Great Britain Paralympic Team agreement.

You need to think carefully about what obligations you currently have or may have in the future. For example:

- If you compete in IPCAS events there are strict rules on the size of logos etc.
- If you are selected as a member of any Paralympic Team you will be required to sign a team agreement and must accept the conditions of any team sponsorship even if that sponsorship is in direct conflict with your own personal sponsor. It is important your sponsor is aware of this possible requirement, before any deal is agreed.
- If you compete in the Paralympic Games you will not be allowed to wear kit other than that of the official team sponsors and there will be tight restrictions on your image being used for advertising purposes in the run up to and during the Games.

These restrictions could at times clash with your obligations to your sponsor.

It is relatively straight forward for a solicitor to draft provisions which will avoid this problem and to insert them in your agreement with the sponsor. An example is set out in Appendix One.

A good sponsor will appreciate and understand your need to include this sort of provision – your value to the sponsor is based on your success and indeed increases as a athlete rises through the ranks. You will not be able to progress through the ranks without committing yourself to these restrictions.

A SPONSORSHIP CHECKLIST

The following checklist may be helpful when looking at a potential sponsorship deal. It may also help if you are looking at an agreement provided by your sponsor or if you need to instruct a solicitor to deal with an agreement for you.

WHO IS THE SPONSOR?

- Is it a company or a person that you respect and are you happy to have your name linked with their name and their product?
- Is the sponsor completely reputable and financially sound? Remember your personal “brand” could be affected if something goes wrong with your sponsor.

WHAT IS THE SPONSOR ASKING YOU TO DO?

- Will the commitments the sponsor requires from you fit into your training schedule/lifestyle? E.g. are you required to attend a certain number of functions, make yourself available at events to support the sponsor?
- Be realistic about how much time any requirements will take - how might they affect you in different situations? Will the commitments interfere with your ability to compete?
- You will be required to promote Team sponsors when you are part of a Team, even if they are a competitor to your personal sponsor. Is your sponsor aware of this? Remember that Team sponsors may change during the time of your own agreement.

WHAT IS THE SPONSOR GIVING YOU IN RETURN FOR YOUR COMMITMENT?

- Does it look like a good deal to you?
- Are any payments inclusive or exclusive of VAT?
- When will the payments be made and what happens if they are late?
- If you are endorsing a product, what happens if it is not up to scratch?

HOW LONG WILL THE AGREEMENT LAST FOR?

- Can you get out of the agreement early if things are not going as you want?
- Can the sponsor get out of the deal early - if so – in what circumstances?
- What if you become even more successful – will you want to get more for the benefits you are providing to the sponsor?
- Is there a provision for increased payments?
- Would it be better to have a shorter agreement so that you can renegotiate any future deal?

ARE YOU PROTECTED FROM ANY POSSIBLE CLASHES?

- Is there a provision similar to the provision in Appendix One which overrides the obligations to the sponsor if there is a clash?

GENERAL POINTS TO CONSIDER

Before you sign any agreement with your sponsor read the wording thoroughly and refer to our advice on P16, ensuring that the necessary clauses are included.

Some competitors successfully manage multiple sponsorships; however think carefully before taking on additional sponsors. Consider possible conflicts of interest and, where necessary consult existing sponsors before negotiating additional agreements.

Once you have a sponsor on board and the agreements are signed the process doesn't end there. Remember that the key to a successful sponsorship deal is the ongoing relationship you have with your sponsor.

View sponsorship as a business arrangement – it should be mutually beneficial.

ABOVE ALL:

Don't be afraid to re-negotiate if you are not satisfied that you can answer all the above positively. A good sponsor will be only too happy to listen to the competitor and it is in their interest as much as the competitor's that the sponsorship is successful.

Further advice on personal sponsorship is available on UK Sport's website:

"Get Sponsored!"

See <http://sponsorship.uksport.gov.uk>

DRAFTING YOUR SPONSORSHIP AGREEMENT

When you enter into your sponsorship agreement – even if you just do this verbally or over the telephone – you will have entered into a legally binding agreement.

Ideally you should make sure that the agreement is made in writing, this will avoid confusion and confirm the rights both you and the sponsor have from the start. The agreement may be in the form of a letter of agreement or a detailed legal contract. Your sponsor may provide you with their preferred format or alternatively this may have to be drafted from scratch.

We strongly suggest that you consult a solicitor to ensure that the agreement is suitable. Many solicitors will provide you with such advice on a fixed fee basis (i.e. you ask them right at the start to give you a price for the legal review), alternatively you may be able to obtain some free advice via UK Sport. In any event we would suggest that you think through the points on the sponsorship agreement checklist on P7 before you consult the solicitor.

If you have any concerns or are unclear of the rules please get in touch with us **BEFORE** any agreement is made. Full Contact details can be found on P15.

There are 3 main ways to generate a sound sponsorship agreement:

1. COMPETITORS DRAFT THEIR OWN AGREEMENT

This could be either in the form of a letter or a more detailed contract. The sponsorship checklist at P7 and the case study at Appendix Two should help you get started. Remember that this is only guidance and there will be differences depending on the individual circumstances of your sponsorship arrangement.

2. THE SPONSOR DRAFTS THE AGREEMENT AND ASKS YOU TO SIGN IT

You will need to consider the agreement carefully; the sponsorship checklist on P6 and the case study in Appendix Two should help you to focus on what you need to be aware of. Appendix One provides example clauses designed to avoid clashes with obligations; you should insist that clauses of this type are added to the agreement. However, remember that these are only provided for guidance and if you are unsure of any clauses you should seek independent legal advice.

3. THE AGREEMENT HAS ALREADY BEEN SIGNED WITH THE SPONSOR AND THERE IS NO PROVISION INCLUDED TO DEAL WITH ANY POTENTIAL CLASHES

The first thing to do is speak to your sponsor and explain the situation; you may find the note to sponsors in Appendix Three useful in explaining the situation. You will then need to agree some form of variation to your existing agreement which incorporates provisions to override those obligations.

RULES AND REGULATIONS

There are limitations on what you are allowed to offer your sponsor when you are competing under international rules. The following outlines the IPC regulations that are applicable. You will need to check with your individual discipline for regulations applicable to national rules.

Whilst every care is made to ensure these rules are accurate at the time of printing, it is the responsibility of those entering or negotiating sponsorship agreements to ensure they are familiar with the up to date rules. The rules below are taken from the FIS Specification for Competition Equipment and Commercial Markings Edition 2007 (valid from the season 2007/08). These regulations are available to view on:

www.BritishDisabledSkiTEam.co.uk

COMMERCIAL MARKINGS ON EQUIPMENT

1. GENERAL PRINCIPLES

Athletes may display on their clothing or equipment a commercial marking (wording or logo) specifically permitted by the rule articles 2.1 to 2.6 per product.

All other forms of commercial markings or advertising are not permitted if they are not explicitly mentioned. Specifications concerning the size, the form and the number of commercial markings have to be decided by the FIS Council.

FIS recognises as a manufacturer of ski equipment only those enterprises which effectively produce the ski equipment concerned.

No brand or model names which appear on hardware products (skis, poles, bindings, boots, helmet, etc.) can be shown on starting bibs or on clothing unless the name represents that of an effective producer of the clothing in question.

2. ACTUAL SPECIFICATIONS

2.1 Skis, boots, bindings, ski poles, arm and leg protection, etc.

2.1.1 Skis, ski boots, bindings, ski poles, separate arm and leg protection and other hardware in their commercially available designs are permitted and may only carry the recognised commercial markings of the effective producers.

2.1.2 The size of the commercial markings on the arm and leg protection is limited to one marking of 12 cm² on each piece. Other sponsor markings on arm and leg protection are permitted, if those protections are part of the clothing and within the specifications of art. 2.4 (3 - 4 parts). There is an exception for jumping skis: Please see art. 2.6.3. A commercial marking of the effective producer on the hand protector of ski poles is permitted. The marking may be divided into two parts per single hand protector. The total surface area of the commercial markings per hand protector is limited to 15 cm².

2.1.3 Ski straps

Only hardware (skis, ski boots, bindings, ski poles) and wax suppliers are permitted to have advertising on ski straps.

No commercial advertising is permitted. Maximum 2 ski straps per pair of skis, for example one hardware and one wax supplier.

2.2 Gloves

A commercial marking of the effective producer on the glove is permitted.

The marking may be divided into two parts per single glove. The total surface area of the commercial markings per glove is limited to 15 cm².

2.3 Goggles

Goggles straps shall be as on products sold to the public and may carry two commercial markings of the effective producer, not larger than 15 cm² each.

Straps shall not measure more than 4 cm in width. In case of double straps only one strap may carry the commercial markings. Lenses must be free of advertising.

Straps (without goggles) with commercial markings of goggle suppliers may not be worn.

2.4 Clothing

2.4.1 Articles of clothing may carry commercial markings belonging to the manufacturer and/or to other sponsors (as defined in art. 2.6)

2.4.2 The total surface area of all commercial markings on the clothing of one person shall not exceed 300 cm². The maximum surface area for a single marking is 100 cm².

Commercial markings of the same sponsor may not appear one above the other or one beside the other.

The national association may decide on the placing of the commercial markings.

2.4.3 Roll necks may in additionally to the 300 cm² display the manufacturer's trademark and/or sponsor, which may also be divided into two parts, with a maximum total surface area of 20cm². Should the roll neck be used for sponsor logos, then it is not counted within the total of 300cm² for commercial marking.

2.4.4 A military symbol (emblem), indicating the national military organisation may be displayed (not on headgear or race suits), with a maximum size of 20 cm². This symbol is including within the 300cm² total surface area of the commercial markings.

2.5 Helmets and Headgear

2.5.1 Helmets and headwear may carry two commercial markings of the manufacturer with a maximum size of 15 cm², one on each side, placed over the ears. The front of helmets and headwear may only be used for the emblems of national teams, and sponsors, subject to art. 2.5.2.

2.5.2 The front (in the middle) of helmets and all headwear worn in competition and within the competition area including for flower and prize-giving ceremonies, interviews etc. must carry the identification of the national ski association with a minimum size of 9 cm².

A national association may sign sponsorship contracts for helmet/headwear advertising rights of up to a maximum of 50 cm² (which may be divided between 2 identical - same size - logos) with firms who are not suppliers of ski equipment (hardware or software), subject to the regulations of each national association. In such a case, the front of helmets and headwear must carry the identification of the national ski association with a minimum size of 9 cm².

The relevant advertising must be placed either to the side of or above the identification of the national ski association. The free space between the national ski association identification in the middle of the front of the headgear and the sponsor advertising (50 cm²) must be at least 1,5 cm.

For headbands the relevant advertising may be placed at the front of the headband, with the identification of the national ski association to the side.

No advertising is allowed on the movable or integrated chin straps of helmets.

Additionally it is not permitted to affix a website address which refers directly to the athlete, either on headgear or other clothing.

2.6 Other sponsors

2.6.1 A national association may sign sponsorship contracts with firms which are not suppliers of ski equipment (hardware and software) See also ICR art. 206.

2.6.2 *The dimensions of commercial markings of such sponsors must conform to the specifications in art. 2.1., art. 2.4. or art. 2.5*

2.6.3 *Jumping skis: The dimensions of commercial markings of such a sponsor on jumping skis are limited to a total surface area of 160 cm² per ski. Only one commercial marking per ski is permitted, and the marking must be identical on both skis.*

2.6.4 *Aerial skis: The dimensions of commercial markings of such a sponsor on aerial skis are limited to a total surface of 120 cm² per ski. Only one commercial making per ski is permitted and the marking must be identical on both skis.*

2.6.5 *Snowboards: the base bottom of snowboards may only carry the recognized commercial markings of the effective producer. The top of snowboards may carry the commercial markings of the effective producer and up to five (5) other sponsors within a total size of 250 cm², according to the regulations of the relevant National Association.*

2.7 Accessories

2.7.1 Fanny packs

The commercial markings belong to the NSA.

The size of commercial markings is limited to a maximum of 50 cm². The space can be used by the effective producer of the product or a commercial sponsor of the National Ski Association.

Waist bags with commercial markings may not be worn on the podium during the winners' presentation and/or the award ceremony.

2.7.2 Mobile phones with large neckband / use of drinking bottles

In order to avoid that the visibility of the starting bib sponsor during the winners' presentation and/or award ceremony is hindered, large neckbands with mobile phones and drinking bottles are prohibited on the podium.

2.8 All specifications also apply for officials, coaches, technicians, support personnel and forerunners.

II. BY-LAWS FOR COMMERCIAL MARKINGS AND FOR ADVERTISING

A. COMMERCIAL MARKINGS

A.1 Trade names, brand names and logos of other products cannot be used as model names or be shown on ski equipment, except jumping skis and freestyle aerial skis.

A.2 The clothing or helmet shall not represent or simulate the logo or product of a manufacturer or sponsor.

A.3 Measuring

A.3.1 The size of the commercial marking is the surface area within a line that follows the actual outline of the full marking. The measuring is done in an unstretched state.

A.3.2 If the marking is contained within an area of different colour, the total surface area of the different colour is to be measured.

A.3.3 The accuracy of measurement of all markings will be the responsibility of the respective national association.

A.3.4 For approval of commercial markings, it is strongly recommended to send a copy of all the commercial markings in their original size, form and colour to the FIS before use. This should be done if possible before October 1st or before the corresponding season begins in the southern hemisphere.

B. ADVERTISING WITH ATHLETES

B.1 Advertising with athletes is allowed subject to the permission of the national association.



B.2 Names, titles and illustrations of particular athletes can only be used in advertising with the permission of the national association.

B.3 Not allowed in advertising with athletes:

B.3.1 Any kind of advertising with alcohol, tobacco, and narcotics.

B.3.2 The use of names, illustrations and titles of skiers for product names or product designs.

B.3.3 Any direct statement or active product presentation.

B.3.4 Any religious or racial discrimination

C. THE ABOVE RULES ALSO APPLY IN CONNECTION WITH PRESS INFORMATION OR PR ACTIVITIES.

THE OLYMPIC AND PARALYMPIC GAMES

There is specific legislation relating to the Olympic and Paralympic Games, certain rules within the Olympic Charter and specific IPC rules which you and your sponsor must be aware of. The BPA advise that you contact them before signing any agreement which may include the Paralympic Games period so that you are clear about the restrictions that will need to be reflected in your agreements; a full copy of their guidance on the use of Paralympians by Non-Olympic Sponsors is reproduced in Appendix Four.

1. THE OLYMPIC CHARTER

The Charter states that: "No form of publicity or propaganda, commercial or otherwise, may appear on persons, on sportswear, accessories or, more generally, on any article of clothing or equipment whatsoever worn or used by the athletes or other participants at the Olympic Games, except for the identification of the manufacturer of the article or equipment concerned, provided that such identification shall not be marked conspicuously for advertising purposes."

2. OLYMPIC SYMBOLS PROTECTION ACT 1995

This Act protects the use of Olympic and Paralympic Symbols, mottos and words. It is an Act to make provision about the use for commercial purposes of the Olympic symbol and certain words associated with the Olympic Games and connected purposes.

The full Act can be viewed at www.opsi.gov.uk

3. LONDON OLYMPIC GAMES AND PARALYMPIC GAMES ACT 2006

This Act gives LOCOG the exclusive right to grant its sponsors and licencees authorisation to create an association between their business, goods or services and London 2012 and gives LOCOG the right to prevent other people creating such an association.

The full Act can be viewed at www.opsi.gov.uk

4. SPECIFIC IPC REGULATIONS FOR ALPINE EVENTS AT THE PARALYMPIC GAMES

The IPC Rule Book defines in great detail those rules and regulations pertaining to the ownership of the Paralympic Games and the authority of the IPC.

IPC is the supreme authority of the Paralympic Games. All rights and properties, directly or indirectly related to the Paralympic Games, belong to the IPC.

The full document (Chapter 3 Paralympic Games Principles) can be viewed at www.paralympic.org

In simple terms this means that personal sponsors will have no rights during an Olympic or Paralympic Games. There are also limits on what they can do before and following Games as they are not allowed to do anything which would imply their own association with the Games. The basic rules to stick to are:

DON'T imply any association with Paralympics GB, the BOA, the Olympic Games, the BPA, the Paralympic Games or the Olympic Movement

DON'T use, attempt to use or modify any Olympic or Paralympic logos, symbols, motto or use the terminology - Olympic(s), Olympian(s), Olympiad(s), Paralympic(s), Paralympian(s), Paralympiad(s), London 2012 etc



DON'T use, attempt to use or give away any Olympic Games tickets in any promotion including staff and distributor incentive and reward schemes

DON'T use your image or name or group of Paralympics GB athletes to imply an association with Paralympics GB or the Paralympic Games

It is vital that you ensure your sponsor is aware of the limitations around the Olympic and Paralympic Games before entering into any agreement.

CONTACTS

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Cairngorm Mountain

Aviemore, Inverness-shire, PH22 1RB

admin@disabilitysnowsport.org.uk

APPENDIX ONE

Example Provisions to Avoid Clashes

Below is an example of provisions you can include in an agreement, whether drafted by yourself or the sponsor, to ensure that you avoid clashes with other obligations which may damage your status as a competitor. This is explained on P6.

The parties to this agreement acknowledge that the ability of [the athlete*] to comply with the terms of this agreement may be restricted by the rules and regulations of the British Disabled Ski Team (BDST), the Federation Internationale De Ski (FIS), the British Paralympic Association (BPA), the International Paralympic Committee (IPC), and/or the provisions of any team athlete agreement which may from time to time be applicable to [the athlete*] (the "Restrictions").

The provisions of this agreement shall apply subject to any such Restrictions and accordingly for the avoidance of doubt if and to the extent that [the athlete*] is unable to comply with any obligations to [the sponsor**] as a result of such Restrictions:

- a) [The athlete] shall not be liable whether on the grounds of breach of contract, misrepresentation or any other cause for any damage or loss whether direct or indirect resulting to or occasioned by [the sponsor**] or any person connected to or associated with [the sponsor**];
- b) [the sponsor**] waives any right to and shall not enforce any rights it might otherwise have had against the athlete in respect of that failure to comply and shall not be entitled on the basis of that failure to comply to claim any damages or loss or to terminate the agreement.

*insert your name or the shorthand name used to refer to you in the agreement

** insert your sponsors name or the shorthand name used to refer to the sponsor in the agreement

APPENDIX TWO

A Sponsorship Agreement: An Outline of key provisions and a case study

Key provisions

Your agreement with a sponsor may take the form of a letter which you both sign or a more lengthy formal agreement. It is in the interests of both you and your sponsor that you are both clear as to what is being agreed.

No two sponsorship agreements will look exactly the same, however most agreements will cover a number of key areas. Sometimes technical legal terms may appear. Although we would always advise you to seek legal advice on the specific detail, the following outline of the key areas may help you to get a basic understanding of the agreement.

THE “PARTIES”

The agreement will set out the contact details of both yourself and the sponsor. The legal term “parties” may sometimes be used to refer to you both.

THE “DURATION”

The agreement will set out how long the deal will last. This is often referred to as the “duration”. It could be a fixed time period, renewable e.g. annually or even open ended. One “party” may have the option to renew. You need to work out how long you want the agreement to last balancing the benefits in having the certainty of a long term agreement against the down sides of being tied in to a long term commitment.

ATHLETE OBLIGATIONS

There will usually be a list of what your obligations will be. You will need to assess whether these commitments are manageable taking into account your other commitments and whether the sponsorship benefits you are being offered (in the form of payment or otherwise) represent a fair price for these commitments.

Sometimes the sponsor will want you to agree that some of these obligations are “exclusive” e.g. you will only wear clothing with the sponsor’s logo at competitions or you will only appear in advertisements for that sort of product for them. If you agree to exclusive obligations you need to be aware that you will then be restricted in the sponsorship you can offer to others in the future.

ATHLETE BENEFITS

This may be a fee, products or other benefits. Sometimes a legal term “consideration” may be used to refer to it. You will need to know when you will get these benefits, and if a fee is being given, how it will be paid and what happens if payment is late (if you want interest on late payments you will need to state this). From a commercial point of view you need to work out whether the benefits are a fair price for the obligations you are agreeing to.

OVERRIDING OBLIGATIONS



You will need some sort of provision to deal with any clashes with your obligations to the FEI etc (see the examples at P6) otherwise your increasing success may put you in a position where you have no option other than to break the terms of your contract with the sponsor and deal with the legal consequences.

“INTELLECTUAL PROPERTY” RIGHTS

There may be some reference to “intellectual property”. Again this is very technical – the term “intellectual property” refers to things like trademarks, rights to use logos etc. You need to be sure if you are obliged to use these that the sponsor is entitled to use them and will protect you if you infringe someone else’s rights.

SPONSOR OBLIGATIONS

Don’t forget that it may be necessary for you to impose some obligations on the sponsor e.g. if he is using you at photo shoots do you require some controls over what he does with the photos?

TERMINATION

This is very important – this will deal with the circumstances in which you or the sponsor can bring the arrangement to an end. This could be simply by one giving the other notice or be e.g. because of unacceptable behaviour by you or indeed the sponsor (sometimes referred to as a “morality clause”). You need to consider in what circumstances you would want terminate the arrangement.

“BOILERPLATE”

At the end of the agreement you will often find a series of provisions dealing with notices etc. Lawyers often refer to these as “boilerplate” clauses. They can be quite boring to read but do read them – you need to be sure that they will work in your case.

CASE STUDY

The agreement that follows is a fictional example of a sponsorship agreement sent to Speed Racer, an up and coming young alpine athlete, by his potential sponsor, Alpine Racer Limited. The **comments** highlight some of the issues Speed would need to consider.

Date:

Parties:

- (1) Speed Racer of Big Hill, Cairngorm, Inverness-shire PH22 1RB; and
- (2) Alpine Racer Limited (Company No. 123456 of The Hill, Ben Nevis, Lochaber, Inverness-shire PH22 1XX (the "Sponsor")

IT IS AGREED THAT:

1. Duration

1.1. This Agreement shall commence on 1 January 2008 and shall end on 31 December 2010 unless terminated earlier in accordance with Clause 6 of this Agreement and subject always to the Sponsor's option to extend the period of this agreement for another year.

There is a fine balance between agreeing a period of time which will make Speed feel comfortable about funding and his committing himself to a deal which may not look a fair return as his career progresses. Also he needs to be very careful where the initial term can be extended but this is completely within the sponsor's control.

2. Athlete's obligations

2.1. The Athlete grants to the Sponsor the following rights:

2.1.1. Use of any words, and/or photographic and/or graphic representations which identify the Athlete and or his name on promotional materials including but not limited to printed materials online features including audio and video in advertorials or editorials and customer communications;

2.1.2. At least one appearance in television commercials per annum

2.1.3. At least three appearances per annum at a photo shoot

2.1.4. Up to three personal appearances per annum

2.1.5. Up to 200 items of signed athlete materials, such merchandise to be provided by the Sponsor for the Athlete to sign.

These are pretty hefty obligations – Speed needs to ask himself whether he can really do all of this and continue to devote sufficient time to competing/training.

2.2. The Athlete shall carry the Sponsor's branding in an appropriate position as agreed by both parties on the Athlete's clothing at competitions and on the Athlete's equipment.

2.3. The Athlete shall use his best endeavours to promote the Sponsor and the Sponsor's products

2.4. The Athlete shall not during the course of this agreement use any products in the course of his competitive activities that are in the same alpine product group as those of the Sponsor and shall not promote or endorse any products or services in that product group.

This sort of provision is particularly important to the sponsor – in an ideal world the sponsor will want exclusivity. Speed needs to clarify what the "alpine product group" is designed to cover – it could be extremely wide.

2.5. The Athlete shall keep the Sponsor informed of his whereabouts in such form as the Sponsor shall request.

This could be very onerous – he needs to find out what they require and then decide if this is acceptable

3. Athlete's Fee

3.1. The Sponsor shall in return for the performance of the obligations set out at 2 pay to the Athlete:

3.1.1. The sum of £5,000 per annum

3.1.2. A further £150 in respect of each working day spent by the Athlete in making personal appearances.

He needs to consider whether this fee is a fair price for what he is being asked to do?

3.2. In each case the sums are inclusive of VAT.

There is no detail as to how and when the fee is to be paid. He will need to deal with this and to put something in to cover what happens if payment is late.

4. Overriding obligations

4.1. The parties acknowledge that the ability of the Athlete to comply with the terms of this Agreement may be restricted by the rules and regulations of the British Disabled Ski Team (BDST), the Fédération Internationale De Ski (FIS), the British Paralympic Association (BPA), the International Paralympic Committee (IPC) and/or the provisions of any team athlete agreement which may from time to time be applicable to the Athlete (the "Restrictions").

This shows how the example clauses at Appendix [one] might fit into a sponsorship agreement.

4.2. The provisions of this agreement shall apply subject to any such Restrictions and accordingly for the avoidance of doubt if and to the extent that the Athlete is unable to comply with any obligations to the Sponsor as a result of such Restrictions:

4.3. The Athlete shall not be liable whether on the grounds of breach of contract, misrepresentation or any other cause for any damage or loss whether direct or indirect resulting to or occasioned by the Sponsor or any person connected to or associated with the Sponsor;

4.4. The Sponsor waives any right to and shall not enforce any rights it might otherwise have had against the athlete in respect of that failure to comply and shall not be entitled on the basis of that failure to comply to claim any damages or loss or to terminate the agreement.

5. Intellectual property rights

5.1. The Sponsor warrants that it is the sole owner of any or all intellectual property rights in its branding and the product and confirms that the use of the branding by the Athlete will not expose him to any criminal or civil proceedings.

This is the only obligation on the sponsor other than the agreement to pay the fees. Speed needs to consider if any other obligations are necessary

6. Termination

6.1. This agreement may be terminated as follows:

6.1.1. Termination by either party

The agreement may be terminated:

6.1.1.1. By either party giving not less than [three] month's written notice of termination to the other;

6.1.1.2. Forthwith by either party if the other commits any material breach of any term of the Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 21 days of a written request to remedy the same;

6.1.2. Termination by the Sponsor

The Sponsor may by notice in writing immediately terminate the agreement if the Athlete:

6.1.2.1. Is found guilty of a criminal offence (including without limitation a drink/driving offence which results in the Athlete being banned from driving or drug related offence) or otherwise conducts himself in a manner which in the [reasonable] opinion of the Sponsor is likely to materially detract from the value of the reputation of the Athlete to the Sponsor and/or the products of the Sponsor.

Provisions such as this are sometimes referred to as “morality clauses”. Just as Speed will not want to be associated with a business that will damage his personal brand, so the sponsor will want some form of protection should she behave in an unsuitable manner.

6.1.2.2. Is unable to carry out his obligations under the agreement by reason of ill-health, accident or otherwise for a continuous period of one month or more.

6.1.2.3. Becomes bankrupt or makes or attempts to make any composition with his creditors or if an administration order is made against the Athlete.

6.1.3. Termination by the Athlete

6.1.3.1. The Athlete may by notice in writing immediately terminate the agreement if the Sponsor shall go into liquidation either compulsory or voluntary (save for the purposes of reconstruction or amalgamation) or if an administrator, administrative receiver or Receiver is appointed in respect of the whole or any part of its assets or business, or if the BEF makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

6.2. Any termination of the Agreement pursuant to this Clause 6 or pursuant to Clause 1 shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force or any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

7. Relationship

7.1. This Agreement does not constitute and shall not be construed as constituting a contract of employment, partnership or joint venture. No party shall have the right to obligate or bind the other in any manner.

8. Notices

8.1. Any notice required to be given by either party to the other shall be in writing and shall be served by sending the same by registered post or recorded delivery to the last known address of the other party and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice.

9. Entire agreement

9.1. This agreement sets out the entire agreement of the parties and supersedes all prior agreements and understandings relating to its subject matter.

9.2. This agreement may not be varied except by agreement in writing signed by the Athlete and the Sponsor.

IN WITNESS of which the parties have signed this agreement on the date set out above.

Signed by S Racer

Signed by for and on behalf of Alpine Racer Limited Sponsor

APPENDIX THREE

Example Note to a Sponsor

The note which follows may help you to explain to a sponsor why the provisions we suggest in these guidelines are necessary

The British Disabled Ski Team fully support athletes in obtaining personal sponsorship and acknowledge the valuable contributes that sponsors make.

As an athlete becomes increasingly successful it is in the interests of all concerned that the athlete does not put him/herself in a position where his/her success is affected by legal/contractual disputes. The last thing that any of us want is for the athlete to be distracted from his/her sporting commitment and to undermine his/her success. This note is designed to alert you to the key issues so that you enter into any personal sponsorship agreement with a clear understanding of the athlete's position.

It is important for personal sponsors to appreciate that as a athlete obtains increasing success he/she becomes subject to a number of restrictions whether under the rules and regulations of the British Disabled Ski Team (BDST), the Federation Internationale De Ski (FIS), the British Olympic Association (BOA), the British Paralympic association (BPA), the International Olympic Committee (IOC) and/or the provisions of any athlete team agreement which may occasionally clash with your requirements. For further details please consult the BDST website or alternatively email admin@DisabilitySnowsport.org.uk with any specific questions.

We suggest that to guard against misunderstandings and any future disputes any agreement with an athlete should contain a provision acknowledging these restrictions.

APPENDIX FOUR

BOA Guidance on the use of Olympians by Non-Olympic Sponsors

INTRODUCTION

Every Paralympian has the right to have sponsors. The British Paralympic Association (BPA) encourages this as it helps the sportsmen and women achieve their dreams and encourages companies to support Olympic sports.

THE BRITISH PARALYMPIC ASSOCIATION

The BPA is the National Paralympic Committee (NPC) for Great Britain and Northern Ireland and is recognised by the International Paralympic Committee (IPC) as the sole entity authorised to control the commercial use of the Paralympic symbols and terminology (i.e. the words Paralympic(s), Paralympian(s) and Paralympiad(s)) within the UK territory.

The primary role of the British Paralympic Association is to assist Team GB sportsmen and women to compete at their best for Great Britain in the summer and winter Paralympic Games. This involves the preparation at all levels of competitors and officials over the four year period between each Games. In addition the BPA is responsible for promoting, developing and protecting the Paralympic Movement in the United Kingdom at all levels.

The funding required by the BPA to deliver the services to the sports and take a Team to the Games is derived predominantly from commercial sponsorship and fundraising, for this reason the rights of Paralympic sponsors must be protected.

THE PARALYMPIC SPORTS

There are 23 sports which currently participate in the Paralympic Games. The British sportsmen and women who are selected to participate at the Paralympic Games become members of the Great Britain Paralympic Team.

There is only one Paralympic team; The Great Britain Paralympic Team. For example there is not an Paralympic Swimming team or an Paralympic Rowing team, the individual sports join to become The Great Britain Paralympic Team.

THE OLYMPIC SYMBOL ETC (PROTECTION) ACT 1995

The BOA is the only sporting body in the United Kingdom whose key intellectual property is directly and expressly protected by an Act of Parliament; the Olympic Symbol etc. (Protection) Act 1995. Through this statute and other legal rights, the BOA is charged with the responsibility for managing and controlling the commercial exploitation of the BOA's intellectual property, the Olympic symbols, marks and terminology.

For example, use of Paralympic terminology (the words Paralympic(s), Paralympian(s), Paralympiad (s)), symbols (Paralympic torch, medal), marks (Paralympic logos e.g. Beijing Games logo) with any promotional or advertising text is not permitted.

A booklet which provides more detail on the Act is available from BOA Marketing.

THE PARALYMPIC CHARTER

During the Paralympic Games period athletes must abide by the Paralympic Charter and various restrictions will apply to sponsors. To ensure that an athlete is not put at risk of being sanctioned by the IPC for a breach of the Paralympic Charter please contact the BPA prior to signing any agreement