

Contents

1	Introductory Remarks	1
1.1	Introductory Remarks	1
2	Negotiating Drafting and Interpreting Sports Marketing Agreements: Some General Legal and Practical Points and Considerations.	3
2.1	Introductory Remarks	3
2.2	Negotiating Sports Marketing Agreements	3
2.3	General Principles of Drafting and Interpreting Sports Marketing Agreements	5
2.4	Concluding Remarks	11
2.5	Appendices	12
2.5.1	Appendix 1	12
2.5.2	Appendix 2	15
3	The Importance of Intellectual Property Rights in Sports Event Marketing	17
3.1	Introductory Remarks	17
3.2	Sports Events Marketing	18
3.2.1	Trademark Protection	18
3.2.2	Copyright Protection	21
3.3	Hypothetical New Sports Event Case Study	22
3.4	Copyright Assignment	23
3.5	Concluding Remarks	24
3.6	Appendix	25
4	Letters of Intent, Heads of Agreement and Preliminary Agreements	29
4.1	Introductory Remarks	29
4.2	Legal Nature and Validity	30

4.2.1	The Position in England	30
4.2.2	The Position in Switzerland	31
4.3	Appendices	33
4.3.1	Concluding Remarks	33
4.4	Appendices	34
4.4.1	Appendix 1	34
4.4.2	Appendix 2	46
4.4.3	Appendix 3	57
4.4.4	Appendix 4	58
4.4.5	Appendix 5	61
5	Confidentiality and Non-Disclosure Agreements	67
5.1	Introductory Remarks	67
5.2	General Legal Principles on Confidentiality	68
5.3	Confidentiality/Non-Disclosure Agreement General Precedent	69
5.4	Concluding Remarks	69
5.5	Appendix	70
6	Sports Event Management Agreements	73
6.1	Introductory Remarks	73
6.2	Sports Event Management Agreements	73
6.3	Concluding Remarks	75
6.4	Appendix	76
7	Sports Corporate Hospitality Agreements	89
7.1	Introductory Remarks	89
7.2	Corporate Hospitality Agreements	90
7.3	Corporate Hospitality Agreement and Terms and Conditions for the Sale and Purchase of Corporate Hospitality Rights Packages	91
7.4	Concluding Remarks	92
7.5	Appendices	93
7.5.1	Appendix 1	93
7.5.2	Appendix 2	115
8	Sports Sponsorship Agreements	121
8.1	Introductory Remarks	121
8.2	Sports Sponsorship Agreements	124
8.2.1	Generally	124
8.2.2	Commercial Opportunities	125
8.2.3	Legal Issues	126
8.2.4	Sports Stadia Naming Rights Agreements	129

8.3	General Precedents of a Sports Sponsorship Agreement and a Sports Title Sponsorship Agreement	130
8.4	Concluding Remarks	130
8.5	Appendices	131
8.5.1	Appendix 1	131
8.5.2	Appendix 2	136
8.5.3	Appendix 3	146
9	Sports Stadia Naming Rights Agreements	165
9.1	Introductory Remarks	165
9.2	Corporate Naming of Stadia and Arenas	166
9.3	Corporate Naming Rights Benefits	166
9.4	Contractual Legal and Drafting Issues	167
9.5	The European Scene	170
9.6	Concluding Remarks	171
9.7	Appendix	172
10	Sports Stadia Concession Agreements	209
10.1	Introductory Remarks	209
10.2	Sports Pourage and Concession Agreements	209
10.3	General Precedents of Sports Pourage and Concession Agreements	210
10.4	Concluding Remarks	211
10.5	Appendices	212
10.5.1	Appendix 1	212
10.5.2	Appendix 2	217
11	Sports Licensing and Merchandising Agreements	223
11.1	Introductory Remarks	223
11.1.1	Contractual Issues	223
11.1.2	Intellectual Property Issues	226
11.1.3	Branding and Distribution Channels	229
11.1.4	Sports Licensing and the Net	230
11.1.5	International Considerations	231
11.1.6	Maximising Sports Licensing Revenues	236
11.1.7	Managing Sports Licensing and Merchandising Agreements	237
11.2	General Precedent of a Merchandising Agreement	237
11.3	Concluding Remarks	238
11.4	Appendix	239
12	Sports Image Rights and Endorsement Agreements	253
12.1	Introductory Remarks	253
12.2	What are Sports Image Rights?	256

12.3	Who Owns Them?	257
12.4	Protecting Sports Image Rights	261
12.4.1	The UK	261
12.4.2	Continental Europe	262
12.4.3	The USA	265
12.5	Fiscal Aspects	266
12.6	Legal Remedies for Infringing Sports Image Rights	267
12.7	Precedents	268
12.8	Concluding Remarks	268
12.9	Appendices	271
12.9.1	Appendix 1	271
12.9.2	Appendix 2	276
13	Sports TV Rights Agreements	285
13.1	Introductory Remarks	285
13.2	Sports Broadcasting Agreements	288
13.2.1	Sports Broadcast Licence Agreement	289
13.2.2	Sports Television Sponsorship Agreement	291
13.3	General Precedents of a Sports Broadcast Licence Agreement and a Sports Television Programme Sponsorship Agreement	292
13.4	Concluding Remarks	292
13.5	Appendices	295
13.5.1	Appendix 1	295
13.5.2	Appendix 2	307
14	Sports New Media Rights Agreements	313
14.1	Introductory Remarks	313
14.2	New Media Sports Rights and Marketing Agreements	314
14.3	Concluding Remarks	315
14.4	Appendices	316
14.4.1	Appendix 1	316
14.4.2	Appendix 2	328
14.4.3	Appendix 3	338
14.4.4	Appendix 4	352
14.4.5	Appendix 5	363
15	Fiscal Aspects	379
15.1	Introductory Remarks	379
15.2	Sports Club Case	380
15.3	Structuring Sports Image Rights Arrangements and Agreements in the UK	383
15.4	Structuring Sports Image Rights Arrangements in Guernsey, Channel Islands	383

15.5	Structuring Sports Image Rights Arrangements in Luxembourg.	384
15.6	Concluding Remarks.	384
15.7	Appendices	385
15.7.1	Appendix 1	385
15.7.2	Appendix 2	390
15.7.3	Appendix 3	398
15.7.4	Appendix 4	417
16	EU Aspects.	431
16.1	Introductory Remarks	431
16.2	EU Competition Rules	433
16.3	Collective Selling of Sports TV Rights	434
16.4	Territorial Restrictions in Sports Merchandising and Licensing Agreements.	436
16.5	Options to Renew and Rights of First Refusal in Sports Marketing Agreements Generally	438
16.6	Concluding Remarks.	439
16.7	Appendix.	441
17	Alternative Dispute Resolution	453
17.1	Introductory Remarks	453
17.2	The CAS.	454
17.2.1	The Organisation of the CAS.	455
17.2.2	The Funding of the CAS	455
17.2.3	The Legal Status of the CAS	456
17.2.4	CAS Arbitrators	456
17.2.5	The Legal Status of CAS Awards.	457
17.2.6	Legal Challenges to CAS Awards.	457
17.3	CAS Dispute Resolution Clauses	458
17.4	Expert Determination Dispute Resolution Clauses	460
17.5	'Mixed' Dispute Resolution Clauses	463
17.6	Concluding Remarks.	464
18	'Best Endeavours' Clauses	465
18.1	Introductory Remarks	465
18.1.1	'Best Endeavours'.	466
18.1.2	'Reasonable Endeavours'.	467
18.1.3	'All Reasonable Endeavours'.	468
18.2	Concluding Remarks.	468

19	'Boiler Plate' Clauses	471
19.1	Introductory Remarks	471
19.2	Some Common 'Boiler Plate' Clauses.	471
19.2.1	Amendment Clause	471
19.2.2	Assignment Clause	472
19.2.3	UK Contracts (Rights of Third Parties) Act 1999 Clause	472
19.2.4	Counterpart Agreements Clause	472
19.2.5	Entire Agreement Clause	472
19.2.6	Force Majeure Clause	473
19.2.7	Further Assurance Clause	473
19.2.8	Good Faith Clause	473
19.2.9	Notices Clause	474
19.2.10	Relationship of the Parties	474
19.2.11	Schedules Clause	474
19.2.12	Set Off Clause	475
19.2.13	Severance and Invalidity Clauses	475
19.2.14	Survival of Clauses	475
19.2.15	Time of the Essence Clause	475
19.2.16	Waiver Clause	476
19.3	Some Examples of 'Boilerplate' Clauses	476
19.4	Concluding Remarks	476
19.5	Appendices	477
19.5.1	Appendix 1	477
19.5.2	Appendix 2	501
20	Concluding Remarks	505
	Table of Legislation	507
	Table of Cases	509
	Index	513