

North American Indigenous Games

HOSTING AGREEMENT

Rev 4

April 25 2009



THE SPIRIT
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NORTH AMERICAN INDIGENOUS GAMES HOSTING AGREEMENT

THIS AGREEMENT is made this XX day of XXXXX 2XXX, between the North American Indigenous Games Council, (NAIG COUNCIL) located in the State of Washington, USA, and the XXXXX XXX NAIG Host Society (HOST SOCIETY), located in XXXX, XXXXXXXXXXX, XXXX; and

WHEREAS, the NAIG Council has announced that the 2XXX North American Indigenous Games will be held in XXXX, XXXXXXXXXXX, XXXX in from xxxx to xxxxx; and

WHEREAS, the NAIG Games are a high profile International Indigenous multi-sport competition for youth from Provinces and Territories in Canada and States from the USA as outlined in the NAIG Council constitution; and

WHEREAS, the Host Society has been established for the purpose of organizing, managing, promoting and conducting the Games in partnership with the Council, the XXXXX XX XXXXXXX, and the XXXX XX XXXXXXX, XXXXX, XXXXXXX; and

WHEREAS, there is strong evidence of support for the 2XXX North American Indigenous Games throughout the community, amongst neighboring tribal councils, school districts, and other institutions throughout XXXXXXX, XXXXX, XXXXXXX; and

WHEREAS, the NAIG Council is the authority on all Games matters and is responsible for establishing all technical aspects of the Games in consultation with the appropriate International Sport Organizations; and

WHEREAS, the Games provide an opportunity to profile and promote the best developing Indigenous athletes in North America; and

WHEREAS, the North American Indigenous Games promotes the value of sport and demonstrates its important role in North American Indigenous cultures; and

WHEREAS, the Games promote fair play in all aspects of sport and cultural activities; and

WHEREAS, the Games promote and encourage holistic individual growth that assures mental, physical, emotional and spiritual growth; and

WHEREAS, the Games foster a racism-free environment, as well as an alcohol/drug/solvent-free sport and cultural activities; and

WHEREAS, athlete development needs and optimal care and comfort conditions are central to all decisions pertaining to planning the Games; and

WHEREAS, the principle of gender equity pervades all aspects of the North American Indigenous Games and whereas the NAIG Council has achieved gender parity in the selection of sports and participants for the 2XXX North American Indigenous Games; and

WHEREAS, the inclusion of sport for athletes with a disability is desired ; and

WHEREAS, the NAIG Council desires to grant consent to the Host Society to use the official marks “North American Indigenous Games” and “NAIG” and related logo mark, permits the use of such official marks and logo by the Society pursuant to this agreement; and

WHEREAS, the NAIG Council, as the legal owner of all NAIG Rights and Properties, desires to assign those Rights and Properties to the Host Society through this agreement; and

WHEREAS, The Host Society will organize, plan, finance, stage, manage, promote and conduct the Games in accordance with this Agreement; and

WHEREAS , All appendixes to this agreement shall be considered part of the core agreement.

NOW, THEREFORE, BE IT RESOLVED, that the parties agree as follows:

THIS AGREEMENT WITNESSETH THAT:

1. INTERPRETATION

1.1. This Agreement will be governed by, and construed in accordance with the laws in the XXXXX
XXX XXXX XXXXX, XXXXXX.

2. DEFINITIONS

The following definitions apply to this Agreement:

- a) "Agreement" refers to this Hosting Agreement between the Parties.
- b) "Archival Material" refers to the collection of public, corporate or institutional documents or records relating to the North American Indigenous Games.
- c) "Aboriginal" and "Indigenous" means a person who is First Nations, Native American, Inuit, Inuvialuit, Métis, Eskimo, Aleut, Native Hawaiian, or Native Indian ancestry.
- d) "Budget" refers to the Society's approved budget as set out in a business plan.
- e) "Business Plan" is the Host Society's formal plan detailing the organization, financing and operation of the Games.
- f) "XXXXX XXXXXXX" means the XXXXX of XXXXX XXXXXXX.
- g) "Council" means the North American Indigenous Games Council.
- h) Currencies means the currency of trade in the country where the Host Society is incorporated.
- i) "Deficit" means the excess of expenses over revenues (operating) related to the organizing and staging the Games, calculated on the basis of final audited statements of the Society.
- j) "XXXXX" means the Corporation of the XXXX XX XXXXX.
- k) "Enhanced gifts" refers to those in-kind goods and services, which do not offset budgeted expenditures in the "Basic Operating Budget".
- l) "Ex-officio" means a representative is provided with observer status to an organization with no voting or privileges of a director.
- m) "Financial Forecasting" means a financial status or update provided at required intervals.
- n) "Games" refers to the 2XXX North American Indigenous Games which are to be held in XXXXX, XXXXX XXXXXXX XXXXX and surrounding communities in around late xxx to xxxx 2XXX.

- o) Governing Rules means the NAIG Governing Rules which establishes the rules by which Teams shall participate in the Games.
- p) “Host Society” means the 2XXXX North American Indigenous Games Host Society a not-for-profit corporation registered within the XXXXX XX XXXXX XXXXX, XXXXX by XXXX XX, 2XXX.
- q) “Legacy” refers to facilities, financial surplus, materials and equipment, information, intellectual property, management systems and archived created or generated through the course of Games planning and implementation, which can be used to benefit future games and on-going Indigenous sport and cultural activities.
- r) “NAIG” means North American Indigenous Games.
- s) NAIG Council means the duly elected officers of NAIG.
- t) “NAIG Hosting Standards ” is Appendix A to this agreement which lists the standards governing the staging of the NAIG. The NAIG Hosting Standards may be amended from time to time as deemed necessary by NAIG Council where such changes do not pose a significant financial or logistical impact to the Host Society.
- u) NAIG Contractual Milestones means the Milestones set forth in this document as Appendix B, and set forth the timetable for the delivery of contractual deliverables.
- v) “North America” means the traditional Indigenous Territories encompassing the countries of Canada and the United States.
- w) “Operating Expenses” refers to action costs incurred by the Host Society in organizing, managing, promoting and conducting, the Games.
- x) “Parties” means jointly, unless otherwise, provided in this agreement, the XXXXXX 2XXX NAIG Host Society and the North American Indigenous Games Council.
- y) Planning Framework means the NAIG Council document that outlines the required scope of each Functional area of the Games, the milestones, deliverables and work packages.
- z) “Region” means a certain grouping of States in the United States of America and the Provincial/Territorial Boundaries of Canada.
- aa) “Remuneration” means a lump sum will be paid to Committee members for the performance of duties.
- bb) “Surplus” means the excess of revenues over expenses (operating) related to organizing and staging the Games, calculated on the basis of final audited statements of the Host Society.
- cc) Sport Technical Package means the document that outlines competition rules and by which the Sport will be delivered.

dd) “Venues” means any land, buildings or facilities developed and/or used by the Host Society for the purpose of operating and hosting the Games, excluding the Host Society’s office and warehouse space.

3. GOVERNANCE

3.1. The Society shall be governed in accordance with the Society bylaws, and respecting NAIG Hosting Standards 101-A through 101-G.

4. BUSINESS PLAN

4.1. The Host Society shall prepare a comprehensive Business Plan, which will guide the organization, financing and operation of the Games and fulfill the obligations outlined in this Agreement. The Business Plan shall be developed and submitted in accordance with NAIG Hosting Standard 151-A, and shall reflect the scope and deliverables as set forth in the NAIG Planning Framework.

4.2. The Host Society will provide the NAIG Council with updates to the Business Plan in accordance with NAIG Hosting Standard 151-B.

4.3. The North American Indigenous Games Council must approve any significant modifications to the Business Plan in accordance with NAIG Hosting Standard 151-A.

5. POLICIES AND PROCEDURES

5.1. The Host Society shall develop and implement the policies and procedures to guide the management and organization of the Games, and submit them to the NAIG Council for review. The policies are set out in NAIG Hosting Standards 151-D.

6. MILESTONES

6.1. The Host Society shall be required to meet the deadlines and deliverables as outlined in the NAIG Contractual Milestones.

7. LICENSING AGREEMENT

7.1. In recognition of the award of the right to host the Games, and of the North American Indigenous Games role in supporting the Host Society's planning, and operational efforts, the Host Society agrees to pay the Council a licensing fee.

7.2. The fee shall be determined as an amount (either a % or a fixed amount) of the participation fees which shall be payable by all NAIG Family, excepting Mission Staff and defined as per NAIG Hosting Standard 102-A.

7.3. The fees will be paid in two cash payments

7.3.1. 50% due 30 days after the NAIG Council Registration #1 Fee deadline

7.3.2. 50% due 90 days after the Games Closing Ceremonies, reflecting any changes in final registrations as per NAIG Governing Rules.

8. HOST SOCIETY REVENUE GENERATION

In addition to the funding provided through government, including Tribal governments/organizations, the Host Society may secure but not limited to the following sources of non-governmental revenues:

8.1. Corporate sponsorship and donations, with the understanding that the event is tobacco/alcohol/illegal drug/solvent-free event ;

8.2. Other Donations;

8.3. Ticket sales; (opening ceremonies and special events only- no sporting events are to be ticketed)

8.4. Licensing & Merchandising – from date of execution of this agreement until 6 months following the conclusion of the Games. The NAIG Logo shall be used in accordance with NAIG Graphics Standards Manual at all time

8.5. Sale of assets after the Games;

8.6. Rights Fees

8.7. Interest

8.8. Participation Fees for Athletes and Team Officials. Such Fees shall be approved by NAIG Council no later than the M1 Mission Staff Meeting. (see Hosting Standard 104-A)

9. DELIVERY AND PLANNING OF THE GAMES

9.1. The Host Society shall comply at all times with all aspects of the NAIG Hosting Standards. Any deviations from the standards shall be reported to NAIG Council.

9.2. If a Hosting Standard is altered or requested to be altered by NAIG Council after the award of the Games, the Host Society shall have the rights to refuse to comply with the new standard and may use existing standards if the change shall result in a significant logistical or financial impact to the Host Society.

9.3. The Host Society shall at all times be bound by the Governing Rules, the Hosting Standards and the Sport Technical Package in the conduct of the Program and the Host Society operations.

10. APPROVALS BY NAIG COUNCIL

10.1. NAIG Council shall review and provide decisions and approvals on a timely basis. NAIG Council recognizes that delay in approvals and decisions will negatively impact the ability of the Host Society to deliver the Games.

11. ARCHIVAL MATERIAL AND TRANSFER OF KNOWLEDGE

11.1. All material of archival value produced by the Host Society will be collected and organized by the Host Society, and preserved and maintained by the Host Society in accordance with NAIG Hosting Standards 102-B, 102-C, 102-D.

12. REPORTING

12.1. All Financial Reporting shall be done in accordance with NAIG Hosting Standards 151-B.

12.2. The Host Society shall further comply with reporting requirements establish in NAIG Hosting Standards 102-A

13. AUDITS

- 13.1. The Host Society will provide the NAIG Council authorized auditors or accountants with reasonable access during normal business hours for examination and audit of books accounts and records of the Host Society
- 13.2. The NAIG Council reserves the right to have the Host Society financial records audited at a cost to be borne by the NAIG Council.
- 13.3. The Host Society will ensure that all audited financial statements of the Host Society will be in accordance with GAP accounting principles and as per the laws of the governing jurisdiction.

14. EVALUATIONS

- 14.1. The Host Society agrees to provide to the NAIG Council all environmental, economic and social impact studies, operational audits and reviews, and evaluation studies on the programs and activities of the Host Society that are conducted by the Host Society or on the Host Society's behalf.

15. DISSOLUTION OF HOST SOCIETY

- 15.1. The Society shall be dissolved in accordance NAIG Hosting Standard 101-H.

16. DISTRIBUTION OF ASSETS

- 16.1. After the completion of the Games and prior to winding up, the Host Society will dispose of all its real or personal property
- 16.2. Any monetary funds derived or recovered, by the Host Society through the sale of its assets will be added to its operating revenues as earned income.

17. SURPLUS FROM THE GAMES – AMATEUR SPORT LEGACY FUND

- 17.1. The 2XXX NAIG Legacy Committee consisting of funding partners and the Host Society will develop the Legacy Fund plan.
- 17.2. In the event of a surplus in the Operating Budget, the Host Society will develop a plan for the allocation of the surplus through a “trust” fund as identified by the Host Society and funding partners.
- 17.3. In the event of a surplus in the Operating Budget, the surplus will be divided as follows:
 - 10% to the Indigenous Peoples Sports Council of the USA or 10% to the Aboriginal Sport Circle of Canada; dependent on host county
 - 20% to the North American Indigenous Games Council;
 - 70% to the 2008 North American Indigenous Games Host Society for distribution to local, state or tribal authorities for the development of amateur sport development.

18. NAIG COUNCIL INDEMNIFICATION

- 18.1. The xxxx NAIG Host Society, upon incorporation, has agreed to assume all commitments, liabilities, obligations or undertakings in relation to the Games, and shall indemnify the NAIG Council against any claim from, or liability to, a third party for all losses and expenses of whatever nature or kind which may be incurred in relation to the organization and staging of the Games.

19. FORCE MAJUERE

- 19.1. If a party is wholly or partially precluded from complying with its obligations under this Agreement by anything outside that party’s reasonable control, including acts of God, fire, flood, riot, acts of war or terrorism, government order (Force Majeure Event), then that party's obligations under this Agreement will be suspended for the duration of the delay arising out of the Force Majeure Event.
- 19.2. As soon as possible after a Force Majeure Event arises, the party affected by it must notify the other party of the nature of the Force Majeure Event and the extent to which the notifying party is unable to perform its obligations under this Agreement.

19.3. If a party is prevented by a Force Majeure Event from performing its obligations in accordance with this Agreement:

19.3.1. Host Society may request to NAIG Council to make alternative arrangements for the delivery of aspects of the Games;

19.3.2. if both parties are so prevented for more than 90 days of performing their obligations due to a Force Majeure, then both parties may terminate this Agreement with immediate effect by giving notice to either party.

20. LIMITATION OF LIABILITY, INDEMNIFICATION AND INSURANCE

20.1. Except as expressly set out in this agreement or as otherwise agreed to in writing, the NAIG Council does not assume any responsibility for:

- any aspect of the organization, planning management, staging or financing of the Games; or
- any deficit of the NAIG Host Society;

20.2. The Host Society shall obtain insurances in accordance with NAIG Hosting Standards 154-B

21. DISPUTE RESOLUTION

The Parties will, acting reasonably and diligently, attempt to resolve all disputes arising out of or in connection with this Agreement, or in respect of any legal relationship associated with this agreement. To this end the parties agree:

21.1. Neither party may start arbitration or court proceedings (except proceedings seeking urgent interlocutory relief) in respect of a Dispute unless it has first complied with the following provisions.

21.2. A party claiming that a Dispute has arisen must notify the other party specifying the nature of the Dispute.

21.3. Within 20 business days after a notice is given under Clause x each party must nominate in writing to the other party a person authorized to settle the Dispute on its behalf.

21.4. During the 20 day period after a notice is given under Clause 8 each party's nominee must use his or her best efforts to resolve the Dispute.

21.5. If a Dispute is not resolved within that time, the Dispute must be referred:

- 21.5.1. for mediation, in accordance with the Commercial Disputes Mediation Guidelines of the country of xxxx; and
- 21.5.2. to a mediator agreed by the parties, or if the parties do not agree on a mediator, a mediator nominated by the xxxx Mediation Board/Centre will be appointed.
- 21.5.3. The mediator's decision shall be final.

22. DEFAULT BY THE HOST SOCIETY

The following constitute events of default by the Host Society:

- 22.1. a breach by the Host Society of a term, condition or commitment provided for in this agreement or within the hosting standards as set out in attachment A .
- 22.2. the Host Society becomes bankrupt or insolvent or is placed in receivership or takes the benefit of any statute relating to bankrupt and insolvent debtors;
- 22.3. an order is made which is not being contested or appealed by the Host Society or a resolution, by the Board of Directors, is passed for the winding-up of the Host Society or if the Host Society is wound-up other than as contemplated by this Agreement; or
- 22.4. the Host Society has submitted false or misleading information to the NAIG Council or Funding Partners or intentionally made a false or misleading representation.
- 22.5. In the event of default occurs the NAIG Council has the sole authority to withdraw the right of the 2XXX NAIG Host Society to host the Games.

23. CANCELLATION OR WITHDRAWAL

- 23.1. In the event that the Games are cancelled or withdrawn by the NAIG Council, the NAIG Council will provide written notice to the Host Society that it will:
 - 23.1.1. be under no further obligation under this Agreement.
 - 23.1.2. In the event that the NAIG Council acts under section 25 of this agreement the Host Society will forthwith return to any funding partners all of its financial assistance paid to the Host Society that has not been expended or made subject to legally binding obligations to a third party unless otherwise agreed to in writing by that Party.

24. **GENERAL PROVISIONS**

This Agreement, including the Hosting Standards, Bid Procedures, Technical Package, Governing Rules and any additional requirements made known by the NAIG Council at the time of the Award and any amendments to them constitute the entire agreement among the Parties with respect to the subject matter addressed herein. This agreement takes precedence over, cancels, and replaces any other agreement, undertaking, contract, quasi-contract or obligation that may have been concluded or may exist among the Parties with respect to the issues addressed herein.

25. **NOTICE**

- 25.1. Any confirmation, report, notice, consent, approval, instruction, authorization, direction, waiver, statement or other document that a Party may be required or may desire to give or deliver to another Party will be in writing, effective, and deemed received by the Party;
- 25.2. if delivered personally, on the date of delivery;
- 25.3. if mailed, on the third business day after mailing;
- 25.4. if transmitted by facsimile transmission, on the date the transmission is confirmed received through the transmission report; and
 - 25.4.1. if sent by electronic mail, then when capable of being retrieved by the Party,
 - 25.4.2. at the address set for that Party or at such other addresses as a Party may, from time to time, notify the other Parties in writing.

26. **REVISIONS**

- 26.1. This Agreement may only be amended by written agreement of the Parties.

27. **EXECUTION**

- 27.1. The Parties represent and warrant to each other that they have respectively taken all legal action, corporate or otherwise, to enter into this Agreement and to authorize their officers and officials to execute this Agreement.

28. CONFIDENTIALITY

28.1. All information obtained during the course of this Agreement are confidential and of a nature whose disclosure would interfere with the Parties ability to plan, organize, stage and Finance the Games, and as such the Parties will not, save as maybe be required by law, disclose such information without the prior consent of the concerned Party.

29. COMPLIANCE WITH APPLICABLE LAWS

29.1. The Host Society agrees to comply with applicable federal, provincial, state or local laws, regulations and bylaws. In addition, the Host Society undertakes to obtain all necessary licenses, permits, consents and or/approvals that may be required by law to carry out its activities.

29.2. Furthermore, the Host Society agrees to comply with:

29.2.1. the provisions of its Bylaws, any other corporate governance document subscribed to by the Host Society or any resolution of the Host Society; and

29.2.2. any judgment, decree, order or award of any court, regulatory authority or arbitrator made in respect of the Host Society.

30. TERMINATION

30.1. This Agreement will terminate if:

30.1.1. NAIG Council or Host Society ceases to legally exist.

30.1.2. NAIG Council or Host Society does not abide by rulings of mediator as per Clause 21.

31. COUNTERPARTS

31.1. This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy or faxed copy) and delivering it to the other Parties.

32. TIME IS OF THE ESSENCE

32.1. Time is of the essence in all aspects of this agreement.

IN WITNESS WHEREOF

The Parties have executed this Agreement on the day first above written.

SIGNED on behalf of the **NORTH AMERICAN INDIGENOUS GAMES COUNCIL** by:

President, North American Indigenous Games Council

SIGNED on behalf of the **2xxx HOST SOCIETY** by:

President/Chairperson 200x Host Society

APPENDIX A

Hosting Standards

APPENDIX B

CONTRACTUAL MILESTONES

APPENDIX C

GOVERNING RULES