



DON'T AGREE TO A BAD NIL CONTRACT!

USE THESE TIPS TO NEGOTIATE A BETTER DEAL

- 1. Don't sign an NIL contract without a review** – The Ohio State Entrepreneurial Business Law Clinic (EBLC) will provide you with **free** legal advice on your NIL contract. Submit your NIL contract for review here: www.go.osu.edu/EBLCNIL
- 2. Quid pro quo** – You can't get something for nothing! You have to do work to earn compensation (money, gift cards, cars, etc.). Social media posts count as work. All compensation is taxable.
- 3. No pay for play** – You cannot be paid for athletic performance (winning, placing, etc.).
- 4. Limit your NIL license** – Assignment of your NIL should be limited, nonexclusive, nonassignable, strictly for the purposes intended, and predicated on a certain timeframe – not forever! If your contract says that the license will be “in perpetuity” get advice before signing.
- 5. Limit your exclusivity** – Be careful about offering a company broad exclusivity. Narrow exclusivity may be appropriate if it prevents you from working with their competitors.
- 6. Insurance** – Do not insure the company. If you are asked, call around and get quotes for professional liability insurance policies; the company should also be required to carry a similar policy.
- 7. Confidentiality** – Because you are required to submit your NIL contracts to OSU to review – mainly for conflicts and compliance issues – some disclosure should be permitted (to OSU, to your agent, to your lawyer, etc.).
- 8. \$\$\$** – Make sure you are getting paid what you are worth and also pay attention to when and how you are getting paid! Before you sign, talk to other athletes and other companies to ensure that you are not being underpaid. Compare the compensation to what you might earn in a job with an hourly wage.
- 9. Morality/non-disparagement** – Watch out for provisions that allow companies to terminate your NIL contract if you act immorally or speak badly of (disparage) the company. They should either be deleted or tightened up so that there is clarity on exactly what kind of bad behavior will end the contract.
- 10. Don't indemnify the company** – Do not indemnify the company! Indemnification is like insurance; it means you agree to compensate the company for their harm or loss.



- 11. Governing law & venue** – It is best if the contract says nothing about governing law (which state’s laws apply to the contract) and venue (where a lawsuit will take place). If governing law and venue are in a faraway state, compromise by requesting the following: (A) if you sue, venue will be where the company is located; and (B) if the company sues, venue will be where you reside.
- 12. Mandatory arbitration** – Do not agree to mandatory arbitration (resolving conflicts outside of a courtroom). It is not to your advantage and might wind up costing you money.
- 13. Proceeds** – Do not agree to pay a company a portion of your proceeds from NIL deals with another company.
- 14. You have options** – If the terms are terrible and the company refuses to negotiate, you can walk away! Do not accept a bad or unfair deal that will cost you more than it is worth.
- 15. Utilize OSU resources** – If you or the company you are working with need help understanding the bounds of NIL contracts, contact OSU’s Athletic Compliance Office. If you are an international student, contact the Office of International Affairs to understand what work your visa allows.

NIL contracts can be complex and include many more provisions not mentioned here. To maximize your negotiating leverage, **reach out to the EBLC for free help reviewing your NIL contract before you sign.**

- Submit your NIL contract here: www.go.osu.edu/EBLCNIL
- Email us here: eblc@osu.edu

The Entrepreneurial Business Law Clinic is part of The Ohio State University’s Moritz College of Law. Third-year law students work under the supervision of faculty to offer free legal advice to Ohio State students and student-athletes on their NIL contracts. They also assist startups, small businesses, and nonprofits on a variety of corporate and intellectual property matters.

Disclaimer: The information provided on this handout is for informational purposes only and does not constitute legal advice. We hope that you find the information useful and would be happy to speak with you about how the EBLC might help in your particular situation.