

## CONSENT AGREEMENT

**THIS AGREEMENT** is made the 18<sup>th</sup> day of January, Two Thousand and Ten **BETWEEN** the **FAIR TRADING COMMISSION**, a Body Corporate with offices at 52 Grenada Crescent, Kingston 5, in the parish of Saint Andrew (hereinafter referred to as “the Commission”) of the **FIRST PART** and the **UNIVERSITY OF TECHNOLOGY, JAMAICA**, located at 237 Old Hope Road, Kingston 6, in the parish of Saint Andrew (hereinafter referred to as the “the Respondent”) of the **SECOND PART**.

### **WHEREAS:**

1. It came to the attention of the staff of the Commission that the Respondent issued several advertisements in the newspapers during April 2009 promoting the '*UTech Track and Field Classic 2009*' held at the National Stadium on Saturday, April 18, 2009.
2. One of the said advertisements was contained in the April 17, 2009 edition of the Daily Observer.
3. The advertisement stated that several Olympic stars, including Asafa Powell, Shericka Williams, Andrew Hines, Darrel Brown and Marvin Anderson would be featured; but they did not participate.
4. The Commission investigated the complaint and concluded that the Respondent's conduct constituted a breach of Section 37 of the Fair Competition Act which prohibits businesses from making to the public, representations that are false, misleading or likely to be misleading.
5. The Commission informed the Respondent of the breach.

6. The Respondent recognized that its actions were likely to mislead members of the public and that the offence of Misleading Advertising pursuant to Section 37 of the Act is one of absolute liability. Consequently, the Respondent requested that the Commission exercise its discretion to discontinue the investigation and settle the matter in accordance with the ***Fair Competition (Notices and Procedures) Regulations 2000***.

**IT IS HEREBY AGREED BETWEEN THE PARTIES THAT:**

1. Pursuant to Rules 5 and 9 of the ***Fair Competition (Notices and Procedures) Regulations 2000***, the Respondent will pay the Commission within thirty (30) days of the date hereof ***One Hundred and Twenty-Six Thousand Three Hundred and Thirty-Three Dollars and Thirty Cents (\$126,333.30)*** by way of costs incurred in the investigation of the complaint.
2. Pursuant to Rule 8 of the ***Fair Competition (Notices and Procedures) Regulations 2000***, the Respondent shall within thirty (30) days of the date hereof issue a public apology, to be drafted and approved by the staff of the Commission, at the center or top right hand corner of the first or second page of the Sports section in the Jamaica Observer newspaper for two consecutive weeks. The wording and dimensions of the apology shall be according to the exact specifications of the Commission as contained in the Schedule and in accordance with the example attached to this Agreement. A draft of the Public Apology must be submitted to the staff of the Commission for vetting and approval before it is sent to the Press for publication.
3. The Respondent shall not make any public reference to this Agreement without the prior consent of the Commission.

4. The Commission reserves the right to use the facts of this complaint referred to herein, in its public education programme, without recourse to the Respondent.
5. The parties hereto will waive any and all further procedural steps, all rights to seek judicial review or otherwise to challenge or contest the validity of the Agreement. Should the Respondent fail to implement the terms herein agreed, however, the Commission may thereafter withdraw its acceptance of this Agreement and take such actions as it considers appropriate and so notify the Respondent.
6. The Respondent understands and accepts that formal proceedings will be instituted by the Commission if it fails to abide by this Agreement.

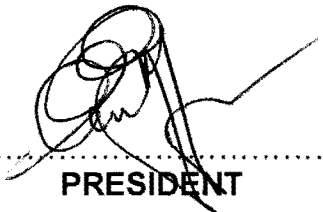
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## SCHEDULE


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The Respondent shall, within thirty (30) days of the date hereof, issue a notice at the center or top right hand corner of the first or second page of the Sports section in the Jamaica Observer newspaper for two consecutive weeks on Wednesday of each week. The notice shall be entitled 'Public Apology' with a font size of not less than 28 *Times New Roman*. The font size shall not be less than 18 in *Times New Roman* font-type and the dimensions shall not be less than 18 cm by 15½ cm. The name of the Respondent and the 12<sup>th</sup> to 36<sup>th</sup> words in the first paragraph shall be in bold print. The words 'Fair Trading Commission' and 'Utech Track and Field Classic 2009' shall be in italics. A draft of the Public Apology must be submitted to the staff of the Commission for vetting and approval before it is sent to the Press for publication. The notice shall conform to the example which is attached to this Agreement.

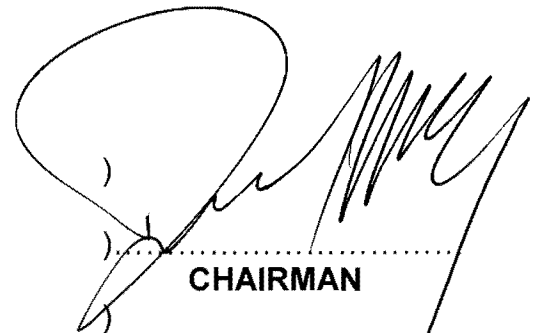
EXECUTED UNDER THE COMMON SEAL OF  
UNIVERSITY OF TECHNOLOGY, JAMAICA  
BY PRESIDENT  
AND REGISTRAR  
IN THE PRESENCE OF  
DIRECTOR/SECRETARY

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) .....  
) **PRESIDENT**

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) **REGISTRAR**

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) .....  
) **WITNESS**

THE FAIR TRADING COMMISSION  
BY CHAIRMAN, DERRICK McKOY (DR.)  
AND COMMISSIONER,

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) **CHAIRMAN**

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) .....  
) **COMMISSIONER**

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)   
) .....  
) **WITNESS**

**FAIR TRADING COMMISSION**  
52 Grenada Crescent  
Kingston 5  
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ftc@cwjamaica.com