Notes

This is a sample of the Sport England Framework Contract for Strategic Planning Services for Sport, signed between Sport England and suppliers. Please note that some clauses may have been changed with individual suppliers. Copies of actual contracts will only be supplied to Partners once they have reached preferred supplier stage.

SAMPLE

Date: 2010

THE ENGLISH SPORTS COUNCIL

[Insert name of Contractor]

Framework Agreement

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THIS AGREEMENT is made this day of 2010

BETWEEN:

(1) **The English Sports Council** of 3rd Floor, Victoria House, Bloomsbury Square, London WC1B 4SE (the **"Sport England"**); and

(2) [insert name] (Company Registration No) whose registered office is at (the **'Service Provider'**).

RECITALS:

(A) Sport England placed an advertisement in the Official Journal of the European Communities on 19th November 2009 for the provision of the Services;

(B) The Service Provider responded to that advertisement by notifying Sport England of the Service Provider's interest therein;

(C) The Service Provider submitted its responses to a questionnaire issued by Sport England;

(D) On 1st February 2010, Sport England issued an Invitation to Tender to the short listed potential suppliers (including the Service Provider) in respect of the provision of Services;

(E) In response to the Invitation to Tender, the potential suppliers (including the Service Provider) submitted their proposals to Sport England on or before 12 March 2010;

(F) On the basis of the Service Provider's proposal Sport England has selected the Service Provider and the Service Provider undertakes to supply to Sport England and to Framework Partner(s) as required the Services on the terms set out in this Agreement.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretation

1.1 In this Agreement and in each Order the definitions set out in Schedule 1 (Definitions) shall apply (unless the context otherwise requires)

1.2 In this Agreement and in each Order, unless the context otherwise requires:

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(a) the singular includes the plural and vice versa;

(b) reference to a gender includes the other gender and the neuter;

(c) a reference to a document shall include all authorised amendments, supplements to and replacements to that document;

(d) a reference to the Parties shall include their permitted successors and assigns;

(e) a reference to GBP or £, shall mean pounds sterling;

(f) where a word or a phrase is given a particular meaning, other grammatical forms of that word or phrase have corresponding meanings;

(g) references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it; and

(h) any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words.

1.3 The headings in this Agreement and/or any Order are for ease of reference only and shall not affect its interpretation.

1.4 References to Clauses and Schedules are, unless otherwise provided, references to the Clauses of and Schedules to this Agreement. References within Schedules to Sections and Paragraphs are, unless otherwise provided, references to Sections and Paragraphs within that same Schedule.

1.5 If there is any conflict between the Clauses and the Terms of Trade, the Clauses shall prevail.

2. Due Diligence

2.1 In entering into this Agreement, the Service Provider acknowledges that it:

(a) has made its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of Sport England;

(b) has raised all relevant due diligence questions with Sport England; and

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(c) has relied on its own due diligence alone.

2.2 The Service Provider further acknowledges that in entering into any Order it will be deemed to have acknowledged that it:

(a) has made its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of Sport England and/or any Framework Partner in respect of the relevant Order;

(b) has raised all relevant due diligence questions with Sport England and the relevant Ordering Body before entering into the relevant Order; and

(c) has entered into the relevant Order in reliance on its own due diligence alone.

3. Commencement and Duration

3.1 This Agreement shall commence on the date of this Agreement and shall continue in force until 31 March 2013 or, at the option of Sport England, until 31 March 2014 unless terminated earlier in accordance with the provisions of this Agreement.

3.2 The expiry of this Agreement shall not affect any Order placed under it.

4. Scope Of This Agreement

4.1 This Agreement governs the terms on which all or any Services shall be supplied to Sport England or any Framework Partner who may require the Service Provider to provide all or any such Services.

4.2 Subject to Clause 4.3, Sport England and each Framework Partner shall be entitled (but not required) at any time during the duration of this Agreement to order Services from the Service Provider in accordance with the Ordering Procedures and the Framework Competition Procedures.

4.3 The Service Provider shall not provide any of the Services to Sport England or to any Framework Partner other than pursuant to an Order entered into in accordance with this Agreement.

4.4 This Agreement governs the overall relationship of Sport England, the Service Provider and the Framework Partners with respect to the provision of the Services to Sport England and the Framework Partners.

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4.5 Any Order that is entered into for the provision of any Services to Sport England or to any Framework Partner shall be on the terms of the relevant Order and this Agreement in so far as applicable to an Order.

4.6 This Agreement does not give, nor purport to give, the Service Provider any rights of exclusivity or first refusal in relation to the Services. Sport England and each Framework Partner may procure additional services from third parties which are similar or identical to the Services at any time during the term of the Agreement or thereafter.

4.7 For the avoidance of doubt each Order shall be entirely independent of each other Order and no Ordering Body shall receive any rights or incur any obligations in connection with any Order to which the relevant Ordering Body is not a party.

5. Effect of an Order

5.1 Each Order shall, upon being entered into between the Service Provider and Sport England or the relevant Framework Partner, give rise to a separate contract between Sport England or (as the case may be) the relevant Framework Partner and the Service Provider.

5.2 Where any Order has been entered into, the Service Provider undertakes to both the Ordering Body and Sport England to provide the relevant Contracted Services to the Ordering Body in accordance with all the provisions of:

(a) the relevant Order;

(b) the Terms of Trade; and

(c) this Agreement (in so far as applicable to the relevant Order).

5.3 In the event of any conflict or inconsistency between any term of an Order, the Terms of Trade and any provisions of this Agreement, the terms in the Order shall prevail, but only in relation to the Contracted Services performed under the relevant Order in which such terms are contained.

6. Services

6.1 In respect of each Order, the Service Provider shall provide the relevant Contracted Services in accordance with the terms of the relevant Order and the terms of this Agreement in so far as they apply to that Order. In providing the Services, the Service Provider shall:

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(a) ensure that the Contracted Services comply in all respects with the provisions of Schedule 2 (*Services Requirements*);

(b) meet all milestones, service levels and standards specified in the Order;

(c) at all times allocate sufficient resources to provide the Contracted Services in accordance with the terms of this Agreement and the relevant Order;

(d) supply any goods, materials or articles necessary for Sport England or the relevant Framework Partner to obtain the full benefit of the Contracted Services (in each case save to the extent expressly identified in this Agreement and/or the relevant Order);

(e) perform its obligations under the relevant Order with all due, care, skill and diligence and in accordance with Good Industry Practice; and

(f) comply with all reasonable directions given to the Service Provider by Sport England and/or the Ordering Body during the Term provided that those directions are not inconsistent with the relevant Order.

6.2 In addition to the Contracted Services, the Service Provider shall, at no additional cost to the relevant Ordering Body and/or Sport England, provide any incidental services and assume any incidental responsibilities which are not specifically set out in Schedule 2 (*Services Requirements*) and/or the relevant Order provided that they:

(a) are within the overall scope of the relevant Contracted Services; and

(b) are consistent with the allocation of responsibilities between the Ordering Body and the Service Provider under the terms of this Agreement and the relevant Order; and

(c) are services or responsibilities which are inherent to the proper performance and delivery of the Contracted Services.

6.3 Sport England or the relevant Framework Partner may amend, remove or add to the Services in accordance with the Change Control Procedure.

7. No Liability on Sport England

7.1 Sport England shall not be required to make any payment in respect of the provision of any Contracted Services to a Framework Partner nor in respect of any other action or activity taken by the Service Provider under or in connection with an Order from a Framework Partner.

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8. Charges and Invoicing

8.1 The Service Provider's right to be paid for the provision of any Contracted Services shall be solely as set out in the relevant Order.

8.2 In entering into any Order, the Service Provider shall not, and shall not be entitled to, require the payment of any charges in excess of the Framework Charges.

8.3 The Service Provider shall not suspend the supply of the Services to any Ordering Body for failure to pay Charges unless the Service Provider is entitled to terminate the relevant Order under Clause 22 (Termination Rights) for failure to pay undisputed Charges.

8.4 Where an Ordering Body is required to pay the Service Provider in respect of costs, expenses, fees or charges incurred by the Service Provider, the relevant Ordering Body is not obliged to pay:

(a) any part of those sums which exceeds what is fair and reasonable; or

(b) any sums which are not supported by such appropriate evidence as Sport England or as the case may be, the Framework Partner may reasonably require; or

(c) any expenses which exceed 12.5% of the value of the Order.

8.5 Save to the extent expressly specified in Clause 8.6 of this Agreement neither the Framework Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any changes to interest rates or any other factor or element which might otherwise increase the cost to the Service Provider or any subcontractors to the Service Provider of the performance of their obligations.

8.6 The Charges shall be reviewed annually provided however that any percentage increase in the Charges shall not exceed the increase published in the all items Retail Price Index for the month preceding the month in which the relevant review takes place.

8.7 Except as expressly set out in this Agreement or any Order, the Charges include all costs and expenses relating to the relevant Contracted Services and the Service Provider's performance of its obligations under the relevant Order and no further amounts will be payable by the Ordering Body to the Service Provider in respect of such performance.

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8.8 Payment by the Ordering Body shall be without prejudice to any claims or rights which the Ordering Body may have against the Service Provider and shall not constitute any admission by the Ordering Body to the performance by the Service Provider of its obligations hereunder.

8.9 The Ordering Body shall be entitled to withhold payment of the Charges (or any part of the Charges) to the extent that the relevant Contracted Services (or any part of them) are not delivered in accordance with this Agreement and/or the relevant Order by notice to the Service Provider within ten (10) days of receipt of the relevant Invoice. Such notice shall set out:

(a) the reasons for withholding the relevant Charges; and

(b) if the relevant act or omission is capable of being remedied, the remedial action required.

8.10 The Service Provider shall indemnify each Ordering Body on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the relevant Ordering Body at any time in respect of the Service Provider's failure to account for or to pay any VAT relating to payments made to the Service Provider under the relevant Order. Any amounts due under this Clause shall be paid in cleared funds by the Service Provider to the relevant Ordering Body not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Ordering Body.

9. Contract/Order Managers

9.1 Sport England and the Service Provider shall each appoint a representative (a "**Contract Manager**") who shall:

(a) act as the principal liaison between his appointor and the other party;

(b) manage, on behalf of his appointor, the relationship between Sport England and the Service Provider in accordance with the provisions of this Agreement; and

(c) be deemed to have full authority from his appointor to act in the name of, and on behalf of, his appointor for all purposes of and connected with this Agreement.

9.2 The initial Sport England Contract Manager and the initial Service Provider Contract Manager shall be [Nick Evans] and [insert name of Service Provider's Contract

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Manager] respectively who shall be deemed to have been appointed pursuant to Clause 9.1.

9.3 Both Sport England and the Service Provider may remove their respective Contract Manager by notice in writing to the other Party. Sport England shall be entitled to require the Service Provider to remove any person appointed from time to time as the Service Provider Contract Manager.

9.4 The Service Provider Contract Manager will be expected to attend a review meeting with the Sport England Contract Manager once a year, as well as a peer review session with other Service Providers. Sport England will not be charged for these sessions by the Service Provider.

9.5 In respect of each Order, the Ordering Body and the Service Provider shall each appoint a representative (an "**Order Manager**") who shall:

(a) act as the principal liaison between his appointor and the other Party;

(b) manage, on behalf of his appointor, the relationship between the Ordering Body and the Service Provider in accordance with the provisions of the relevant Order; and

(c) be deemed to have full authority from his appointor to act in the name of, and on behalf of, his appointor for all purposes of and connected with the Order.

9.6 The initial Ordering Body Order Manager and the initial Service Provider Order Manager for each Order shall be specified in the relevant Order.

9.7 Both the Ordering Body and the Service Provider may remove their respective Order Manager by notice in writing to the other Party. The Ordering Body shall be entitled to require the Service Provider to remove any person appointed from time to time as the Service Provider Order Manager.

9.8 If at any time, a Party shall cease to have a Contract Manager or (as the case may be) an Order Manager, then that Party shall, within 7 days of such cessation, appoint an alternative Contract Manager (as the case may be) an Order Manager and notify such appointment to the other relevant Party.

10. Subcontracting

10.1 The Service Provider shall not sub-contract any of its obligations under this Agreement without the prior written consent of Sport England. Sport England may attach such conditions to the grant of its consent as it sees fit in its sole discretion.

SAMPLE

Except to the extent that any such condition permits any further subcontracting, no subcontractor shall subcontract any of its obligations in relation to the Service Provider's obligations under this Agreement. For the avoidance of doubt Sports England's consent to the use of the Specified Subcontractors shall be deemed to have been given.

10.2 The Service Provider shall not subcontract any of its obligations under any Order without prior written consent of both Sport England and the relevant Ordering Body. Both Sport England and the Ordering Body may attach such conditions to the grant of its consent as it sees fit in its sole discretion.

10.3 The Service Provider shall ensure that each subcontract reflects the terms and conditions of this Agreement (to the extent that it relates to services to be provided under this Agreement) or the relevant Order (to the extent that it relates to the services to be provided under that Order), including obligations no less onerous than those set out in this Agreement, the relevant Order and the Terms of Trade in respect of security, confidentiality, privacy, data security, data protection, Intellectual Property Rights, compliance with laws, compliance with policies and procedures and keeping of records.

10.4 The Service Provider shall not replace Specified Subcontractors without Sport England's prior written approval. Where a Specified Subcontractor is not longer able, for any reason, to provide the Services the Service Provider must notify Sport England of the identity of, and all relevant information relating to, the proposed replacement Specified Subcontractor. The Service Provider shall not enter into any new Orders until such time as a replacement Specified Subcontractor is approved by Sport England.

10.5 The Service Provider shall not terminate or materially amend the terms of:

(a) any subcontract to this Agreement without Sport England's prior written consent, which shall not be unreasonably withheld or delayed; nor

(b) any subcontract to an Order without the relevant Ordering Body's prior written consent, which shall not be unreasonably withheld or delayed.

10.6 Sport England may require the Service Provider to terminate a subcontract in respect of this Agreement and the relevant Ordering Body may require the Service Provider to terminate a subcontract in respect of an Order:

(a) where the acts or omissions of the relevant subcontractor have given Sport England (in the case of a subcontract in respect of this Agreement) or the relevant Ordering Body (in the case of a subcontract in respect of an Order) the

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right to terminate this Agreement or pursuant to Clause 22 (Termination Rights); or

(b) if the Service Provider is entitled to terminate the relevant subcontract under its own terms but has not done so.

10.7 Sport England shall have no obligation to pay any compensation in respect of any termination pursuant to Clause 10.5.

10.8 Despite the Service Provider's right to subcontract pursuant to this Clause 10, the Service Provider shall remain responsible for all acts and omissions of its subcontractor and the acts and omissions of those employed or engaged by the subcontractor as if they were its own.

11. Quality Assurance

The Service Provider shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Service Provider's performance of the Contracted Services against the applicable Service Levels at a level of detail sufficient to enable Sport England as the relevant Ordering Body to verify compliance with the applicable Service Levels.

12. Maintenance of Records and Audit Rights

12.1 The Service Provider shall, and shall procure that all of its subcontractors shall:

(a) maintain a complete and accurate set of records relating to all activities and costs relating to their performance of this Agreement and any Order;

(b) maintain reasonably adequate and appropriate security arrangements with a view to ensuring that there is no unauthorised access to and/or destruction of any such records.

12.2 The Service Provider shall, and shall procure that all it subcontractors shall, for the term of this Agreement and for 36 months after the termination or expiry, for whatever reason, of this Agreement, provide to Sport England and its staff, Service Providers, agents, auditors, advisers and other nominees (including the National Audit Office):

(a) reasonable access on reasonable notice to:

(i) the records maintained pursuant to Clause 12.1 and/or copies of any such records;

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(ii) staff used by the Service Provider in the provision of the Services; and

(b) all reasonable assistance as may be necessary in order to enable Sport England to fully and promptly carry out any inspection, audit, check and/or monitoring of the Service Provider's compliance with this Agreement and/or any Order.

12.3 The Service Provider shall promptly provide Sport England with such other information, relating to this Agreement and the provision of the Services, as Sport England may from time to time reasonably request. Such information shall be provided in such form as Sport England may reasonably request.

12.4 Each Ordering Body shall have rights equivalent (mutatis mutandis) to those set out in Clauses 12.2 and 12.3 in so far as it relates to the relevant Ordering Body's Order and/or the Contracted Services provided under such Order.

13. Changes to this Agreement and/or any Order

Any change to this Agreement and/or any Order shall only be valid if it is in writing and executed by all the relevant parties.

14. Disputes

The Parties shall use all reasonable endeavours to resolve all Disputes.

15. General obligations of the Parties

15.1 In respect of each Order, the Service Provider shall:

(a) at all times allocate sufficient resources to provide the relevant Contracted Services in accordance with the terms of the relevant Order; and

(b) obtain, and maintain throughout the duration of each Order, all the consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable the provision of the relevant Contracted Services.

15.2 In respect of each Order, the Service Provider shall co-operate in good faith with, and provide such assistance to the relevant Ordering Body and any third party providing services to or receiving services from the relevant Ordering Body as the latter shall reasonably consider necessary to enable the Ordering Body and any such third parties to provide or receive services in the manner contemplated by the relevant Order.

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15.3 The Service Provider shall ensure that no Contracted Services are produced or performed by any method which may bring Sport England and/or the relevant Ordering Body into disrepute.

16. Warranties

16.1 By entering into this Agreement Sport England and the Service Provider each warrants, represents and undertakes that:

(a) it has full capacity and authority to enter into and to perform this Agreement;

(b) this Agreement is executed by a duly authorised representative of that Party;

(c) there are no actions, suits or proceedings or regulatory investigations pending or, to that Party's knowledge, threatened against or affecting that Party before any court or administrative body or arbitration tribunal that might affect the ability of that Party to meet and carry out its obligations under this Agreement; and

(d) once duly executed, this Agreement will constitute legal, valid and binding obligations.

16.2 When entering into an Order the Service Provider and the relevant Ordering Body shall each be deemed to represent, warranty and undertake to each other that at that time:

(a) it has full capacity and authority to enter into and to perform the relevant Order;

(b) the relevant Order has been executed by a duly authorised representative of that Party;

(c) there are at the time of entering into the relevant Order no actions, suits or proceedings or regulatory investigations pending or, to that Party's knowledge, threatened against or affecting that Party before any court or administrative body or arbitration tribunal that might affect the ability of that Party to meet and carry out its obligations under the relevant Order; and

(d) once duly executed, the relevant Order will constitute legal, valid and binding obligations.

16.3 In respect of each Order the Service Provider shall be deemed to warrant, represent and undertake to Sport England and the relevant Ordering Body that:

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(a) the execution, delivery and performance by the Service Provider of its obligations under the relevant Order shall not constitute a breach of any Law or obligation, or cause or result in a default under any agreement, by which the Service Provider is bound and which would prevent the Service Provider from entering into and performing its obligations under the relevant Order;

(b) the Service Provider is validly incorporated, organised and subsisting in accordance with the laws of its place of incorporation;

(c) the Service Provider has and will continue to hold all necessary (if any) consents and regulatory approvals from the Regulatory Bodies necessary to perform the Service Provider's obligations under the relevant Order;

(d) the Service Provider has and will continue to have all rights in and to the Service Provider Software, the Third Party Software, the Service Provider's Background IPRs and the Specially Created IPR and any other materials made or to be made available by the Service Provider to the Ordering Body which are necessary to perform the Service Provider's obligations under the relevant Order;

(e) the supply of the Contracted Services by the Service Provider to the Ordering Body and any use by the Ordering Body of the Contracted Services shall not infringe the Intellectual Property Rights of any Third Party;

(f) the Service Provider has the technical expertise to supply the Contracted Services;

(g) in performing its obligations under the relevant Order, all Software used by or on behalf of the Service Provider shall be currently supported versions of that Software;

(h) any documentation and training provided by the Service Provider shall be supplied in accordance with the terms of the relevant Order and shall enable suitably qualified personnel of the Ordering Body to make full and proper use of the Contracted Services;

(i) the Service Provider is not the subject of any other obligation compliance with which will or is likely to have a material adverse effect on the ability of the Service Provider to perform its obligations under the relevant Order;

(j) no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Service Provider, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver,

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administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;

16.4 The Service Provider warrants, represents and undertakes that as at the date of this Agreement all statements and representations in the Service Provider's Final Tender are to the best of its knowledge, information and belief, true and accurate (having been made after due and careful enquiry with all appropriate sources and after all responses to such enquiries have been diligently reviewed). The Service Provider has advised Sport England of any fact, matter or circumstance of which it has become aware since making such proposals which would render any such statement or representation to be false or misleading.

16.5 The Service Provider warrants, represents and undertakes that it has and will continue to have full and unrestricted ability to assign the Specially Created IPR to the Ordering Body and/or Sport England.

16.6 Each of the warranties, representations and undertakings set out in this Clause 16 shall be constructed as a separate warranty, representation and undertaking.

16.7 Except as expressly stated in this Agreement, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

17. Force Majeure

17.1 Subject to the remaining provisions of this Clause 17, either Party to this Agreement or to any Order may claim relief from liability for non-performance of its obligations for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event.

17.2 The Affected Party shall as soon as reasonably practicable give the other Party notice of the Force Majeure Event. The Notice shall include details of the Force Majeure Event together with evidence of its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

17.3 Where the Affected Party is the Service Provider, none of the following events and circumstances shall be regarded as a Force Majeure Event that relieves liability under this Clause 17:

(a) a failure by a subcontractor of the Service Provider to perform any obligation owed to the Service Provider unless and to the extent that the failure is directly caused by a Force Majeure Event directly affecting that subcontractor;

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(b) an event or circumstance caused by a Default by the Service Provider, a subcontractor of the Service Provider or Service Provider Personnel;

(c) any industrial dispute relating to the Service Provider, any of its subcontractors and/or any Personnel;

(d) an event or circumstance attributable to the Service Provider's wilful act, neglect or failure to take reasonable precautions against the relevant event; or

(e) an event or circumstance whose effect is such that a prudent provider of services similar to the Services or as the case may be the Contracted Services, operating to the standards required by this Agreement or (as the case may be) the relevant Order, could have foreseen and prevented or avoided the consequences of such event or circumstance;

17.4 If a Force Majeure Event causes the Service Provider to allocate limited resources between the Service Provider's customers, the Service Provider shall not place Sport England or the relevant Ordering Body lower in priority to any other similarly affected customer.

17.5 As soon as practicable after the Affected Party's notification in accordance with Clause 17.2, and at regular intervals thereafter, the relevant Parties shall consult to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provisions of the Services or (as the case may be) the relevant Contracted Services affected by the Force Majeure Event.

17.6 The relevant Parties shall at all times following the occurrence of a Force Majeure Event during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Service Provider is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

17.7 If the Affected Party is the Service Provider, the Service Provider shall only be entitled to receive payment of the Charges (or a proportional payment thereof) to the extent that the relevant Contracted Services (or part of the Contracted Services) continue to be performed during the period of Force Majeure in accordance with the provisions of the relevant Order.

17.8 The relevant Parties shall be entitled to exercise termination rights pursuant to Clause 22 (Termination Rights) in relation to the continuance of a Force Majeure Event.

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18. Indemnities

18.1 In respect of each Order, the Service Provider shall at all times indemnify Sport England and the relevant Ordering Body and each of their respective officers, employees and agents and keep them indemnified in respect of:

(a) any Loss or Claim by any person that its Intellectual Property Rights are infringed (or are alleged to be infringed) by the receipt, use, reproduction or exploitation of the relevant Contracted Services by or on behalf of Sport England or the relevant Ordering Body in the manner contemplated by the relevant Order.

(b) any Claim by any person in connection with or any Loss suffered by Sport England or as the case may be the relevant Ordering Body as a result of a Default by the Service Provider;

(c) any Loss or Claim in connection with death or personal injury caused by any Default by the Service Provider or any Service Provider Personnel;

(d) any loss, destruction, corruption or degradation of data (including Sport England's Data) arising by reason of any Default of the Service Provider or any Service Provider Personnel;

(e) any failure by the Service Provider or any of its subcontractors to comply with its obligations under the Freedom of Information Act;

(f) any Loss or Claim in connection with a failure by the Service Provider or any of its subcontractor to comply with any Laws;

(g) any Loss or Claim in connection with loss of, or damage to, property caused by any Default of the Service Provider or any of its subcontractors;

(h) any Employee Liabilities arising as a result of or relating to any Claims to the effect that any Service Provider Personnel are engaged (whether solely or jointly) as an employee or Service Provider of Sport England or (as the case may be) the relevant Ordering Body.

18.2 The Service Provider shall not be liable under the indemnities referred to in Clause 18.1 to the extent that a Claim or Loss is caused by a Default of Sport England or an Ordering Body.

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18.3 If the Service Provider fails to comply with Clause 18.1, the Ordering Body has the right to suspend any payment due under the relevant Order until the Service Provider remedies the failure to comply.

18.4 If the Contracted Services become, or in the Service Provider's reasonable opinion are likely to become, the subject of a Claim of a kind described in Clause 18.1(a) the Service Provider shall, at its own expense and in addition to any obligation of the Service Provider to indemnify Sport England or (as the case may be) the relevant Ordering Body in relation to that Claim:

(a) acting promptly, procure for Sport England or (as the case may be) the relevant Ordering Body the right to continue using the relevant item which is subject to the Claim on terms which are acceptable to Sport England; and

(b) if the Service Provider cannot comply with Clause 18.4(a) within a reasonable period replace or modify the relevant item with non-infringing substitutes provided that:

(i) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;

(ii) the replaced or modified item does not have an adverse effect on the Contracted Services;

(iii) there is no additional cost to either Sport England or (as the case may be) the Ordering Body; and

(iv) the terms of this Agreement and the relevant Order shall apply to the replaced or modified item.

18.5 If, due to a Claim arising from, or by reason of infringement or alleged infringement of any Intellectual Property Right, the quiet enjoyment of the Contracted Services is disrupted or impaired and the Service Provider has not:

(a) within ten (10) Working Days of the commencement of such disruption or impairment commenced all appropriate and effective actions in accordance with Clause 18.4; and

(b) subsequently used reasonable endeavours to pursue such actions,

to restore to the Ordering Body the quiet enjoyment of the Contracted Services, the Ordering Body may, subject to Clause 18.6 conduct negotiations and make a

SAMPLE

settlement necessary to enable the Ordering Body to continue to receive the Contracted Services.

18.6 The negotiations and settlement contemplated under Clause 18.5 shall relate solely to the continued provision of the Contracted Services.

18.7 The Service Provider, instead of the Ordering Body, may, with the prior written consent of the Ordering Body (not to be unreasonably withheld), make a settlement contemplated under Clause 18.5 on the basis that the settlement shall not limit any rights the Ordering Body may have against the Service Provider arising out of a breach of Clause 18.

19. Limitations on Liability

19.1 Neither Party limits its liability for:

(a) death or personal injury caused by its negligence, or that of its employees, agents or subcontractors, (as applicable);

(b) fraud or fraudulent misrepresentation; or

(c) breach of any obligation under section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.

19.2 Subject to Clause 19.1, Sport England shall have no liability to the Service Provider in respect of any breach by Sport England of the terms of this Agreement and/or any Order.

19.3 Subject to Clause 19.1, no Party will be liable to any other Party for:

(a) any indirect special or consequential loss or damage;

(b) any loss of profits, turnover, business opportunities, or damage to goodwill (whether direct or indirect).

19.4 The Ordering Body shall be entitled to recover as a direct loss:

(a) any additional operational and/or administrative costs and expenses arising from the Service Provider's Default, including costs relating to the time spent by the Ordering Body’s management and employees in dealing with the consequences of the Default;

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(b) any wasted expenditure or charges rendered unnecessary and/or incurred by the Ordering Body arising from the Service Provider's Default, including all expenditure incurred by the Ordering Body whether in payments to the Service Provider or to any other person, in connection with the acceptance of any Contracted Services; and

(c) reasonable costs and expenses incurred by the Ordering Body in rectifying a Default of the Service Provider, and, where considered in the absolute discretion of the Ordering Body to be reasonable or necessary, in re running any process in respect of which the Contracted Services had been procured.

19.5 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this Clause 19 is held to be invalid under any law, it will be deemed omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Clause 19.

19.6 The Parties have considered the exclusions and limitations of liability in this Agreement in the context of all the circumstances of the transaction to which this Agreement relates (including the Parties' respective insurance cover) and all the factors referred to in Schedule 2 of the Unfair Contracts Terms Act 1977. The Parties consider that such exclusions and limitations of liability are fair and reasonable and that, but for such exclusions and limitations, the Parties would not have entered into this Agreement.

20. Insurance

20.1 The Service Provider shall effect and maintain the insurances referred to in Clause 20.2 with insurers who are, in the reasonable opinion of Sport England, of good financial standing and reputation and for a period of insurance which includes:

(a) for all insurances, the period from the Effective Date until at least the expiry or termination of this Agreement but shall provide cover for obligations that survive expiry or termination of this Agreement; and

(b) for professional indemnity insurance, the period of 3 years following the expiry or termination of this Agreement.

20.2 The Service Provider shall maintain:

(a) professional indemnity insurance:

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(i) covering liability arising in connection with the provision of the Contracted Services or breach of professional duty by the Service Provider in supplying the Contracted Services, which extends to any liability the Service Provider may have to Sport England or (as the case may be) the Ordering Body, as a result of, any failure on the part of the Service Provider and its subcontractor to exercise Good Industry Practice in supplying the Contracted Services; and

(ii) for an amount not less than £1,000,000 per occurrence and in the aggregate annually.

(b) public liability insurance for an amount of not less than £1,000,000 for any one occurrence and unlimited in the aggregate annually as to the number of occurrences; and

(c) employment liability insurance for an amount not less than £1,000,000 for any one occurrence and unlimited in the aggregate annually as to the number of occurrences.

20.3 The terms and conditions of the insurance cover held by the Service Provider shall not include any provision which would require the Service Provider to discharge any liability before being entitled to recover from its insurers or any other provision which might adversely affect the right of any person to recover under the Third Parties (Rights Against Insurers) Act 1930.

20.4 The Insurances shall be maintained from time to time on terms no less favourable than those generally available to a prudent Service Provider in respect of risks insured in the international insurance market from time to time.

20.5 The Service Provider shall pay all insurance premiums as soon as they are due for payment.

20.6 If the Service Provider fails to effect or maintain the insurances, the relevant Ordering Body under any Order may at its option obtain or maintain that insurance and may:

(a) recover the cost of doing so as a debt due from the Service Provider; or

(b) deduct the premiums payable for the relevant insurances from amounts payable to the Service Provider.

20.7 The Service Provider shall provide to Sport England or (as the case may be) the Ordering Body copies of evidence from the Service Provider's broker endorsed by the Insurer of the insurances set out in Clause 20.2:

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(a) within ten (10) Working Days after a request by Sport England or (as the case may be) the Ordering Body; and

(b) from time to time within ten (10) Working Days if any of those policies are materially changed, altered or renewed.

20.8 On request, the Service Provider shall provide to Sport England or (as the case may be) the Ordering Body such details of the insurances maintained in accordance with this Clause 20 as they may reasonably require.

20.9 The Service Provider shall not take any action, or make any omission, or permit anything to occur, which would entitle any Insurer to refuse to pay or reduce any Claim under an insurance policy.

20.10 The Service Provider shall notify Sport England and any relevant Ordering Body within two (2) Working Days of:

(a) the cancellation of any of the insurances; and/or

(b) the variation or reduction in the limits of coverage of such insurances.

20.11 The Service Provider shall ensure that all its subcontractors:

(a) have sufficient and enforceable insurance to satisfy their obligations arising out of or in relation to this Agreement and/or any Order; and

(b) provide, at Sport England's request, evidence satisfactory to Sport England of the insurance specified in this Clause 20.

20.12 The Service Provider agrees that its compliance with the insurance obligations under this Clause 20 shall not in anyway reduce its other obligations under this Agreement or any Order.

20.13 The insurance premiums for the Insurances and the amount of any loss that would otherwise be recoverable under any of the Insurances but for the applicable uninsured deductible and limit of indemnity in respect of such insurance shall at all times be the responsibility of the Service Provider.

21. Employment and Pensions

21.1 The Service Provider agrees that the entering into and performance of this Agreement by the Service Provider shall not result in any liabilities of the Service Provider or any

SAMPLE

of its subcontractor being transferred or otherwise vested in Sport England and/or any Ordering Body by virtue of the Employment Regulations.

21.2 To the extent that any liabilities of the type referred to in Clause 21.1 do or are alleged to so transfer or vest in Sport England and/or any Ordering Body, the Service Provider shall keep Sport England and the relevant Ordering Body fully and effectively indemnified in respect of all liabilities, claims, losses and expenses which it may suffer or incur as a result (including the liabilities, claims, losses and expenses which it may suffer or incur as a result of the termination of employment of any such employee following Sport England or (as the case may be) relevant Ordering Body becoming aware of such transfer or vesting).

21.3 Key Personnel shall not to be substituted by the Service Provider without the express prior written consent of Sport England, not to be unreasonably withheld. The Service Provider shall (if requested) provide Sport England with all relevant information about the professional qualifications and experience of any proposed substitute Key Personnel. The Service Provider shall not enter into any new Orders until such time as replacement Key Personnel is approved by Sport England.

Termination Rights

21.4 This Clause 22.1 sets out the rights of Sport England to terminate this Agreement and for an Ordering Body to terminate its Order for cause.

(a) an Ordering Body may terminate its Order and Sport England may terminate this Agreement (whether or not an Order has been terminated by an Ordering Body) by notice to the Service Provider if one or more of the circumstances set out in Clause 22.1(b) exist.

(b) The circumstances giving rise to the right to terminate are:

(i) the Service Provider is in material Default of the relevant Order which it has failed to remedy in accordance with Clause 23 (Remedial Plan Process);

(ii) the Service Provider commits a material Default of the relevant Order which is not capable of remedy;

(iii) the Service Provider commits repeated Defaults of the relevant Order (whether of the same or different obligations and regardless of whether those Defaults are remedied), which Sport England (in the case of this

SAMPLE

Agreement) or the relevant Ordering Body (in the case of the relevant Order) considers, in its reasonable opinion, collectively constitute a material Default of the relevant Order;

(iv) the Service Provider has failed to achieve a Milestone due to a Default by the Service Provider;

(v) an Insolvency Event affecting the Service Provider occurs; or

(vi) a Notifiable Event (as defined in Clause 27.6 (Assignment, Novation and Notifiable Events)) occurring; or

(vii) the events set out in Clause 30.3 (Prevention of Corruption);or

(viii) Key Personnel are substituted by the Service Provider without Sport England's prior written consent as set out in Clause 21.3; or

(ix) Specified Subcontractors are substituted by the Service Provider without Sport England's prior written consent as set out in Clause 10.4.

21.5 This Clause 22.2 sets out each Ordering Body's right to terminate any Order for convenience.

(a) The Ordering Body may terminate the relevant Order for convenience at any time by giving a notice to the Service Provider.

(b) Without limiting Clause 22.2(a) and unless otherwise stipulated by the relevant Ordering Body in its termination notice, any Contracted Services and the development of any Contracted Services that has not commenced at the date the Ordering Body issues its termination notice shall be cancelled automatically and the Ordering Body shall, as from the date of termination, not be liable for any Charges or other payments for those cancelled Contracted Services and Contracted Services other than those outstanding and properly due in accordance with the terms of the relevant Order at the date of termination.

21.6 This Clause 22.3 sets out the rights of the Service Provider to terminate an Order:

(a) The Service Provider may terminate an Order if the Ordering Body is in material breach of its obligation to pay the Service Provider undisputed Charges which exceed in aggregate three (3) months Charges by giving the Ordering Body ninety (90) days' written notice specifying the breach and

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requiring its remedy and further written notice not less than fourteen (14) days prior to the expiry of the ninety (90) days.

(b) The Service Provider acknowledges and agrees that this Clause 22.3 sets out the only ground on which it may terminate an Order or otherwise treat itself as discharged from its obligations under an Order and further that the Service Provider shall not be entitled to terminate this Agreement or to otherwise treat itself as discharged from its obligations under this Agreement.

21.7 This Clause 22.4 sets out the Service Provider's and an Ordering Body's right to terminate an Order for a continuing Force Majeure Event.

The relevant Ordering Body and the Service Provider may terminate the relevant Order which is affected by a Force Majeure Event by notice to the other Party if the Force Majeure Event occurs in relation to the other Party for a continuous period of more than ninety (90) days or to such an extent that will result in the Service Provider being unable to provide the relevant Contracted Services in connection with the relevant election for which they are to be procured.

21.8 This Clause 22.5 sets out Sport England's right to terminate this Agreement for convenience.

(a) Sports England may terminate this Agreement for convenience at any time by giving 3 months written notice to the Service Provider.

22. Remedial Plan Process

22.1 Where an Ordering Body (acting reasonably) considers that the Service Provider is in Default under the relevant Order, the Ordering Body may issue a notice to the Service Provider which shall set out details of the Default and the action which the Ordering Body requires the Service Provider to take so as to remedy the circumstances giving rise to the service of the relevant notice.

22.2 The Order Managers shall meet within 5 Working Days of the issue of the relevant notice and agree a plan which shall set out the corrective action (if any) which is to be taken by the Service Provider (and to the extent appropriate the Ordering Body) so as to remedy the circumstances giving rise to the service of the relevant notice. To the extent that the Order Managers are unable to agree on such plan the decision of the Ordering Body Order Manager (acting reasonably) shall be final and binding on the parties.

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22.3 Without prejudice to any rights or remedies which either party may have under the relevant Order, the parties each agree to undertake any action which they are required to take as part of any plan which is agreed or determined pursuant to Clause 23.2.

23. Deductions from Charges

Where the Service Provider has failed to provide the Contracted Services in accordance with the relevant Order, the relevant Ordering Body shall be entitled to deduct a sum from the Charges payable in respect of the relevant Order which is reasonable and commensurate with the level of the failure to provide the Contracted Services, the significance to the relevant Ordering Body of the relevant failure and the extent to which the circumstances giving rise to the failure were within the control of the Service Provider. This shall not prevent the Ordering Body from exercising any other remedies as a result of the relevant failure but, in so doing the amount of any such deduction shall be taken into account.

24. Consequences of Termination

24.1 The termination of this Agreement in accordance with Clause 22 (Termination Rights) or its expiry shall not affect the accrued rights, duties and liabilities of either Party under this Agreement and shall not affect any Order.

24.2 The termination of any Order in accordance with Clause 22 shall not affect the accrued rights, duties and liabilities of either Party under the relevant Order and shall not affect this Agreement or any other Order.

24.3 The Clauses and Schedules of this Agreement which expressly or impliedly have effect after expiry or termination of this Agreement will continue to be enforceable notwithstanding the expiry or termination of this Agreement.

25. Payments made on Termination

25.1 Sport England shall not make any payment to the Service Provider:

(a) in respect of the expiry of the Term; or

(b) if the Agreement is terminated by Sport England pursuant to Clause 22.1 (Termination Rights).

25.2 If any Order is terminated by any Ordering Body pursuant to Clause 22.2 or by the Service Provider pursuant to Clause 22.3, then the Ordering Body shall pay the Service Provider an amount equal to:

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(a) all unpaid Charges which may have accrued due to the Service Provider up until the date of such termination;

(b) to the extent that any element of the Charges only accrue on the occurrence of any event or events (which have not then occurred), a fair and reasonable proportion of such Charges which corresponds to the proportion which the work undertaken bears to the work which the Service Provider is required to undertake for the relevant Charges to arise; and

(c) any necessary and unavoidable costs which the Service Provider incurs in terminating its activities in respect of the relevant Order.

This shall be the Service Providers sole remedy in respect of any termination of an Order under Clauses 22.2 or 22.3.

25.3 Each Party shall bear its own costs of termination of this Agreement and/or any Order pursuant to Clause 22.4 (Termination for Force Majeure).

26. Assignment, Novation and Notifiable Events

26.1 The Service Provider shall not assign, novate or otherwise transfer or create any trust in relation to any or all of its rights and obligations under this Agreement, without the prior written consent of Sport England.

26.2 The Service Provider shall not assign, novate or otherwise transfer or create any trust in relation to any or all of its rights and obligations under an Order, without the prior written consent of both Sport England and the relevant Ordering Body

26.3 Sport England and any Ordering Body may assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement (in the case of Sport England) and the relevant Order (in the case of an Ordering Body) and any associated licences to:

(a) to any successor to Sport England or (as the case may be) the Ordering Body following a reorganisation within government or to any body (including any private sector body) which substantially performs any of the functions that previously had been performed by Sport England; or

(b) any other person with the prior written consent (not to be unreasonably withheld or delayed) of the Service Provider.

SAMPLE

26.4 Any change in the legal status of Sport England under this Agreement shall not affect the validity of this Agreement and this Agreement shall be binding on any successor body to Sport England.

26.5 Any change in the legal status of an Ordering Body shall not affect the validity of this Agreement or any Order between the Ordering Body and the relevant Service Provider and both this Agreement and the Order shall be binding on any successor body to the Ordering Body.

26.6 The Service Provider under this Agreement or any Order shall without delay notify Sport England or the relevant Ordering Body of:

(a) any Change of Control of:

(i) the Service Provider;

(ii) any Holding Company of the Service Provider;

*(together, the '**Relevant Entities**'); and*

(b) any new company name or trading name adopted or to be adopted by any of the Relevant Entities

(together, the '**Notifiable Events**').

26.7 If any Notifiable Event should occur, the Service Provider shall as soon as reasonably practicable thereafter and in any event within ten (10) Working Days, notify Sport England and any Ordering Body to which it is contracted of such Notifiable Event and shall promptly on demand provide all reasonable information that Sport England may require relating to that Notifiable Event.

27. Data Protection

27.1 The Service Provider shall register with the Information Commissioner's Office in accordance with the requirements of the Data Protection Act 1998 ("the Act") within three months of the date of this Agreement and shall update and maintain such registration throughout the duration of this Agreement.

27.2 The Service Provider shall and shall ensure that all of its officers, employees, agents and subcontractors comply in all respects with all current data protection legislation, including the Data Protection Act 1998 ("the Act").

SAMPLE

27.3 If in the reasonable opinion of Sport England, as a result of entering into the Order, the Service Provider becomes a Data Processor and Sport England a Data Controller as defined in the Act, then the Service Provider shall:

(A) process personal data (as defined in the Act) in accordance with the eight Data Protection Principles and, in particular, in order to comply with the Seventh Data Protection Principle, shall, and shall procure that its subcontractors and any other person within the control of the Service Provider, shall:

a) process personal data only in accordance with instructions from Sport England;

b) take reasonable steps to ensure the reliability of any employees who have access to personal data;

c) take such technical and organisational security measures against unauthorised and unlawful processing of, accidental loss of, destruction of or damage to personal data as may be required, having regard to the state of technological development and the cost of any measures, to ensure a level of security appropriate to the harm that might result from such processing, loss, destruction or damage and the nature of the data to be protected;

d) grant to Sport England such access as is reasonably necessary to enable Sport England to verify that the Service Provider is performing its obligations under this Condition 27; and

(B) where applicable, comply with the provisions of the Telecommunications (Data Protection and Privacy) Regulations 1999 regarding unsolicited direct marketing.

27.4 If the Contracted Services contain personal data governed by the Act then the Service Provider warrants that such data was obtained by the Service Provider and is supplied to Sport England in compliance with the Acts and the Telecommunications (Data Protection and Privacy) Regulations 1999.

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28. Waiver, Consents and Cumulative Remedies

28.1 The rights and remedies provided by this Agreement and/or any Order may be waived only by notice to the other Party by the Contract Manager/Order Manager to the other Party in a manner that expressly states that a waiver is intended, and such waiver shall only be operative with regard to the specific circumstances referred to.

28.2 Unless a right or remedy of Sport England or Ordering Body is expressed to be an exclusive right or remedy, the exercise of it by Sport England or Ordering Body is without prejudice to Sport England or Ordering Body's other rights and remedies. Any failure to exercise or any delay in exercising a right or remedy by either Party shall not constitute a waiver of that right or remedy or of any other rights or remedies.

28.3 A waiver or release of any right or remedy of either Party shall be terminable at any time by notice (unless it is expressed not to be terminable).

28.4 Any consent, approval or agreement given by either Party under this Agreement and/or any Order shall not relieve the other Party from responsibility for complying with the requirements and obligations of this Agreement and/or any Order nor shall it be construed as a waiver of any rights or obligations under this Agreement and/or any Order except as (and to the extent) expressly provided in such consent, approval or agreement.

28.5 The rights and remedies provided by this Agreement or in any Order under it, are cumulative, and are not exclusive of any rights or remedies provided at law or in equity or otherwise either under this Agreement or under any Order

29. Relationship of the Parties

29.1 In providing the Services and the Contracted Services, the Service Provider shall act as an independent Service Provider. Nothing in this Agreement or any Order under it, is intended to create a partnership, or legal relationship of any kind that would impose liability upon one Party for the act or failure to act of the other Party, or to authorise either Party to act as agent for the other Party. Except as expressly specified in this Agreement or in any Order, neither Party shall have authority to make representations, act in the name of, or on behalf of, or to otherwise bind the other Party.

30. Prevention of Corruption

30.1 For the purposes of this Clause 30, the expression 'Prohibited Act' shall mean any offer or agreement to give any person working for or engaged by Sport England, on Ordering Body or any other Crown Body any commission, gift or other consideration of any kind whatsoever, which could act as an inducement or a reward for any act or

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failure to act connected to this Agreement, any Order under it, or any other agreement between the Service Provider and Sport England and/or any Crown Body:

30.2 The Service Provider warrants and represents that it has not entered into this Agreement or and will not enter into any Order under it, knowing (or in circumstances in which it ought reasonably to have known) that a Prohibited Act has been committed in connection with this Agreement, or any such Order .

30.3 Any commission of any of the Prohibited Acts by the Service Provider or any person acting on its behalf or other breach of this Clause 30 shall entitle Sport England either to terminate this Agreement in accordance with Clause 22 (Termination Rights).

31. Conflicts of Interest

31.1 The Service Provider undertakes to Sport England and each Ordering Body at all times during the Term to avoid creating a conflict of interest between the obligations of the Service Provider to Sport England or (as the case may be) an Ordering Body and the Service Provider's obligations to any third party.

31.2 If the Service Provider becomes aware of any such conflict of interest (whether such existed before the Effective Date or afterwards) it shall immediately notify Sport England and any relevant Ordering Body of such conflict of interest and provide full details of the conflict of interest together with any additional information which Sport England or (as the case may be) the relevant Ordering Body may require in connection with such matter.

31.3 If Sport England reasonably considers that the Conflict of Interest notified to it under Clause 31.2 is capable of being avoided or removed, Sport England may require the Service Provider to take such steps as are reasonably necessary to avoid or, as the case may be, remove such Conflict of Interest.

31.4 If:

(a) the Service Provider fails to remedy such Conflict of Interest as required in Clause 31.3; or

(b) such Conflict of Interest cannot be remedied; or

(c) Sport England considers that a Conflict of Interest existed at the Effective Date,

such matter shall be deemed to constitute a material Default under Clause 22.1 (Termination Rights).

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32. Publicity and Branding

32.1 The Service Provider shall not (and the Service Provider shall procure that no subcontractor of the Service Provider shall) make:

(a) (without Sport England's prior written consent) any advertisement, public statement or press announcement in relation to this Agreement or the provision of the Services; nor

(b) (without the relevant Ordering Body's prior written consent) any advertisement, public statement or press announcement in relation to any Order or the provision of the relevant Contracted Services.

32.2 Sport England reserves the right to:

(a) make public statements and press announcements in relation to this Agreement for parliamentary, governmental, statutory or judicial purposes;

(b) publish information about the Services as it may deem appropriate from time to time unless such information is Service Provider Confidential Information in which event it shall only be published with the prior written consent of the Service Provider, such approval not to be unreasonably withheld or delayed;

(c) provide copies and details of this Agreement to any government department or other body having the purpose of compiling precedents.

32.3 Each Ordering Body shall have the same rights as Sport England under Clause 32.2 but in relation to the relevant Order and Contracted Services.

33. Severance

33.1 If a provision of this Agreement or any Order under it, is reasonably capable of an interpretation which would make that provision valid and enforceable and an alternative interpretation that would make it void, illegal, invalid or otherwise unenforceable, then that provision shall be interpreted, so far as is possible, to be limited and read down to the extent necessary to make it valid and enforceable.

33.2 Subject to Clause 33.1, if any provision of this Agreement or any Order under it, is prohibited by Law or held invalid, illegal or unenforceable for any reason by any court or authority of competent jurisdiction, such provision shall be severed without affecting the remaining provisions. If a provision of this Agreement or any Order under it, is held to any extent to be invalid, Sport England, the Ordering Body (as

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applicable) and the Service Provider shall as soon as reasonably practicable commence good faith negotiations to remedy that invalidity .

34. Further Assurances

34.1 Each Party undertakes at the request of the other, and at the cost of the requesting Party, to do all acts and execute all additional documents which may be reasonably necessary to give effect to this Agreement, or any Order under it.

35. Entire Agreement

35.1 This Agreement, together with the documents referred to in it and/or attached to it, constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the Parties in relation to such matters notwithstanding the terms of any previous agreement or arrangement expressed to survive termination.

35.2 Each of the Parties acknowledges and agrees that in entering into this Agreement or any Order under it and the documents referred to in it and/or attached to it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Agreement, or more particularly defined in the relevant Order.

35.3 Nothing in this Clause 35 shall operate to exclude any liability for fraud.

36. Third Party Rights

36.1 An Ordering Body shall be entitled to enforce the provisions of this Agreement in so far as it relates to the relevant Order but save for this a person who is not a Party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

36.2 An ordering Body shall be entitled to enforce the provision of any Order in so far as it purports expressly or impliedly to confer any benefit on that Ordering Body Sport England, but save for this a person who is not Party to an Order has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of any Order. This does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

36.3 Any term of this Agreement may be altered or extinguished by the Parties without the consent of any other person.

SAMPLE

37. Notices

37.1 Any notices given under or in relation to this Agreement or any Order shall be in writing, signed by or on behalf of the Party giving it and shall be served by:

(a) delivering it personally; or

(b) sending it pre-paid first class post, recorded delivery, registered post or email

to the address and for the attention of the relevant Party as set out in Clause 37.3 (or in the case of an Order set out in the relevant Order) or such other address as that Party may have stipulated in accordance with this Clause 37.1.

37.2 A notice shall be deemed to have been received:

(a) if delivered personally, at the time of delivery if sent before 4.00 pm of any Working Day and otherwise at 9.00 am on the next Working Day;

(b) in the case of pre-paid first class post or recorded delivery or registered post, three Working Days from the date of posting

37.3 The address, address of the Parties to this Agreement for the purposes of Clause 37.1 are set out below:

Sport England: 3rd Floor, Victoria House, Bloomsbury Square, London WC1B 4SE

The Service Provider [insert address]

In proving service, it shall be sufficient to prove that the envelope containing the notice was:

(a) addressed to the relevant Party at its address previously notified for the receipt of notices (or as otherwise notified by that Party); and

(b) delivered either to that address or into the custody of the postal authorities as pre-paid first class post, recorded delivery, or registered post.

38. Governing Law and Jurisdiction

38.1 This Agreement and each Order shall be governed by and construed in accordance with the laws of England and subject to the Dispute Resolution Procedure, each Party agrees to submit to the exclusive jurisdiction of the Courts of England and Wales.

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IN WITNESS of which the parties have signed this Agreement on the date and year first written above.

Signed by: ……..

Date: ……..

Printed: ……..
for and on behalf of **SPORT ENGLAND**

Signed by: ……..

Date: ……..

Printed: ……..

for and on behalf of **[insert name]**

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Schedule 1

Definitions

"Affected Party"	means the Party seeking to claim relief in respect of a Force Majeure Event;
"Agreement"	means this agreement together with the Schedules to it and any documents referred to in it;
"Approved Form"	a document expressed to be in the approved form means a document approved by and initialled for the purposes of identification by or on behalf of the relevant parties;
"Charges"	in respect of each Order, the charges set out in or derived from the relevant Order for the provision of the relevant Contracted Services;
"Claim"	any claim, demand, proceeding or complaint of any nature or kind;
"Contracted Services"	in respect of any Order, the Services to be provided to the Ordering Body under that Order;
"Default"	in respect of each Order any breach of the obligations of the Ordering Body or the Service Provider or any other default, act, omission, negligence or statement of the relevant Party, its employees, servants, agents or subcontractors connection with or in relation to the subject-matter of the relevant Order and in respect of which such Party is liable to the other;
"Effective Date"	the date of this Agreement;
"Employment Regulations"	Means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246);
"Final Tender"	means the final tender submitted to Sport

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England by the Service Provider and dated [insert date] 2010;

"Force Majeure Event" means any cause affecting the performance by a Party of its obligations under this Agreement or (as the case may be) any Order arising from war or armed conflict, acts of terrorism, fire, explosion, or earthquake, nuclear, chemical or biological contamination, catastrophic accident in the air or on land or articles falling from the air;

"Framework Charges" the basis of charging (including the amount of any charges) set out in Schedule 5 (Framework Charges) which the Service Provider agrees will be the maximum amount that it will charge for the provision of particular elements of the Services under any Order;

"Framework Competition Procedures" the procedures set out in Schedule 6 (Framework Competition Procedures) under which it is proposed that Eligible Authorities will to conduct competitions amongst Framework Providers for the provision of Services to the relevant Eligible Authorities;

"Framework Partners" the organisations notified to the Service Provider by Sport England which can commission Orders directly with the Service Provider;

"Framework Providers" Service Providers who have entered into agreements similar to this Agreement for the provision of services similar to all or some of the Services;

"Good Industry Practice" the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector;

"Insolvency Event" the occurrence of any of the following events (or any event analogous to any of the following in a jurisdiction other than England and Wales) or the taking of any corporate action, legal proceedings

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or other procedure or step being taken in relation to the following events in relation the relevant entity:

(a) passing a resolution for its winding up or a court of competent jurisdiction making an order for the entity to be wound up or dissolved or the entity being otherwise dissolved;

(b) the appointment of a liquidator, an administrator of or, the making of an administration order in relation to the entity or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or part of the entity's undertaking, assets, rights or revenue;

(c) entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or taking steps to obtain a moratorium or making an application to a court of competent jurisdiction for protection from its creditors;

(d) being unable or admitting its inability to pay its debts as they fall due or being capable of being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (but with the phrase "it is proved to the satisfaction of the court that" removed from subsection 123(2) of the Insolvency Act 1986);

(e) suspending payments or commencing negotiations with one or more of its creditors with a view to entering into any arrangement, compromise or compromise or composition in satisfaction of its debts with its creditors;

SAMPLE

(f) enforcement of any security over any assets of the entity; or

(g) any expropriation, attachment, sequestration, distress or execution affecting any asset or assets of the entity which is not discharged within fourteen (14) days,

however, a resolution by the relevant entity or a court order that such entity be wound up for the purpose of a bona fide solvent reconstruction or amalgamation shall not amount to an Insolvency Event;

"Intellectual Property Rights" or "IPR"	shall have the meaning attributed to those terms in clauses 2 and 3 of the Terms of Trade;
"Key Personnel"	means the persons identified in Schedule 7 as Key Personnel
"Losses"	means all losses, liabilities, damages, costs and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties;
"Milestone"	in respect of each Order, any event or task described as a "Milestone" (or a similar expression) in the relevant Order;
"Order"	an agreement between an Ordering Body and the Service Provider under which the Ordering Body agrees to procure certain Services from the Service Provider;
"Order Managers"	in respect of each Order, the relevant Ordering Body Manager and the relevant Service Provider Order Manager;
"Ordering Body"	in respect of any Order, Sport England or the Framework Partner that has entered into that

SAMPLE

	Order with the Service Provider;
"Ordering Body ICT Environment"	in respect of each Order, means the existing computing environment of the relevant Ordering Body (consisting of hardware and/or software and/or telecommunications networks or equipment) with which the Contracted Services are to interface and/or interoperate or, in cases where the Service Provider is supplying Software only, on which the Software is to be installed;
"Ordering Procedures"	the procedures set out in Schedule 4 (Ordering Procedures) under which Orders are to be prepared and entered into;
"Party"	where used in the context of this Agreement shall mean the Body or (as the case may be) the Service Provider and where used in the context of an Order shall mean the relevant Ordering Body or (as the case may be) the Service Provider;
"Service Levels"	the service levels set out or referred to in the relevant Order;
"Service Provider Personnel"	means all employees, agents, consultants and Service Providers of the Service Provider, an Associate of the Service Provider and/or any subcontractor of any of them;
"Service Provider Software	software which is proprietary to the Service Provider, an Associate of the Service Provider or any of its subcontractors and which is or will be used by the Service Provider or any such subcontractors for the purposes of providing the relevant Contracted Services;
"Service Provider's Background IPRs"	means: (a) IPRs owned by or licensed to the Service Provider, any of its subcontractors or Service Provider Personnel before the Effective Date, for example those subsisting in the Service

SAMPLE

	Provider's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Service Provider Know How or generic business methodologies; and/or (b) IPRs created by or licensed to the Service Provider, any of its subcontractor or Service Provider Personnel independently of this Agreement and/or any Order, but excluding IPRs owned by the Service Provider subsisting in the Service Provider Software;
"Services"	the services which the Service Provider agrees that it is prepared to provide to Sport England and/or Framework Partners as such services are more particularly described in Schedule 2 (Services Requirements);
"Software"	Service Provider Software and Third Party Software;
"Specified Subcontractors"	means those subcontractors named in the Service Provider's Final Tender as being engaged to provide a specified part of the Services
"Specially Created IPR"	in respect of any Order, any IPR (including any IPR in any software) which is created by the Service Provider (or any of its subService Providers or any third party on the Service Provider's behalf) in the course of or specifically in preparation for the provision of the Contracted Services and including any updates and amendments of such IPR, but which shall not include the Service Provider Background IPR;
"Specially Created Software"	software created as part of any Specially Created IPR;
"Subcontract"	any agreement or arrangement by which the Service Provider subcontracts any or all of its

SAMPLE

	obligations under this Agreement or (as the case may be) any Order;
"System Software"	the Service Provider Software, the Third Party Software (including for the avoidance of doubt the Specially Created Software)
"Third Party Software"	software which is proprietary to any third party and which is or will be used by the Service Provider for the purposes of providing Contracted Services;
"Working Days"	any day other than a Saturday, Sunday or public holiday in England and Wales

SAMPLE

Schedule 2

Services Requirements

SAMPLE

Schedule 3

Terms of Trade

In relation to any Order any reference in these Terms of Trade to "Sport England" shall where the context requires be read as a reference to the relevant Ordering Body

1. Service Provider's Staff

1.1 The Service Provider warrants that it is an independent contractor and that all the personnel it engages to perform the Contracted Services shall be deemed to be the Service Provider's employees, agents or subcontractors (or the employees or agents of any subcontractor as the case may be) (the "Service Provider's Staff") and neither the Service Provider nor any of the Service Provider's Staff shall be employees, agents or partners of Sport England.

1.2 The Service Provider shall be solely responsible for all tax liabilities, National Insurance and other contributions or deductions which may be due in respect of himself/herself/itself or the Service Provider's Staff and all and any claims which may be made by any member of the Service Provider's Staff and the Service Provider shall indemnify and keep Sport England indemnified against all and any such liabilities and/or other amounts (including any penalties, costs, expenses and interest) which may be assessed on Sport England by reason of any payment made or Contracted Services rendered under or in connection with the Order.

1.3 The Service Provider shall ensure that the Service Provider's Staff comply with such direction, policies, confidentiality, security, health and safety procedures as are reasonably required by Sport England in relation to the Contracted Services provided always that such requirements shall not reduce or amend the Service Provider's obligations to supervise, manage, direct and control the Service Provider's Staff in accordance with the terms of these Conditions.

1.4 Sport England reserves the right (in addition to its specific rights of exclusion) at any time for any reason in its absolute discretion, to exclude or remove any of the Service Provider's Staff from any Sport England site. In the event of any such removal or exclusion, the Service Provider will at its own cost co-operate with Sport England in removing such person and will, if so requested by Sport England, replace, or arrange to replace, such person without delay at no additional cost to Sport England.

1.5 It is accepted by the Service Provider that all its staff, detailed as Key Personnel in the Order, are regarded by Sport England as Key Personnel who are not to be substituted by the Service Provider without the express prior written consent of Sport England,

SAMPLE

not to be unreasonably withheld. All of the Service Provider's Consultants shall have the relevant experience, training and/or qualifications in order that the Service Provider fulfils its obligations under the Contract. The Service Provider shall (if requested) provide Sport England with all relevant information about the professional qualifications and experience of any proposed substitute Key Person.

1.6 Where Sport England consents to the substitution of a person named as Key Personnel the Service Provider shall ensure that the quality of work and prompt and timely completion of the Services is not affected and the Service Provider shall bear all additional costs and expenses incurred by either party as a result.

2. Intellectual and Other Property Rights

2.1 For the purposes of Conditions 2 and 3 the following terms shall have the following meanings: "**Custom Materials**" means the provision of tailor-made Contracted Services including without limitation, training documentation and reference manuals, training materials, and other materials in written or electronic form, and discoveries, designs, processes and other work made or created by the Service Provider and/or any member of the Service Provider's Staff, during the course of or in connection with the provision of tailor-made Contracted Services in accordance with Sport England's requirements and any IPR therein; "**Non-Custom Materials**" shall mean the provision of pre-existing, independently developed, or third party goods and Contracted Services including without limitation, pre-existing independently developed, or third party prepared courses, training documentation and reference manuals, training materials and other materials in written or electronic form provided to Sport England in accordance with the Order.

2.2 The Service Provider shall promptly disclose any Custom Material to Sport England and any IPR which may exist in any of such Custom Material shall as between Sport England and the Service Provider automatically vest in Sport England. The Service Provider hereby assigns to Sport England as beneficial owner with full title guarantee free from all encumbrances or (as appropriate) will procure the assignment by any of its employees, agents and subcontractors, all IPR in the Custom Material to hold the same to Sport England absolutely for the remainder of the term of such IPR.

2.3 The Service Provider shall do everything necessary to assist Sport England in enforcing or protecting any such rights for example, but without limitation, the Service Provider shall execute such documents as may be necessary to substantiate, document and protect the rights of Sport England in respect of such IPR.

2.4 Sport England may at its absolute discretion grant the Service Provider a licence to use the Custom Materials created by the Service Provider and/or the Service Provider's Staff in providing the Custom Ordered Services Contracted Services. Any such

SAMPLE

licence shall be subject to the Service Provider obtaining prior written consent from Sport England for any such use and shall contain such terms as Sport England may in its absolute discretion require. If Sport England provides its prior written consent to the use of the Custom Materials by the Service Provider for a purpose specified by the Service Provider, the Service Provider shall remove all reference to Sport England from any such Custom Materials including reference to Sport England, details and or descriptions of any Sport England operational or business systems or procedures, or any of Sport England's or any client of Sport England's confidential information. Sport England may at its sole discretion at any time terminate the licence so granted in this Condition forthwith upon written notice to the Service Provider.

2.5 The Service Provider hereby grants to Sport England, its respective officers, directors, employees, agents and subcontractors a world-wide, non-exclusive, perpetual, royalty free and irrevocable license to use, reproduce, display, perform, prepare derivative works and distribute copies for its internal purposes/in the ordinary course of its' business of Non-Custom Materials in so far as such Non-Custom Materials are incorporated into or is necessary for the use of the Custom Materials. The Service Provider shall retain all IPR in any of such Non-Custom Materials.

2.6 For the avoidance of doubt, all pre-existing IPR used or capable of being used or adapted in connection with Sport England's business will remain the absolute property of Sport England and, except as necessary for the proper provision of the Contracted Services and with the prior written consent of Sport England, neither the Service Provider nor any member of the Service Provider's Staff will make any use of them.

3. Intellectual Property Right Indemnity

3.1 The Service Provider shall defend, hold harmless and indemnify Sport England, its respective officers, directors, employees agents and subcontractors against all liabilities, losses, suits, claims, damages, costs and expenses including any legal fees (collectively "Claims") resulting from, arising out of, or in any way connected with its use or possession of the Contracted Services or any part thereof provided by the Service Provider in accordance with the Order where such possession or use infringes or is alleged to infringe any IPR or contractual rights of any third party or breaches or is alleged to breach any statute or statutory obligation or constitutes or is alleged to constitute a tort actionable by a third party.

3.2 Sport England shall give notice in writing to the Service Provider of any such Claim as soon as reasonably practicable after becoming actually aware of the same and the Service Provider shall be given control of such Claim. Notwithstanding the foregoing, in the event that the Service Provider fails to appoint legal counsel within ten (10) calendar days after Sport England has notified the Service Provider of any such claim, or the legal counsel appointed by the Service Provider is in Sport England's reasonable

SAMPLE

judgement not suitably qualified to represent Sport England, Sport England shall have the right to select and appoint an alternative attorney and the reasonable cost and expense thereof shall be paid by the Service Provider.

3.3 In the event that Sport England's use of the Contracted Services in accordance with the Order infringes the IPR or contractual rights of a third party or breaches any statute or statutory obligation or constitutes a tort upon a third party, the Service Provider shall use its best endeavours, at its own expense either to:

3.3.1 procure the right for Sport England to continue using the Contracted Services or any part thereof; or

3.3.2 make or procure on Sport England's behalf such alterations, modifications, adjustments or substitutions to all or any part or parts of Contracted Services that the same become non-infringing without incurring a diminution in performance or function; or

3.3.3 substitute a non-infringing version of the infringing Contracted Services or any part thereof of equal or better performance as determined by Sport England in its sole discretion.

3.4 Notwithstanding other rights and remedies available to, Sport England, in the event that the Service Provider is unable to provide any of the foregoing alternatives within a reasonable time, Sport England may, at its sole option, terminate forthwith the Order whereby the Service Provider shall promptly refund to Sport England any prepaid charges/fees relating to the same.

4. Security and Access

4.1 The Service Provider shall obtain from Sport England identity cards or entry permits and shall display these whilst on Sport England premises. The Service Provider shall return these cards/permits to Sport England upon termination or expiry of the Order.

4.2 Sport England may request and shall be supplied with identification of the Service Provider and may conduct random security checks, including checking the Service Provider's possessions and vehicle(s), whilst on Sport England premises.

4.3 Sport England shall at its discretion give to the Service Provider by prior arrangement such access to Sport England premises and such general Sport England facilities (for example, catering and sanitary) at Sport England premises as the Service Provider may reasonably require to fulfil its obligations under the Order. However, Sport England may refuse admission to or remove from Sport England premises any person whom

SAMPLE

Sport England deems unacceptable for whatsoever reason other than solely to frustrate the Order.

4.4 The Service Provider shall upon the request of Sport England grant Sport England such access to the Service Provider's premises or such other premises as Sport England may reasonably require for inspection of any Contracted Services and/or Sport England equipment/materials provided under the Order or for any other reason connected with the performance of the Order.

5. Health and Safety

5.1 The Service Provider shall comply with all current relevant Safety Requirements including but not limited to those issued by the Health & Safety Commission and Executive, the Home Office and those issued by Sport England and notified in writing to the Service Provider.

5.2 Sport England and the Service Provider may agree in writing Safety Requirements in addition to or different from those specified in Condition 5.1.

5.3 Without prejudice to its obligations under Condition 5.1 above, the Service Provider shall:

5.3.1 upon the request of Sport England, submit and fully co-operate with any safety vetting process required by Sport England and provide a written statement of the Service Provider’s own Safety Requirements; and

5.3.2 assess reasonably foreseeable risks to health and safety (including fire) that may affect Sport England or any third party arising out of or in any way connected with the performance of the Order, and provide a copy of such assessment to Sport England upon reasonable request, and promptly take all reasonable steps to eliminate or adequately control such risks and shall notify and co-operate with Sport England accordingly.

5.4 Sport England shall notify the Service Provider of risks to health and safety which are reasonably foreseeable to Sport England and which may affect the Service Provider or Sport England arising out of or in any way connected with the activities of Sport England in connection with the Order, and the Service Provider shall have due regard to these.

SAMPLE

6. Data Protection

6.1 The Service Provider shall and shall ensure that all of its officers, employees, agents and subcontractors comply in all respects with all current data protection legislation, including the Data Protection Act 1998 ("the Act").

6.2 If in the reasonable opinion of Sport England, as a result of entering into the Order, the Service Provider becomes a Data Processor and Sport England a Data Controller as defined in the Act, then the Service Provider shall:

6.2.1 process personal data (as defined in the Act) in accordance with the eight Data Protection Principles and, in particular, in order to comply with the Seventh Data Protection Principle, shall, and shall procure that its subcontractors and any other person within the control of the Service Provider, shall:

(i) process personal data only in accordance with instructions from Sport England;

(ii) take reasonable steps to ensure the reliability of any employees who have access to personal data;

(iii) take such technical and organisational security measures against unauthorised and unlawful processing of, accidental loss of, destruction of or damage to personal data as may be required, having regard to the state of technological development and the cost of any measures, to ensure a level of security appropriate to the harm that might result from such processing, loss, destruction or damage and the nature of the data to be protected;

(iv) grant to Sport England such access as is reasonably necessary to enable Sport England to verify that the Service Provider is performing its obligations under this Condition 6; and

6.2.2 where applicable, comply with the provisions of the Telecommunications (Data Protection and Privacy) Regulations 1999 regarding unsolicited direct marketing.

6.3 If the Contracted Services contain personal data governed by the Act then the Service Provider warrants that such data was obtained by the Service Provider and is supplied to Sport England in compliance with the Acts and the Telecommunications (Data Protection and Privacy) Regulations 1999.

SAMPLE

7. Confidential Information

7.1 Except for the purposes of the Order, neither the Service Provider nor Sport England (each a "Party" for the purposes of this Condition) will use or make available to any third party at any time during or after the Agreement any information which the other Party has (acting reasonably) designated in writing as confidential except that nothing shall prevent a Party disclosing such information:

7.1.1 which is or later comes into the public domain otherwise than through an act or omission of the Party receiving the information;

7.1.2 which is required to be disclosed in accordance with the Freedom of Information Act 2000 ("FOIA"), if applicable, or otherwise is required to be disclosed by law, order of court, the requirements of any regulatory authority or taxation authority or the rules of any stock exchange;

7.1.3 which either Party is required to disclose to its insurers or professional advisers provided that such insurers or professional advisers are aware that such information is confidential and are bound by a similar obligation of client confidence in respect of such information;

7.1.4 which is disclosed with the prior written consent of the other Party.

8. Good Faith

8.1 The Service Provider shall act in good faith at all times and shall neither bring Sport England into disrepute or offend the community or public morals and shall at all times throughout the Order respect public conventions and morals. Nor shall the Service Provider, without the prior written consent of Sport England, make any reference to Sport England in any advertising, promotional or published material, nor speak in public about Sport England or its affairs.

9. Information Provision

9.1 If requested by Sport England, the Service Provider shall provide evidence of compliance with any of the Service Provider's obligations under the Order, including without limitation in connection with the measures described under Condition 9.2.

9.2 To ensure that the Contracted Services conform to the quality required by Sport England, where appropriate, Sport England may stipulate a range of measures by which the Service Provider's performance can be assessed.

SAMPLE

10. Equal Opportunities Requirements

10.1 The Service Provider shall:

10.1.1 comply with all current relevant anti-discriminatory legislation (including without limitation race relations, equal pay, fair employment and disabled persons employment and minimum wage legislation);

10.1.2 where the Service Provider employs more than one hundred (100) individuals and its registered office is in the United Kingdom the Service Provider shall provide, if requested by Sport England, a written statement of the Service Provider's equal opportunities policy and an adequate explanation of how the policy will be effected over time;

10.1.3 use all reasonable endeavours to adhere to the current relevant codes of practice published by the Equal Opportunities Commission, the Commission for Racial Equality, the Department of Employment and the Fair Employment Commission (Northern Ireland).

11. Disability Discrimination

11.1 Where the Service Provider provides Contracted Services directly to the public or a section thereof and is therefore a "provider of Contracted Services" for the purposes of Part III of the Disability Discrimination Act 1995 ("1995 Act"), the Service Provider, with respect to the Contracted Services:

11.1.1 shall comply with all the relevant provisions of the 1995 Act;

11.1.2 warrants that the Contracted Services shall comply with the 1995 Act at no additional expense to disabled persons or Sport England; and

11.1.3 shall indemnify Sport England against all claims, demands, costs and expenses (including legal costs on a solicitor and own client basis), losses and liabilities incurred by Sport England as a result of the Service Provider's breach of this warranty.

12. Prevention of Corruption and Fraud

12.1 The Service Provider shall not offer or give, or agree to give, to Sport England or any other public body or any person employed by or on behalf of Sport England or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Order or any other Order with Sport

SAMPLE

England or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Order or any such Order.

12.2 The Service Provider warrants that it has not paid commission or agreed to pay commission to Sport England or any other public body or any person employed by or on behalf of Sport England or any other public body in connection with the Order.

12.3 The Service Provider shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by its officers (including its shareholders, members and directors), employees, agents, Service Providers and sub-Orderors in connection with receipt of monies from Sport England.

12.4 If the Service Provider, its officers (including its shareholders, members and directors), employees, agents, Service Providers and sub-Orderors or anyone acting on behalf of the Service Provider engages in conduct prohibited by Conditions 20.1 and 20.3 Sport England may:

12.4.1 terminate the Order and recover from the Service Provider the amount of any loss suffered by Sport England resulting from the termination, including the cost reasonably incurred by Sport England of making other arrangements for the supply of Contracted Services and any additional expenditure incurred by Sport England throughout the remainder of the period of the Order; or

12.4.2 recover in full from the Service Provider any other loss sustained by Sport England in consequence of any breach of those Conditions.

13. Protection of Children and Vulnerable Adults

13.1 This clause will only apply if in providing the Services you or your business partners or employees will supervise, care or have significant direct contract with a Vulnerable Person.

13.2 In this clause, “Vulnerable Person” means:

13.2.1 persons under the age of 18; and

13.2.2 people who need or may need community care services because of mental or learning disability, other disability, age or illness, and who are, or may be, unable to take care of themselves or unable to protect themselves against significant harm or exploitation.

13.3 You must consider all the risks associated with providing the Services and take all reasonable steps to ensure that safety of all Vulnerable Persons, and seek the written

SAMPLE

consent of the legally authorised carer or guardian of the Vulnerable Person before having of any significant direct contract with the Vulnerable Person.

13.4 Without limiting condition 13.3, you must adopt and carry out a written policy and set of procedures to protect Vulnerable Persons if:

13.4.1 you are a company or partnership, or you are an individual who employs other persons; and

13.4.2 in the course or providing the Services, your employees or your contractors supervise, care for or have significant direct contract with Vulnerable Persons.

13.5 As part of the procedures mentioned in condition 13.4 you must check the backgrounds of and view disclosures from the Criminal Records Bureau for your potential employees, contractors or volunteers who will, in the course of providing the Services, supervise, care or otherwise have significant direct contract with Vulnerable Persons.

If you are the person having significant direct contact with Vulnerable Persons, you must, prior to any significant direct contact with the Vulnerable Person, offer to his or her legally authorised carer guardian your consent to having your background checked and disclosures from the Criminal Records Bureau viewed, should the carer or guardian wish to do so.

SAMPLE

Schedule 4

Part A - Ordering Procedures

1. Following the Framework Competition Procedure, an Order shall be entered into by the Ordering Body and preferred Framework Provider in accordance with the Ordering Procedures set out below.

2. The Framework Provider shall, within two (2) Working Days of receipt of an Order, either:

   (a) acknowledge in writing (which, for the purposes of this paragraph, shall include email) receipt of that Order to the Ordering Body and state that it is able to fulfil the Order; or

   (b) acknowledge in writing (which, for the purposes of this paragraph, shall include email) receipt of that Order to the Ordering Body and state that it is unable to fulfil the Order.

3. In the event that the Framework Provider accepts the Order in accordance with paragraph 2 above, the Framework Provider shall, as soon as reasonably practicable agree the detailed terms of the Order with the relevant Ordering Body and then sign the relevant Order with the relevant Ordering Body.

4. A binding agreement for the provision of the relevant Contracted Services under the Order shall be formed on both the Ordering Body and the Framework Provider signing the relevant Order.

5. An Order shall be in the form of the template set out in Part B of this Schedule or shall comprise:

   (a) the Ordering Body's requirement, including any proposed additional terms or clauses;

   (b) the Framework Provider's proposal, including any agreed additional terms;

   (c) a unique Order reference number;

   (d) the Ordering Body's invoice address;

   (e) the Ordering Body's relevant contact names and telephone numbers;

SAMPLE

(f) the names and contact details of the Ordering Body's designated Order Manager(s);

(g) the names and contact details of the Ordering Body's designated Senior Representative(s) as first point of contact for dispute resolution purposes;

(h) the names and contact details of the Ordering Body's designated persons as second point of contact for the escalation of that dispute;

(i) any alternative or additional clauses that the Ordering Body specifies..

SAMPLE

Part B – Template Order

Date of Order …….

Between

[Insert Name of the relevant Eligible Authority] (the "**Ordering Body**")	[Insert Name of Contractor] (the "**Contractor**")

Background

This Order is made in accordance with the arrangements set out in the agreement ("the Agreement") dated …….. 2010 and made between Sport England (the "Authority") (1) and the Service Provider (2) for the provision of services.

General Provisions

Words and expressions defined in the Agreement shall bear the same meaning, mutatis mutandis, when used in this Order.

In so far as they are relevant to this Order the terms of the Agreement shall take effect (together with associated definitions in the Agreement) as if set out in and incorporated in this Order.

Specific Provisions

1. Contracted Services

The Contractor shall be required to provide the following Services: *[Insert details of the Services to be provided]*

2. Implementation Plan, Milestones and Timetable

[*Insert details of the Implementation Plan, Milestones and Timetable.]*

3. Interface Issues

[Insert details of any arrangements required to ensure that the Contracted Services to be provided by the Contractor properly interface with services/systems used/provided by the Ordering Body or other providers to the Ordering Body and that the Contractor co-operates with such persons]

SAMPLE

4. Acceptance Criteria

[Insert details of Acceptance Criteria specific to the Order]

5. Acceptance Procedures

5.1 The Acceptance Procedures Period shall commence on …….. and expire on ……

5.2 The Acceptance Procedures shall be as follows:

(a) [Insert details of acceptance procedures]

6. Ordering Body Obligations

[Insert details of any responsibilities of the Ordering Body specific to the Order]

7. Representatives

7.1 The first Ordering Body Order Manager shall be ……..

7.2 The first Contractor Order Manager shall be ……..

7.3 The Senior Representatives to whom disputes shall be referred in the event that the Ordering Body and the Contractor are unable to resolve a dispute at Order Manager levels are:

(a) …… for the Ordering Body; and

(b) …… for the Contractor.

8. Key Personnel

Individual	Role	% of work day to be spent on project

SAMPLE

9. Service Levels

[Insert details of any Service Levels specific to the Order]

10. Security Requirements

[Insert details of any Security Requirements specific to the Order]

11. Charges

11.1 [Insert details of Charges specific to the Order. These must not be in excess of Framework Charges]

11.2 [Insert details of the timing for submission of invoices by the Contractor. These should be linked to the satisfaction of relevant milestones (including those which arise after the relevant election]

12. Subcontractors

12.1 The Contractor shall (subject to the provisions of the Agreement) be entitled to subcontract its obligations under this Order to each of the persons set out below but only in respect of those obligations set out below opposite the relevant person's name.

Person who may be a subcontractor	Obligations which may be subcontracted

13. [Business Continuity Plan

[Insert details of Business Continuity Plan appropriate to the relevant Order]

14. Supplementary Provisions

14.1 [Insert details of any supplementary provisions that may be required]

SAMPLE

15. Entire Agreement

15.1 This Order, together with the documents referred to in it and/or attached to it, and in particular but without prejudice to the generality of the foregoing, the Agreement constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the Parties in relation to such matters notwithstanding the terms of any previous agreement or arrangement expressed to survive termination.

15.2 Each of the Parties acknowledges and agrees that in entering into this Order and the documents referred to in it and/or attached to it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the Agreement or this Order.

15.3 Nothing in this paragraph shall operate to exclude any liability for fraud.

…….. ……..

For and on behalf of the Ordering Body For and on behalf of the Contractor

SAMPLE

Schedule 5

Framework Charges

SCHEDULE OF RATES

SAMPLE

Schedule 6

Framework Competition Procedures

1. If Sport England or a Framework Partner wishes to call off any Services under this Agreement, the Framework Competition Procedure set out in this Schedule will be carried out.

2. Framework Providers selected by the Ordering Body who are capable of delivering the required services will be invited to bid for the Contracted Services.

3. Under the Framework Competition Procedure:

   (a) bids shall include a draft of the Order which the Service Provider would expect to enter into in the event that its tender is successful (or alternatively any amendments proposed to any draft previously prepared by Sport England or a Framework Partner);

   (b) notwithstanding any Framework Charges, Framework Providers shall be able to offer discounts against agreed Framework Charges ;

   (c) both the:

      (i) terms and conditions; and

      (ii) nature of the Services,

      set out in the Framework Agreements shall be adhered to.

   (d) Framework Providers shall only be entitled to depart from the terms of their Framework Agreement:

      (i) in ways which do not materially depart from the terms of the Framework Agreements; and

      (ii) subject to Sport England giving its prior written consent.

4. Orders shall be awarded on the basis of (but not limited to) the following criteria :

   (a) ability of provider's to deliver the services required by Sport England or a Framework Partner (both in terms of nature and extent);

SAMPLE

(b) development and implementation timescales;

(c) the nature and quality of the implementation process proposed to be adopted;

(d) the acceptance and testing arrangements to be adopted by the Service Provider and the robustness of the provider's processes in connection with such arrangements;

(e) the capacity to provide the services required in the timescales required;

(f) the pricing mechanism and amount;

(g) the business continuity arrangements proposed to be adopted by the Service Provider and the quality of those arrangements; and

(h) expertise, of the provider generally and key personnel specifically, of particular relevance to the specific Order and subject matter of the Order.

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Schedule 7

Key Personnel

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