

DATED 21 August 2015

THE ENGLISH SPORTS COUNCIL

- and -

THE ROYAL BOROUGH OF GREENWICH

**LOTTERY FUNDING AGREEMENT
IMPROVEMENT FUND**

**IN RELATION TO THE DEVELOPMENT OF THE HERVEY ROAD PLAYING FIELDS HEALTHY
LIFESTYLE CENTRE
URN: 2014010743**

CONFIDENTIAL

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THIS DEED is made on

21 August

2015

BETWEEN:

- (1) **The English Sports Council** of 21 Bloomsbury Street, London, WC1B 3HF ("**Sport England**");
- (2) **The Royal Borough of Greenwich** of The Woolwich Centre, 35 Wellington Street, London SE18 6HQ ("**the Applicant**").

WHEREAS:

- (A) Sport England was established by virtue of a Royal Charter dated 19 September 1996 to carry on activities in England previously carried on by the Great Britain Sports Council and is a distributor of lottery grants under the Act.
- (B) The Applicant is a London Borough with responsibility for providing leisure services within the Royal Borough of Greenwich.
- (C) The Applicant made an application to the Improvement Fund ("the Fund") for financial support in relation to the provision of the Project. This Fund directs capital investment into medium-sized projects that will improve the quality and experience of sport. The Fund will grant awards between £150,000 and £500,000 into sustainable projects with a clear local need. Not only are these improvements relatively quick and straightforward to carry out, they will also make an impact in encouraging more people to play, and keep playing, popular sports.
- (D) On 15 August 2014 the Applicant submitted an application for Lottery funding to assist with this Project and Sport England at a meeting of its Project Committee on 15 September 2014 approved the Application for a lottery grant in the maximum amount of £280,000 (two hundred and eighty thousand pounds) subject to the parties agreeing to enter into a Deed governing that Lottery Grant on terms and conditions satisfactory to Sport England.
- (E) The Project is for the construction of the Hervey Road Playing Fields Healthy Living Centre.
- (F) This Deed sets out the terms and conditions upon which Sport England agrees to make the Lottery Grant available to the Applicant.

IT IS AGREED

1. DEFINITIONS

In this Deed words and expressions shall have the meanings assigned to them in Schedule 1, unless the context requires otherwise.

2. INTERPRETATION

- 2.1 Headings and sub-headings are for ease of reference only and shall not be taken into consideration in the interpretation or construction of this Deed.
- 2.2 References to clauses, recitals and schedules are references to clauses and recitals of and schedules to this Deed.
- 2.3 The schedules to this Deed are an integral part of this Deed.
- 2.4 References to any statute or statutory provision shall include reference to any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any directions, orders, regulations, codes of practice, instruments or other subordinate legislation made under the relevant statute or statutory provision.
- 2.5 References to agreements, documents or other instruments include (subject to all relevant approvals) a reference to the same as amended or varied from time to time.
- 2.6 Words importing the singular include the plural and vice versa.
- 2.7 Words importing a particular gender (including neuter) include all genders.
- 2.8 "Person" includes any individual, company, partnership, firm, trust, body corporate, unincorporated association or body of persons, government or governmental body.
- 2.9 Any reference to a document being in "the agreed form" means that document in the form from time to time agreed by the parties and for the purposes of identification signed by them or on their behalf.
- 2.10 Any reference to a "party" or "parties" shall mean a party or the parties to this Deed or such successors and assignees as are permitted in accordance with this Deed, and "the Applicant" and "Sport England" shall be construed accordingly.
- 2.11 In the event of any inconsistency between the Agreed Design and the Design Requirements, the Design Requirements shall prevail.

3. AWARD OF LOTTERY GRANT AND REQUIREMENTS

- 3.1 Sport England shall pay the Lottery Grant to the Applicant subject to and in accordance with the terms of this Deed. The Lottery Grant is solely for funding the capital expenditure in relation to the delivery of the Project and achieving the Strategic Purpose. Nothing in this Deed shall require Sport England to provide any revenue funding in respect of the operation of the Facility.

3.2 The Applicant shall undertake the Project in accordance with its obligations under this Deed to achieve the Strategic Purpose.

3.3 Without prejudice to the Applicant making any further applications for funding in the future, the Lottery Grant shall be the maximum amount of funding available from Sport England to the Applicant under this Deed.

3.4 Sport England's obligation to pay to the Applicant that part of the Lottery Grant not drawn down in accordance with this Deed shall cease on the Grant Expiry Date.

4. CONDITIONS PRECEDENT TO DRAWDOWN OF THE LOTTERY GRANT

4.1 The conditions precedent to drawdown ("the Conditions") of the Lottery Grant comprise the following:

(a) Part A Primary Project Conditions, being the conditions so referred to at Schedule 2, shall be completed or achieved to Sport England's satisfaction prior to a drawdown of part or all of the Lottery Grant by the Applicant; and

(b) Part B Secondary Project Conditions, being the conditions so referred to at Schedule 2, shall be completed or achieved to Sport England's satisfaction prior to a drawdown of the Retention Payment of the Lottery Grant by the Applicant.

4.2 The Applicant shall obtain Sport England's approval for the KPIs in accordance with clause 10.1 prior to the drawdown of part or all of the Retention Amount.

4.3 Sport England shall at all times act reasonably in exercising its discretion to determine whether a Condition has been satisfied.

4.4 If required by Sport England the Applicant shall, before each drawdown, supply to Sport England such documentation as Sport England may reasonably require that confirms or otherwise enables Sport England to determine whether at the time of that drawdown the Conditions have been satisfied as required by clause 4.1.

5. PAYMENT MECHANICS

5.1 Sport England shall pay a part of the Lottery Grant to the Applicant only against a valid Drawdown Notice submitted to Sport England in accordance with this Deed.

5.2 Subject to clause 4.1 and the other provisions of this clause 5, the Lottery Grant will be made available for drawdown, and the Applicant may submit a Drawdown Notice:

(a) only against items of Eligible Expenditure and only up to the Maximum Expenditure Amount in respect of each item of Eligible Expenditure; and

- (b) only in amounts that, for each item of Eligible Expenditure, reflect the same proportion as is represented by the Maximum Expenditure Amount as a proportion of the estimated total cost of that item of Eligible Expenditure as specified in the Cost Plan.

5.3 Where the amount drawn down in accordance with clauses 5.1 and 5.2 in respect of any individual item of Eligible Expenditure is lower than the Maximum Expenditure Amount, the Applicant shall be entitled by notice to Sport England to apply the shortfall in respect of that item of Eligible Expenditure to increase the Maximum Expenditure Amount on any other item of Eligible Expenditure where:

- (a) the amount of the shortfall applied does not exceed the lesser of 10% of the estimated total cost of the relevant other item of Eligible Expenditure as specified in the Cost Plan; or
- (b) Sport England (at its absolute discretion) so approves in writing.

5.4 Drawdown of any part of the Lottery Grant (whether initially or subsequently) may only be made if:

- (a) an original Drawdown Notice, which is compliant with the provisions of this clause 5 and which has been signed by the Applicant, has been received by Sport England not later than twenty-one (21) Business Days before the proposed date for drawdown;
- (b) the Drawdown Notice has been submitted together with such supporting documentation as may reasonably be required by Sport England to show that the relevant drawdown is in relation to Eligible Expenditure and that the drawdown is in compliance with the requirements of this Deed (including, but not limited to, invoices or valuation certificates for goods or services received, or, where payment in advance is required, a breakdown of anticipated costs);
- (c) the Drawdown Notice is submitted prior to the Grant Expiry Date; and
- (d) at the time of Sport England receiving the Drawdown Notice and at the time of Sport England making a payment in respect of such Drawdown Notice:
 - (i) the Lottery is still in operation and Sport England, or a successor body undertaking Sport England's rights and obligations under this Deed, is licensed to distribute Lottery funds;
 - (ii) there are sufficient Lottery funds available to Sport England for it to fund the Lottery Grant; and

- (iii) the Applicant] is not in material breach of this Deed and no Event of Default has occurred or is continuing or will result from such drawdown; and
- (iv) the Applicant and the Contractor have made payments for such expenditure as is specified in the Cost Plan as being payable by the Applicant and the Contractor respectively on or prior to the date of receipt of the Drawdown Notice by Sport England.

5.5 A Drawdown Notice shall be effective only on actual receipt by Sport England.

6. VAT

6.1 The Lottery Grant does not represent consideration for a taxable supply to Sport England and is therefore not subject to Value Added Tax ("VAT"). If HM Revenue and Customs rules that VAT is payable, then the amount of the Lottery Grant payable by Sport England shall be deemed to be inclusive of VAT. The Applicant acknowledges that Sport England shall not be obliged to make any further payment in addition to the Lottery Grant in respect of any VAT.

6.2 Without prejudice to clause 6.1 the Lottery Grant does not include any sum attributable to the VAT estimated to be payable by the Applicant in carrying out the Project. Accordingly the cost of the Project as set out in the Cost Plan is exclusive of VAT and no amount of the Lottery Grant shall be used by the Applicant to fund the payment of VAT payable by the Applicant in carrying out the Project. Any and all liability to pay VAT in relation to the Project and any right to recover such VAT is the sole responsibility of the Applicant. For the avoidance of doubt no funding shall be made available under this Deed in respect of any VAT attributable to the costs of the Project which is irrecoverable by the Applicant.

7. GENERAL CONDITIONS OF GRANT

7.1 The Lottery Grant shall be used solely for the purposes of funding the Project to achieve the Strategic Purpose in accordance with the Cost Plan and is non-transferable to fund any other project or for any other purpose.

7.2 The Lottery Grant shall only be used by the Applicant on the items of Eligible Expenditure to be incurred by the Applicant and in the amounts as specifically identified in the Cost Plan.

7.3 The Applicant shall procure all Partnership Funding required to enable it to perform its obligations under this Deed and achieve the Strategic Purpose. The Applicant shall

provide such evidence of the Partnership Funding as Sport England may reasonably require from time to time.

- 7.4 The Lottery Grant shall not be used to fund retrospectively any costs or liabilities incurred prior to the date of this Deed.
- 7.5 The Applicant shall, in implementing and undertaking the Project, comply with all relevant law and codes of practice to the extent applicable, including, but not limited to, equal opportunities legislation, the Construction (Design and Management) Regulations 2007, European Union and United Kingdom procurement legislation. If European Union procurement legislation does not apply to the award of a Related Agreement then the Applicant shall adopt commercially competitive tendering processes acceptable to Sport England in relation to the award of that Related Agreement.
- 7.6 Without prejudice to Sport England's obligation to pay the Lottery Grant to the Applicant in accordance with, and otherwise to comply with, this Deed, Sport England, its employees or agents shall not at any time be liable to the Applicant in relation to any matter in connection with the Project or as a result, directly or indirectly, of compliance by the Applicant with the provisions of this Deed.
- 7.7 The Applicant shall ensure that there is no promotion, advertising, sponsorship, merchandising or sale of tobacco based products, whether by the Applicant or any other person, at or in connection with the Facility or the Site at any time during the Grant Term.
- 7.8 The Applicant shall recognise and continue to recognise the contribution made by the Lottery to the Project and to the implementation of the Project as reasonably required by Sport England, including without limitation displaying any signs at the Facility or the Site as required by Sport England from time to time, publicising the Lottery Grant and the Project and giving due reference Sport England and the Fund in accordance with the guidance at Schedule 12.
- 7.9 Except as expressly permitted by this Deed, the Applicant shall not (and shall ensure that no third party shall) without the prior written approval of Sport England during the Grant Term create, or permit to be created, a mortgage or charge over the Facility, the Site or any asset acquired or financed wholly or in part using the Lottery Grant or any interest therein (including any permitted property interest granted to a third party in the Facility or the Site).
- 7.10 The Applicant shall not grant to any party any rights that would give that party a prior ranking debt over any debts that may become due to Sport England without Sport England's prior written consent.

7.11 Except as set out in clause 7.12, during the Grant Term the Applicant shall not sell, transfer, assign, grant or otherwise dispose of any interest in (including without limitation the granting of naming rights or intellectual property rights in) the whole or part of the Facility or the Site (or any assets or goods wholly or partially acquired, restored, conserved, enhanced or improved with the Lottery Grant) without the prior written approval of Sport England, such approval not to be unreasonably withheld or delayed. Should any such approval be given it will be deemed to be on the condition that:

- (a) the full market value of the goods or assets in question will be realised; and
- (b) Sport England receives a proportion of the net sale proceeds equal to, at Sport England's absolute discretion, either:
 - (i) the proportion of the original cost of such goods or assets met through the Lottery Grant; or
 - (ii) where Sport England so agrees in writing, the proportion of the costs of the Project as set out in the Cost Plan met through the Lottery Grant.

For the purpose of clause 7.11 "net sale proceeds" means the cash sum remaining after repayment of any debt that the Applicant and Sport England expressly agree in writing has a prior ranking (at the date of this Deed there is no prior ranking debt), tax arising as a result of the disposal and other incidental and reasonable costs incurred wholly and exclusively for the purpose of such disposal.

7.12 The following transactions, being essential to the achievement of the Project, shall not require the approval of Sport England for the purpose of clause 7.11:

- (a) the grant by the Applicant to the Contractor of a lease in the form included in the Project Agreement for the sole purpose of delivering the Project in accordance with the Strategic Purpose; and
- (b) the grant by the Applicant, the Contractor or a Subcontractor to a third party not connected to the person granting the interest of:
 - (i) an occupational lease or an agreement to do so for a term not exceeding 7 years at an open market rent (without fine or premium);
 - (ii) a licence to occupy personal to the licensee at an open market rent or peppercorn rent or equivalent service fee; or
 - (iii) a tenancy at will only which is personal to the tenant at an open market rent or peppercorn rent or equivalent service fee,

of any part of the Site, provided that any such grant is for the purpose of achieving the Strategic Purpose or providing such services as would be expected to be provided in a world class sports facility with a regional catchment.

7.13 Without prejudice to clause 7.11:

- (a) Within 25 Business Days following the date of this Deed and after providing the certificate of title anticipated by Clause 7.15 of this Deed to Sport England's satisfaction, the Applicant shall apply to the Land Registry for a restriction to be noted on the Applicant's registered title to the Site to protect Sport England's interest in the Site pursuant to this Deed in the form set out below (or such other form as meets the requirements of the Land Registry with the equivalent effect as may be approved by Sport England, such approval not to be unreasonably withheld or delayed):

"No disposition of that part of the registered estate shown edged [●] on plan [●] by the proprietor of the registered estate is to be registered without a written consent signed by the English Sports Council of 21 Bloomsbury Street, London, WC1B 3HF, or their conveyancer."

- (b) Notwithstanding the restrictions on the registered title to the Site referred to in clauses 7.13(a), Sport England shall provide its written consent to a disposition of the relevant registered estate to the extent that such consent is necessary to enable the Applicant to carry out transactions that are expressly and specifically permitted by this Deed.
- (c) Sport England shall provide its written consent to the removal of the restriction referred to in clause 7.13(a) and all such other assistance as the Applicant may reasonably require to procure the removal of the restriction from the registered title to the Site within 20 Business Days of receipt of a request to do so from the Applicant following the expiry or earlier termination of this Deed PROVIDED ALWAYS that the Applicant have paid in full all amounts due and owing for repayment to Sport England pursuant to this Deed.
- (d) The Applicant shall notify Sport England prior to applying for or permitting any restriction to be noted on the Applicant's registered title to the Site for the benefit of any person other than Sport England.

7.15 The Applicant shall provide Sport England with any other such documentation requested, including but not limited to a certificate on title, in respect of the restriction, in the format specified by Sport England and to Sport England's satisfaction.

8. REPRESENTATIONS AND WARRANTIES

- 8.1 The Applicant warrants and represents to Sport England that at the date of this Deed each Warranty is true, accurate and not misleading.
- 8.2 Subject to clause 8.6, immediately before each drawdown and immediately before the Availability Date the Applicant is deemed to warrant to Sport England that each Warranty is true, accurate and not misleading.
- 8.3 When interpreting a Warranty deemed to be repeated immediately before each drawdown and immediately before the Availability Date, a reference in a Warranty to a fact, matter or circumstance occurring at or before the date of this Deed will be construed as if it were a reference to a fact, matter or circumstance occurring at the time at which the Warranty is repeated.
- 8.4 Each Warranty is a separate and independent statement and (except as expressly provided by this Deed) is not limited or otherwise affected by any other Warranty or by any other provision of this Deed.
- 8.5 The Warranties are qualified by each matter that is fairly and specifically disclosed in the Disclosure Statement in sufficient detail to enable Sport England to assess its impact on the Project. No other information of which Sport England may have knowledge (whenever acquired and whether actual, constructive or implied) prevents or limits a claim being made by Sport England for breach of clause 8.1 or 8.2.
- 8.6 During the Grant Term, the Applicant must notify Sport England immediately if it becomes aware of a fact, circumstance or event which causes or is likely to cause a Warranty (if the Warranty were repeated on or at any time before a drawdown or each Availability Date by reference to the facts and circumstances then existing) to become untrue, inaccurate or misleading. Sport England may (at its sole discretion, such discretion not to be unreasonably withheld) expressly agree in writing to variations to the Warranties to reflect such events, facts or changes in circumstances.

9. AGREED DESIGN AND FACILITY CONSTRUCTION AND MAINTENANCE

- 9.1 The Applicant shall:
- (a) develop the design of the Facility; and
 - (b) construct the Facility,
- in accordance with and to meet the specifications set out in the Agreed Design and the Design Requirements.

- 9.2 Throughout the Grant Term the Agreed Design shall not be amended, nor shall the Applicant make or consent to alterations to the Facility or the Site that would result in the Site or the Facility no longer being in accordance with, or meeting the specifications set out in, the Agreed Design without the prior written consent of Sport England (such consent not to be unreasonably withheld).
- 9.3 The Applicant shall ensure that from the date of this Deed until the final day of the Grant Term:
- (a) the Facility and the Site are only used to carry out the Project to achieve the Strategic Purpose;
 - (b) the Facility and the Site are at all times kept in good repair and condition and maintained and operated in accordance with all applicable laws and relevant codes of practice;
 - (c) the Facility and the Site are secured to prevent access by unauthorised persons;
 - (d) the Facility and the Site are covered by a comprehensive policy of insurance with reputable insurers to cover the Facility and the Site against all risks it would be prudent to insure against, including terrorism, to its full replacement value (and the Applicant shall provide a copy of the current policy or policies and evidence of premium payment to Sport England on or before the entry into effect of such policies and upon any material changes or replacement of such policy or policies from time to time);
 - (e) following construction of the Facility, the Facility and the Site continue to meet the specifications set out in the Agreed Design and the Design Requirements; and
 - (f) it informs Sport England in writing within five (5) Business Days after it has become aware of any significant loss or damage to the Facility (including any chattel or fixture forming part of the Facility where such loss or damage would have a material adverse effect on the ability of the Applicant to operate the Facility in accordance with this Deed) and shall effect prompt replacement or repair of the same at no cost to Sport England.

10. OPERATIONS PLAN

- 10.1 The Applicant shall prepare and obtain Sport England's written approval for key performance indicators that will objectively measure the achievement of sporting objectives at the Facility (the "**KPIs**") and a method of assessing the Applicant's performance in achieving the KPIs (the "**KPI Assessment Method**"). The KPIs and the

KPI Assessment Method shall only be amended with the prior written approval of Sport England. The agreed KPIs are set out in Schedule 13 (*Agreed Key Performance Indicators*).

10.2 The Applicant shall:

- (a) ensure that it reviews and updates the Operations Plan (with such updates or changes approved in writing by Sport England) at least once every 12-months; and
- (b) within three months of Sport England advising the Applicant in writing that Sport England has concerns with one or more aspects of the the Operations Plan, and that these documents require updating to address these concerns, ensure that the Operations Plan (as appropriate) has been updated to take into account Sport England's concerns and it has obtained the written approval of Sport England to the updated Operations Plan (as appropriate), save that Sport England may not require the Applicant to do so pursuant to this clause 10.2(a) more than once in any twelve month period.

10.3 When preparing or updating the Operations Plan the Applicant shall:

- (a) consult with Sport England and the relevant National Governing Bodies of Sport and take into account any comments or suggestions that either of these bodies may have;
- (b) take into account any published strategy for the development of sport in England that applies at the time of the update or will apply at a later date;
- (c) take into account the objects of:
 - (i) maximising participation in sport in and around the Royal Borough of Greenwich;
 - (ii) achieving an appropriate balance of school, club and community usage; and
 - (iii) ensuring that usage by the community is representative of the demographics of the public in and around Royal Borough of Greenwich.

10.4 Without prejudice to clause 10.2:

- (a) the Applicant may update the Operations Plan at any time provided that in so doing any changes to the Operations Plan are agreed in writing by Sport England; and

- (b) the Operations Plan in effect from time to time shall be deemed to apply for the remainder of the Grant Term.
- 10.5 The Applicant shall implement the Signage and Grant Promotion Guidance for the duration of the Grant Term
- 11. **OPERATIONS PHASE**
 - 11.1 The Applicant shall ensure that the Availability Date occurs no later than 31 May 2016.
 - 11.2 The Applicant shall notify Sport England in writing of the Availability Date no later than five (5) Business Days following such date.
 - 11.3 The Applicant shall ensure that the Facility [no later than 12-months after the Availability Date materially achieves, and thereafter materially maintains for the remainder of the Grant Term:
 - (a) the KPIs;
 - (b) accreditation to Quest Facility Management, at approval status or higher (or where the Quest Facility Management scheme is no longer available then it shall be replaced by an equivalent and equally appropriate facility management assessment scheme that is applied generally by Sport England for the assessment of the performance of sports Facility in England), or such other facility management assessment scheme as may be agreed in writing by the Applicant and Sport England from time to time;
 - 11.4 the Applicant shall on and from the Availability Date until the end of the Grant Term:
 - (a) ensure that the Facility is fully operational in all material respects;
 - (b) operate the Facility at all times in accordance with and in order to achieve the sporting goals, objectives and requirements set out in the Operations Plan; and
 - (c) at the end of each subsequent 12-month period, with the first period commencing on the Availability Date, submit to Sport England a report, based on the KPI Assessment Method, detailing its performance against the KPIs and any other objective performance measures specified in the Operations Plan; and
 - (d) where requested by Sport England, meet with Sport England to discuss the Applicant's performance in achieving the KPIs.
 - 11.5 The Applicant may only contract with a third party to operate the Facility on its behalf where Sport England has provided its prior written consent to the appointment of any such third party.

12. MONITORING AND AUDIT ACCESS

- 12.1 Sport England shall be entitled to appoint an observer to attend all meetings which are material to the ongoing implementation of the Project involving the Applicant alone, the Applicant and the Contractor, or between the Applicant and any other party (other than those meetings solely involving the Applicant and its legal advisors) and the Applicant shall procure that any observer appointed by Sport England may do so.
- 12.2 The Applicant shall on request provide to Sport England copies of all papers, minutes and accounts, and shall procure that Sport England shall have access to all books, records and documentation of the Applicant and any third party involved with the Project (including the Contractor and its sub-contractors) that are relevant to the Project and which Sport England reasonably considers necessary to observe and monitor the progress of the Project save that in respect of any sub-contractors of (or any other persons engaged by) the Contractor's sub-contractors the Applicant shall only have to use its reasonable endeavours to procure such access.
- 12.3 Sport England and the Applicant shall co-operate together, as from the date of this Deed onwards, to agree upon a process for identifying which of the meetings referred to in clause 12.1 will consider issues material to the ongoing implementation of the Project. Wherever possible, the Applicant shall notify Sport England of the time, date and venue of any such meeting at least five (5) Business Days in advance of the relevant meeting or, where such notice is not possible, as soon as is reasonably practicable.
- 12.4 Sport England shall, on reasonable notice, be allowed access during normal working hours to the offices of the Applicant to monitor compliance with the provisions of this Deed. Sport England may also require the Applicant to report on the progress of the Project by way of written report or meeting at monthly intervals.
- 12.5 The Applicant shall (and shall procure that the Contractor shall) allow Sport England (or any persons duly authorised by it) to have such access at reasonable times to the Facility and the Site as they may require and provide Sport England with all reasonable assistance in order to enable Sport England to:
- (a) inspect the Facility and the Site and any works to or on the Facility or the Site;
 - (b) monitor the conduct and progress of the Project; and
 - (c) monitor compliance with the terms of this Deed, including the use of the Facility and promotion and encouragement of sport in the Facility, in accordance with the Operations Plan.

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- 12.6 In addition to the provisions of clauses 12.4 and 12.5 above, the Applicant will take appropriate steps to monitor its own success in completing the Project and in using the Facility in accordance with the Operations Plan.
- 12.7 The Applicant] shall supply to Sport England such financial or other information and records as Sport England may reasonably require from time to time in respect of the Applicant's performance of its obligations pursuant to this Deed.
- 12.8 Within ten (10) Business Days after each drawdown of part of the Lottery Grant the Applicant shall provide Sport England with a breakdown of actual expenditure of the Lottery Grant together with supporting evidence to enable Sport England to reconcile actual expenditure against budgeted forecasts unless such evidence has previously been received by Sport England as part of a Drawdown Notice.
- 12.9 Sport England may conduct an audit of the Applicant's expenditure of the Lottery Grant, including an examination of such books, records, documents, minutes and papers as are held owned or otherwise respectively in the control of the Applicant at any time upon giving reasonable notice.
- 12.10 For the purposes of any examination under the National Audit Act 1983 of the economy, efficiency and effectiveness with which Sport England has used its resources, the Applicant undertakes to:
- (a) provide the Comptroller and Auditor General of the National Audit Office with such documents as he may reasonably require which are owned, held or otherwise within the control of the Applicant; and
 - (b) procure that all professional advisers, contractors, agents or any other person it engages in relation to the Project shall provide the Comptroller and Auditor General of the National Audit Office with such documents as he may reasonably require which are owned, held or otherwise within their control,

PROVIDED THAT nothing in this clause 12.10 shall require the production of legally privileged documents.

13. **EVENTS OF DEFAULT**

13.1 The following events shall each constitute an Event of Default:

- (a) the Conditions not being completed or satisfied within 12 months of the date of this Deed;

- (b) a Warranty being incorrect in any material respect as at the date on which it was made or repeated;
- (c) the Applicant failing to resubmit the Application (revised accordingly) within a reasonable timescale where, at any time during the implementation of the Project, the purpose of the Project changes or the purpose of the Project is unlikely to be fulfilled, or the rejection of any such resubmitted Application by Sport England in circumstances where Sport England reasonably believes the revised Application is unlikely to fulfil the purpose for which the Lottery Grant was originally made (in respect of which Sport England shall first communicate to the Applicant its reasons in writing);
- (d) it becoming unlawful for the Applicant or for Sport England materially to perform all or any of its obligations under this Deed;
- (e) the Applicant or any employee or agent thereof acting or having acted fraudulently at any time in relation to the Application, the negotiation of this Deed, a Drawdown Notice or the fulfilment of the Project.
- (f) the Applicant or an employee or agent of the Applicant having completed the Application or a Drawdown Notice incorrectly or misleadingly in any material particular;
- (g) the Applicant or any employee or agent thereof acting or having acted at any time in relation to the Application, the negotiation of this Deed, or the fulfilment of the Project negligently to the extent that in the reasonable opinion of Sport England such negligence has a material effect on the Project;
- (h) the commission of any offence by the Applicant or any employee or agent thereof under the Bribery Act 2010 in relation to this Deed or the Project;
- (i) a material breach by the Applicant of any of its obligations under this Deed, and either the breach is incapable of remedy or if capable of remedy has not been remedied within twenty (20) Business Days, or such longer period as Sport England may allow, of service of a written notice by Sport England requiring the breach to be remedied;
- (j) the Applicant no longer being legally bound to fulfil any or all of the Applicant's obligations under this Deed (or any transfer or novation of the Applicant's obligations under this Deed) or being unable to fulfil the Project to Sport England's satisfaction;

- (k) a Prevented Party being prevented from performance of its obligations for a continuous period in excess of [three] months;
 - (l) the Applicant applying any part or all of the Lottery Grant other than in respect of the fulfilment of the Strategic Purpose or the Project;
 - (m) the Applicant failing to obtain Sport England's written approval of the KPIs as set out in Schedule 13 (*Agreed Key Performance Indicators*);
 - (n) the occurrence of a Critical Event in relation to a Related Agreement, except where Sport England has given its written consent to that Critical Event.
- 13.2 the Applicant shall notify Sport England of the occurrence, and give details, of an Event of Default promptly upon becoming aware of such Event of Default.
14. **CONSEQUENCES OF AN EVENT OF DEFAULT**
- 14.1 Without prejudice to clause 14.1(b), upon the occurrence of an Event of Default and at any time thereafter Sport England may:
- (a) wholly or partially suspend or cancel any future payments of the Lottery Grant; and/or
 - (b) terminate this Deed; and/or
 - (c) require payment of an amount equal to all or any part of the Lottery Grant as has then been drawn down.
- 14.2 Sport England may exercise (whether simultaneously or not) one or more of its rights set out in clause 14.1 and a failure to exercise a right under those clauses shall not prevent Sport England from exercising that right at a later date. Sport England shall exercise its rights:
- (a) pursuant to clause 14.1 by serving notice to that effect on the Applicant specifying the details of the Event of Default, which notice shall have immediate effect;
 - (b) pursuant to clause 14.1(b) by serving notice to that effect on the Applicant from whom Sport England is seeking repayment specifying the details of the Event of Default and the amount of the Lottery Grant which is required to be repaid, which notice shall have immediate effect (a "**Repayment Notice**").
- For the purpose of this clause 14.2 Sport England may exercise more than one right at the same time through the same notice.

- 14.3 Save where Sport England reasonably believes that it is not practicable to do so, before Sport England issues a Repayment Notice it shall provide the Applicant an opportunity to discuss (either in person or by telephone) the Event of Default pursuant to which Sport England is intending to exercise its rights pursuant to clause 14.1. For the avoidance of doubt if for any reason whatsoever the Applicant does not make use of the opportunity offered by Sport England to discuss the Event of Default this shall not prevent Sport England exercising its rights pursuant to clause 14.1.
- 14.4 Any amount required to be repaid under a Repayment Notice shall be payable in a single payment as soon as reasonably practicable and in any event not later than twenty (20) Business Days after the service of the Repayment Notice or such later time as is specified in the Repayment Notice. In addition, the Applicant shall reimburse on demand all costs (including legal fees) properly incurred by Sport England in recovering or seeking to recover the amount so required to be repaid.
- 14.5 If any payment is not made as required under this clause 14 then interest shall be payable to Sport England on the amount for the time being outstanding at the rate of 4 per cent above the base rate of the Bank of England from time to time on the basis of actual days elapsed from the due date for payment until payment in full to Sport England (after as well as before judgment).
- 14.6 Termination of this Deed in whole or in part shall be without prejudice to any accrued rights or liabilities of any of the parties.
- 14.7 There shall be no other rights of termination except as expressly set out in this Deed.

15. APPROVALS

- 15.1 Any approvals to be given by Sport England must be requested in writing. The Applicant may only rely upon an approval required by this Deed if it is given in writing by Sport England (or any person duly authorised by it).
- 15.2 Without prejudice to clause 16.2, the Applicant shall not be deemed to be in breach of this Deed where it is unable to perform its obligations under this Deed because of an unreasonable delay by Sport England in providing an approval.

16. LIABILITY

- 16.1 Without prejudice to the rights or liabilities of the parties accrued during the Grant Term, any obligation on the Applicant to repay the Lottery Grant shall cease to apply on the expiry of the Grant Term except where expressly stated otherwise in this Deed.

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16.2 The extent of Sport England's liability under this Deed is limited to its obligation to pay the Lottery Grant in accordance with the provisions of this Deed.

17. CONFIDENTIALITY AND ANNOUNCEMENTS

17.1 A party may make public the purpose, amount and term of the Lottery Grant. Save as set out in the foregoing, the Applicant shall not issue any public statement, press release or other publicity in relation to the Lottery Grant or which refers to Sport England other than in a form approved in advance by Sport England (such approval not to be unreasonably withheld).

17.2 Subject to the other provisions of this clause 17, the parties agree to keep the provisions of this Deed and the matters referred to herein confidential and not to disclose them to any person other than:

- (a) with the prior written consent of the non-disclosing party (such consent not to be unreasonably withheld or delayed);
- (b) to their professional advisers provided that such professional advisers are under an equivalent or greater duty of confidentiality;
- (c) to the Contractor provided that the Contractor is under an equivalent or greater duty of confidentiality;
- (d) to Her Majesty's Department of Culture, Media and Sport, the Treasury Solicitor or any other governmental, parliamentary or regulatory authority including the National Audit Office;
- (e) if required to do so by law or any regulatory or governmental authority or as a result of any accounting requirements.

17.3 Clause 17.2 shall not apply to information which:

- (a) was in or enters the public domain prior to its receipt other than as a result of an unauthorised disclosure by the recipient or its representatives or advisers; or
- (b) is available to or in the possession of the recipient free of any restriction as to its use or disclosure prior to its being furnished by the disclosing party hereunder, provided that such information is not subject to any agreement or other duties relating to confidentiality in respect thereof; or
- (c) the recipient can demonstrate was already known to him or it prior to the disclosure to him.

18. **SEVERABILITY AND VARIATION**

- 18.1 If any provision of this Deed is held to be illegal, invalid or unenforceable in whole or in part the remainder of the Deed shall continue to be valid and enforceable.
- 18.2 No variation of any of the terms of this Deed shall be effective unless in writing and signed by or on behalf of both parties.

19. **ASSIGNMENT, NOVATION AND SUB-CONTRACTING**

- 19.1 Sport England may assign or transfer the benefit and burden of this Deed to a successor body to Sport England, or to any successor distributor of Lottery funding which is able to comply with Sport England's obligations in this Deed.
- 19.2 Sport England may by written notice require the Applicant to assign or transfer the benefit and burden of this Deed to a successor body of Sport England or to any successor distributor of Lottery funding which meets the requirements of clause 19.1 and upon receipt of such notice, the Applicant shall execute all documents and do all acts and things as Sport England reasonably requires for the purpose of giving effect to such assignment or transfer.
- 19.3 Except where expressly permitted to do so by this Deed the Applicant shall not purport to assign, novate, sub-contract, charge or transfer the Lottery Grant or this Deed or any of its rights or obligations under this Deed without the prior written approval of Sport England (at its absolute discretion).
- 19.4 The Applicant shall be entitled to sub-contract the performance of any of its obligations under this Deed to the Contractor provided always that such sub-contracting will not release the Applicant from any of its obligations under this Deed.

20. **FORCE MAJEURE**

20.1 **MEANING OF FORCE MAJEURE**

In this Agreement, "**force majeure**" means any cause preventing either party (a "**Prevented Party**") from performing any or all of its obligations which arises from or is attributable to either:

- (a) acts, events, omissions or accidents beyond the reasonable control of the prevented party, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, or storm; or

- (b) war, civil war, armed conflict or terrorist attack, nuclear, chemical or biological contamination or sonic boom, but nothing else.

20.2 EFFECT OF FORCE MAJEURE

A Prevented Party must, immediately upon the occurrence of a force majeure event, serve notice in writing on the other party specifying the nature and extent of the circumstances giving rise to force majeure, and will, subject to:

- (a) service of such notice;
- (b) it having taken all reasonable steps to avoid such prevention or delay; and
- (c) clause 20.3,

have no liability in respect of the performance of its obligations which are prevented by the force majeure event(s) during their continuation, and for such time after they cease as is necessary for that party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations. The corresponding obligations of the other party will be suspended to the same extent.

20.3 PREVENTED PARTY TO FIND SOLUTION OR ALTERNATIVE

A Prevented Party must use all reasonable endeavours to bring the force majeure event preventing or delaying the performance of its obligations to a close, or to find a solution by which its obligations under this Agreement may be performed despite the continuance of the force majeure event.

21. NO PARTNERSHIP OR AGENCY

Nothing in this Deed shall constitute a partnership between the parties or constitute any party as agent for the other.

22. NO WAIVER

No failure or delay in exercising rights under this Deed shall operate as a waiver of such rights.

23. ENTIRE AGREEMENT

- 23.1 This Deed (together with the documents referred to herein) represents the entire agreement between the parties and supersedes all prior agreements, understandings or arrangements (both written and oral) relating to the subject matter of this Deed.

23.2 Nothing in this Deed excludes any liability for fraud or any other liability which cannot be limited or excluded by law.

24. NOTICES

24.1 All notices to be given under this Deed shall be in writing and shall be deemed duly served on a party if marked for the attention of the authorised recipient and left at their authorised address, posted by first class post addressed to that address, or sent by facsimile transmission to a machine located at that address and shall be deemed to have been served if:

- (a) delivered, at the time of delivery;
- (b) posted, on the second Business Day after the date of posting;
- (c) sent by fax, on receipt by the sender of a fax report that the transmission has been made.

24.2 If delivery or transmission occurs after 4.00pm on any day, service shall be deemed to occur at 10.00am on the next following Business Day.

24.3 The authorised address, facsimile number and authorised recipient of each of the parties is set out below. Any party may vary these details by giving notice in accordance with this clause to the other parties:

(a) **The English Sports Council**

21 Bloomsbury Street

London

WC1B 3HF

Attention: Chief Executive

Fax: 020 7383 5740

(b) **The Royal Borough of Greenwich**

The Woolwich Centre, 35 Wellington Street, London SE18 6HQ

Attention: Mr Gareth Edmundson

Fax: N/A

24.4 For the avoidance of doubt this clause 24 shall not apply to the sending and receipt of Drawdown Notices pursuant to clause 5.

25. COSTS AND EXPENSES

Each party shall be responsible for paying its own costs and expenses incurred in the negotiation, preparation and execution of this Deed.

26. COUNTERPARTS

This Deed may be executed in counterpart but the counterparts shall together constitute one and the same instrument.

27. THIRD PARTIES

27.1 No person other than a party to this Deed and the Comptroller and Auditor General of the National Audit Office may enforce this Deed by virtue of the Contracts (Rights of Third Parties) Act 1999.

27.2 For the avoidance of doubt the parties may by agreement in writing rescind or vary this Deed without the consent of the Comptroller and Auditor General of the National Audit Office.

28. GOVERNING LAW

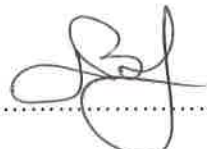
This Deed shall be governed by and construed in accordance with English law and the parties hereby irrevocably submit to the exclusive jurisdiction of the English Courts.

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IN WITNESS whereof this Deed has been executed by the parties hereto and is hereby delivered as a deed on the date first above written.

THE COMMON SEAL of the
ENGLISH SPORTS COUNCIL
was hereunto affixed in the
presence of:


.....


.....



EXECUTED AS A DEED as
THE COMMON SEAL OF
**THE ROYAL BOROUGH
OF GREENWICH** was
Hereunto affixed in the presence of:-

Senior
Principal Lawyer



0005012

SCHEDULE 1

DEFINITIONS

"Act"	The National Lottery etc. Act 1993 as amended by the National Lottery Act 1998;
"Agreed Design"	the design set out in the design drawings included in Schedule 4 (<i>Agreed Design</i>) or as may be subsequently be approved in writing by Sport England or amended in accordance with this Deed;
"Application"	an application for Lottery funding (Unique Reference Number 2014010743) for the Project submitted by the Applicant to Sport England and dated ;
"Availability Date"	the date on which a Facility is first opened to the public and available for public use in accordance with the Operations Plan;
"Business Day"	a day (other than a Saturday, Sunday or public holiday) when banks are open for business in the City of London. Banks shall not be deemed to be "open" for the purposes of this definition by virtue of the availability of automatic telling machines, telephone banking or online banking facility;
"Conditions"	the requirements and tasks set out in Schedule 2 (<i>Conditions</i>);
"Contractor"	the special purpose company appointed by the Applicant to deliver the Project;
"Cost Plan"	the item by item statement of anticipated capital expenditure by the Applicant on the Project as set out in Schedule 6 (<i>Cost Plan</i>) or as may be agreed in writing by the parties from time to time;

"Critical Event"

any of the following events that has had or may have an adverse effect on the fulfilment of the Project, the achievement of the Strategic Purpose and/or the ongoing compliance by either or both of the Applicant with the terms of this Deed:

- (a) a material breach of the terms of, or a failure by the Applicant to enforce any of its rights under, a Related Agreement;
- (b) a termination, assignment, novation or other transfer of any or all of the rights or obligations under a Related Agreement; or
- (c) an amendment of the terms of a Related Agreement;

"DCMS"

the Department of Culture, Media and Sport;

"Design Requirements"

Sport England's requirements for inclusion in the design of the Facility as set out in Schedule 5 (*Design Requirements*);

"Disclosure Statement"

the statement set out in Schedule 11 (*Disclosure Statement*) to this Deed;

"Drawdown Notice"

the form of notice set out in Schedule 9 (*Drawdown Notice*) together with the supporting information required under clause 5.4;

"Eligible Expenditure"

the items of expenditure eligible for funding through the Lottery Grant that have been identified as "Eligible Expenditure" in the Cost Plan and which have actually been incurred by the Applicant in respect of the Project;

"Event of Default"

a Applicant Event of Default;

"Facility"	<p>The Hervey Road Playing Fields Healthy Lifestyle Centre incorporating the following facilities of which the Lottery Grant will be used to support the cost plan for the hub building:</p> <ul style="list-style-type: none">• building with changing rooms, exercise area• Multi-use games area• Café/social area• Resurfaced Car Park <p>as further described in the Design Requirements and the Agreed Design and to be constructed on the Site in the position shown for the purposes of identification only edged red on the plan at Schedule 8 (<i>Site Plan</i>);</p>
"Grant Expiry Date"	<p>31 March 2016, or such other date subsequently agreed in writing by the parties being the last day on which the Lottery Grant can be drawn down before it is de-committed;</p>
"Grant Term"	<p>the period from the date of this Deed until the date which is 21 years after the date of the Project Agreement;</p>
"Improvement Fund"	<p>an invest of £45m of Lottery funding into medium-sized projects that will improve the quality and experience of sport. The Improvement Fund will award grants worth £150,000 to £500,000 into sustainable projects with a clear local need, and bridges the gap between the Iconic Facilities Fund which invest in large-scale, multi-sport facilities and the Inspired Facilities Fund which supports small-scale community clubs.</p>
"KPI Assessment Method"	<p>has the meaning set out in clause 10.1;</p>
"KPIs"	<p>has the meaning set out in clause 10.1 and as set out in Schedule 13 (<i>Agreed Key Performance Indicators</i>);</p>
"Lottery"	<p>The National Lottery created by the Act;</p>
"Lottery Grant"	<p>the grant made by Sport England pursuant to the Application, being a maximum sum of £280,000 (two-hundred and eighty thousand pounds) subject to any reduction in accordance with the terms of this Deed;</p>

"Maximum Expenditure Amount"	the maximum amount that may be drawn down by the Applicant in respect of each item of Eligible Expenditure that is specified as the "Maximum Expenditure Amount" in the Cost Plan;
"Operations Plan"	a plan as approved in writing by Sport England from time to time for the operation of the Facility following the Availability Date comprising the strategy, policies, programmes and other documents set out in Schedule 7 (<i>Operations Plan</i>);
"Partnership Funding"	capital and revenue funding to meet the balance of the capital and revenue costs of the Project which are not met from the Lottery Grant;
"Prevented Party"	has the meaning set out in clause 20.1;
"Project"	the design, build, operation and maintenance of the Facility for the Grant Term in accordance with the Strategic Purpose and the provisions of this Deed;
"Project Agreement"	has the meaning set out in paragraph 6 of Schedule 2 (<i>Conditions</i>);
"Related Agreement"	an agreement entered into by the Applicant or the Contractor in respect of or related to the undertaking of the Project;
"Retention Amount"	the sum of £8,400, being that part of the Lottery Grant linked to the Applicant obtaining Sport England's approval for the KPIs;
"Signage and Grant Promotion Guidance"	the guiding principle as stipulated by the National Lottery Commission and Sport England in relation to any publicity regarding the Lottery Grant shall be to give proportionate credit to the Lottery Grant and the Fund;
"Site"	the land located at Hervey Road Playing Field shown for the purposes of identification only edged red on the plan at Schedule 8 (<i>Site Plan</i>);
"Strategic Purpose"	the purpose for which this Lottery Grant was granted as set out in Schedule 3 (<i>Strategic Purpose</i>);

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"Subcontractor"

a person having a direct contractual arrangement with the Contractor for the purpose of performing one or more of the Applicant's obligations under this Deed;

"Warranty"

each statement set out in Schedule 10 (*Warranties*).

SCHEDULE 2

CONDITIONS

PART A CONDITIONS

Pursuant to clause 4.1, the following conditions must be achieved prior to the drawdown of the Lottery Grant or any part of it:

1. The Applicant obtaining full planning permission in respect of the Site to allow the construction of the Facility and all other aspects involved in the fulfilment of the Project in accordance with the terms of this Deed;
2. The Applicant obtaining all necessary approvals and authorisations to fund the fulfilment of the Project and its payment obligations under the Project Agreement;
3. The Applicant securing binding commitments from funding partners (and/or any other person where applicable) that will enable it to draw down, and to the extent applicable providing evidence that it has sufficient available committed revenue funding to meet, the Partnership Funding for the Project within a timescale that will enable it to fulfil its obligations under this Deed;
4. The Applicant supplying Sport England with copies of resolutions or minutes (certified by an authorised officer) passed at a duly convened meeting of the Applicant's [councillors], in each case approving the entering into and execution of this Deed;
5. Sport England having been supplied with documentary evidence demonstrating that the Applicant has the capacity and authority to enter into this Deed and perform their obligations under this Deed, accept any liabilities arising from this Deed, that this Deed will be legally binding on them and that Sport England may enforce the terms of this Deed against the Applicant;
6. The Applicant entering into and being legally bound by a contract with the Contractor for the design, construction and operation of the Facility on terms satisfactory to Sport England (the "**Project Agreement**");
7. The Applicant obtaining Sport England's approval for the design of the Facility at each of:
 - (a) RIBA Stage D;
 - (b) RIBA E or equivalent and
 - (c) the Contractor's final design proposed to the Applicant pursuant to the Project Agreement.

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8. The Applicant providing evidence that it is the owner of the Site.
9. The Applicant providing evidence that the Contractor was appointed in accordance with all applicable procurement rules.
10. The applicant to undertake the tender evaluation for the project on the basis of Quality and Cost, with the Quality Criteria set at not less than 15% of the overall evaluation.
11. The applicant to provide a detailed tender report demonstrating that the project is affordable and that it has been competitively tendered to the satisfaction of Sport England.
12. The Applicant providing evidence that the Project does not infringe EU rules relating to state aid.
13. The restriction on title set out in clause 7.14 having been duly registered at the Land Registry.
14. The Applicant to provide the documentation anticipated by clause 7.15
15. The applicant to provide a complete set of Contract documents for the project. This shall include all Specifications and Drawings. The Documentation should demonstrate compliance with relevant Sport England Design Guidance Notes. Obtain Sport England's approval of the design of the Projects at RIBA Stages E, F and J pursuant to the Project Agreement.
16. The plans required under Schedule 4 (*Agreed Design*) have been agreed with Sport England and submitted.
17. Schedule 5 (*Design Requirements*) has been agreed with Sport England and submitted.
18. The applicant to engage with Sport England and their professional advisors to agree an acceptable solution to any design issues that arise in respect of compliance with Sport England Design Guidance Notes.
19. The applicant to provide a detailed cost plan prepared by an appropriately qualified professional to identify the likely budget for the sports element of the development.
20. The applicant to provide a detailed programme of works identifying the key tasks, milestones and activities within the procurement of the sports element of the development.
21. The applicant to develop a costed risk register to monitor the spend on risk/contingency.
22. The applicant to confirm whether VAT applies to none, all, or specific elements of the Projects and provide an estimate of the vat based on professional advice.

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23. The applicant to confirm the affordability of the project within the funding envelope.
24. The applicant to provide Sport England with Monthly Project Progress Reports prepared by the Project Manager. As a minimum the Reports must include a commentary on Overall Project Progress, Cost and Affordability, status on overall funding position and the review of the Risk Register (costed and linked to the Contingency).
25. Sport England to monitor the project(s) through the construction phase with attendance at monthly site progress meetings with the applicant, the Contractor and other key project partners.

PART B CONDITIONS

Pursuant to clause 4.1, the following conditions must be achieved prior to the drawdown of the Retention Payment of the Lottery Grant.

1. The Applicant to display appropriate Sport England signage in a prominent position on the new or upgraded Facility recording the financial assistance and support of the Lottery Sports Fund.
2. The applicant to provide a copy of the final draft lease with Community Teachsport for Sport England review.
3. Subject to the satisfaction of this lease, Sport England to novate the Lottery Grant via a new deed for 21-years with Community Teachsport and a Legal Charge registered against this leasehold in Sport England's favour.
4. The applicant to provide an updated business plan for the facility prior to its opening
5. The applicant to work up a more detailed programme of use for the range of facilities being provided.
6. The applicant to provide a statement on how the long term maintenance and condition of the facility will be addressed in terms of management and cost over a period of not less than 21years. This must include a demonstration of how the costs will be met.

SCHEDULE 3

STRATEGIC PURPOSE

The Hervey Road Healthy Lifestyles centre will be based at a disused playing field in Greenwich that has been vacant for 12-years. The project will regenerate the grass playing surface and hard court areas and construct a new building providing changing facilities, exercise areas and a café. The playing facilities will support 15 recognised Sport England sports and include provision for disability sports.

SCHEDULE 4

AGREED DESIGN

Refer to Schedule 2, Part A Conditions 7 and 14.

SCHEDULE 5

DESIGN REQUIREMENTS

Refer to Schedule 2, Part A Conditions 7 and 15.

The facility will to be designed to Sport England's Design Guidance "Pavilions and Clubhouses".

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SCHEDULE 6

COST PLAN

Refer to Schedule 2, Part A Condition 19.

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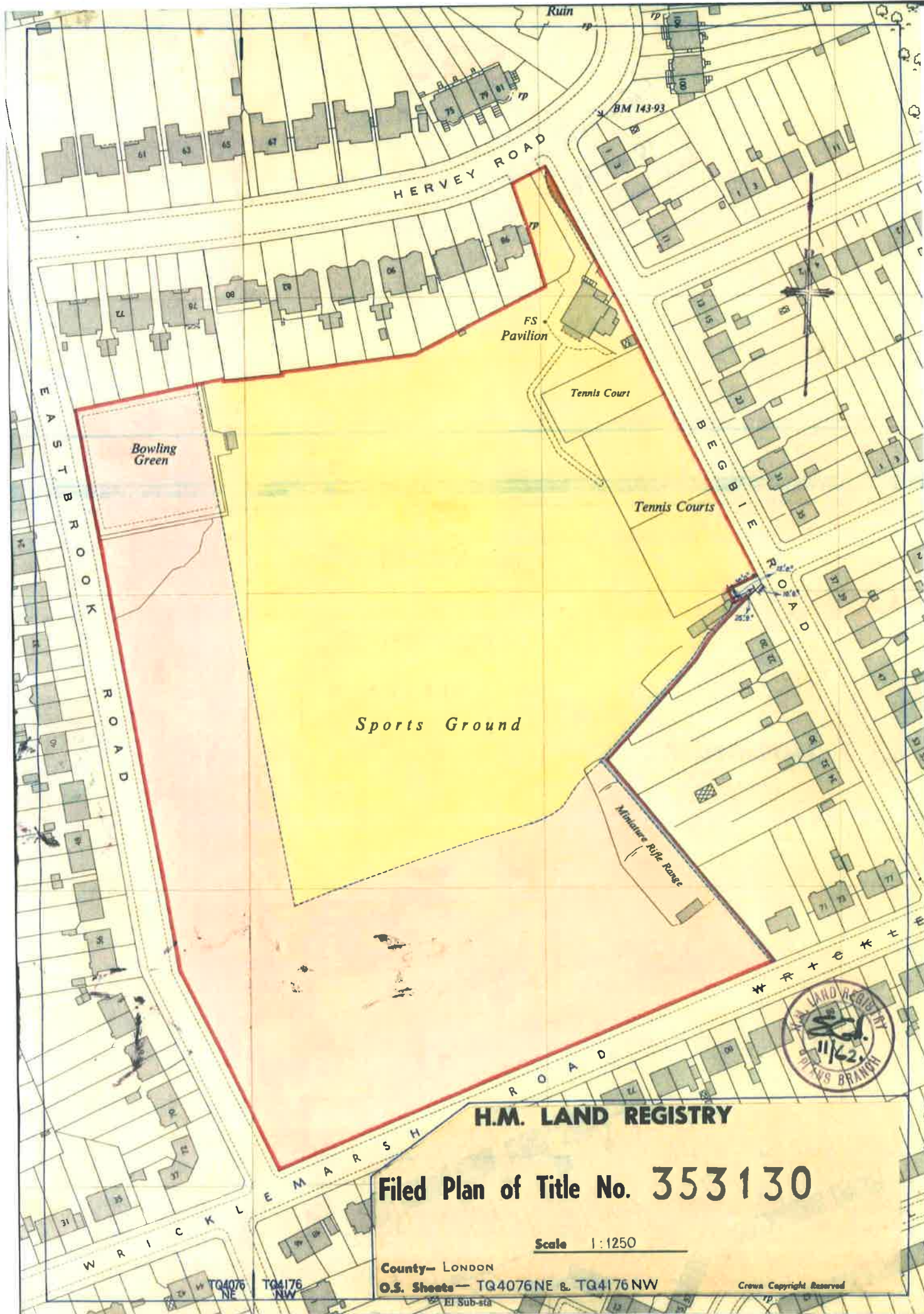
SCHEDULE 7

OPERATIONS PLAN

Refer to Schedule 2, Part B Condition 4.

SCHEDULE 8

SITE PLAN



SCHEDULE 9

FORM OF DRAWDOWN NOTICE

TO BE TYPED ON THE HEADED NOTEPAPER OF
THE ROYAL BOROUGH OF GREENWICH
DETAILS TO BE COMPLETED UPON SUBMISSION OF DRAWDOWN NOTICE

The English Sports Council
21 Bloomsbury Street
London
WC1B 3HF

[Date]

Dear Sirs

Lottery Funding Agreement dated [date] (the "LFA")

We refer to the LFA and hereby give you notice that we wish to draw down £ [•] **[amount in words]** on **[date]** in respect of item(s) [•] of the Cost Plan (as set out in the attached table in respect of individual items within the Cost Plan) which we are permitted to drawdown in accordance with the LFA and in accordance with the documentation attached to this notice.

The funds should be credited to **[name and number of account and sort code and address of branch]** with **[Name of Bank]**.

We confirm that:

1. to the best of our knowledge, information and belief, having made due and proper enquiries, no breach, or potential breach, of any provision of the LFA has occurred and is continuing;
2. the information contained in the documentation attached to this notice is complete, accurate and not misleading in any material respect; and
3. the representations and warranties contained in the LFA are true and correct at the date hereof by reference to the facts and circumstances existing at such date.

.....
For and on behalf of Royal Borough of Greenwich

[Name and position]

SCHEDULE 10

WARRANTIES

1. All consents, licences, filings, approvals, notifications or authorisations of, exemptions by or registrations or declarations with or other requirements whatsoever of, any governmental, judicial or other authority which are necessary in connection with the Project have been obtained or made, are valid and subsisting and will not be contravened by the execution or performance of the same provided that this representation and warranty shall not extend to any of such consents, licences, filings, approvals, notifications, authorisations, exemptions, registrations, declarations or requirements which at the date hereof are not required or are only obtainable following completion of the Project.
2. There are no mortgages, charges or liens, legal or equitable, specific or floating, affecting the Facility or the Site.
3. There are no adverse claims or disputes or outstanding orders or notices affecting the Facility or the Site which will materially adversely affect the use of the Facility or the Site for the Project.
4. There is no one in adverse possession of all or any part of the Facility or the Site and no one has acquired or is acquiring any rights adversely affecting all or any part of the Facility or the Site.
5. The Applicant has the necessary power and authority to perform and observe its obligations under this Deed and to receive and repay (on the happening of an Event of Default) all or part of the Lottery Grant in accordance with the terms of this Deed.
6. The entering into of this Deed and the agreements referred to herein to which The Applicant is a party has been properly authorised.
7. No Event of Default has occurred which is continuing nor, to the best of the Applicant's knowledge, has any event occurred or arisen which may become an Event of Default.
8. Neither the Facility or the Site, nor the Applicant in relation to the Facility or the Site, is subject to any covenants, obligations, exceptions, reservations, rights, easements, encumbrances, options or interests (including without limitation overriding interests) which will materially adversely affect the use of the Facility or the Site for the Project.
9. There are no legal proceedings or other proceedings pending or threatened before any court, tribunal or commission which might have a material adverse effect on either the

Applicant's ability to perform its obligations under this Deed or the financial and operational viability of the Projects.

10. The Applicant has not offered, given or agreed to give to 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 or having done or not doing anything in relation to the obtaining or execution of this Deed or any matter or thing to be done or not to be done pursuant to it.
11. There is no fact known to the Applicant or information held by the Applicant which has not been disclosed to Sport England and which would reasonably be expected to be material to Sport England making available the Lottery Grant for the Project.
12. All of the written information or statements prepared by or originating from the Applicant to Sport England (and to the best of the Applicant 's knowledge, all other information provided by the Applicant to Sport England) as part of or in connection with the Application and the Project which would reasonably be expected to be material to Sport England making available the Lottery Grant was true, complete and accurate in all material respects at the time it was provided and all expressions of expectation, intention, belief and opinion contained therein were honestly made by it on reasonable grounds after due and proper enquiry.
13. The Applicant has secured binding commitments in order to ensure the provision of all Partnership Funding for the Project.
14. The Applicant has not, without the prior written consent of Sport England (not unreasonably withheld), entered into any contractual or other legally binding confidentiality obligation with any other person or entity which would have the effect of restricting or limiting Sport England's ability to properly scrutinise the use of its grant or would otherwise prohibit Sport England from complying with its obligations or exercise its rights under this Deed.
15. Prior to the Availability Date the Applicant will be entitled to possession of the Site and the Facility to enable the Applicant to discharge its obligations to deliver the Project in accordance with the Strategic Purpose.
16. The Applicant is the legal and beneficial owner of the Site.

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SCHEDULE 11

DISCLOSURE STATEMENT

Contact: Claire Brown

Telephone: 0208-921-5165

Fax: 0208-921-5125

Email: claire.brown@greenwich.gov.uk



Anne Bolger
Sport England
First Floor
21 Bloomsbury Street
London, WC1B 3HF

Law and Governance
4th Floor The Woolwich Centre
35 Wellington Street
Woolwich
London
SE18 6HQ

DX 400851 WOOLWICH 5

Our Ref:

Your Ref: cjb/071024

Date: Tuesday, 26 May 2015

Dear Ms Bolger

CERTIFICATE OF TITLE

Definitions:-

Funder(s): The English Sports Council ("Sport England")

Lead Organisation: The Royal Borough of Greenwich

Property: Hervey Road Playing Field, SE3

Title: 353130

The Lead Organisation acknowledge that the Funder(s) are making available a grant to the Lead Organisation in respect of the acquisition, improvement or development of the Property and is taking a restriction on title or legal charge over the Property to secure obligations of the Lead Organisation in relation to such grant.

Defined terms in this certificate include the whole or any part.

We confirm that we have fully investigated the title to the Property and have made all usual and prudent searches and enquiries with regard thereto and (save as disclosed in the schedule) certify the following:-

Property and Title

1. Tenure (for Leasehold Land please also complete Schedule 1)
Freehold

2. Registration

Title Number 353130 (official copies attached)

3. Adverse Entries

Shown under schedule 2 Disclosure

4. Good Title

The Lead Organisation has a good and marketable title to the Property free from

4.1 any lease, charge, mortgage or lien; or

4.2 easements, covenants or other matters which are onerous or unusual

save for the matters referred to in the Schedule hereto.

5. Adverse Interest

5.1 No person has or will have any right (actual or contingent) to possession, occupation or use of or interest in the Property; and

5.2 Having made all due enquiries the Lead Organisation is not aware that anyone is in adverse possession of the Property or has acquired or is acquiring any rights adversely affecting the Property.

6. Entire Legal and Beneficial Interest

The Lead Organisation holds the entire legal and beneficial interest in the Property subject to the Lease referred to above.

7. Existing Use

7.1 The use of the Property as playing fields is the permitted use of the Property free from any restrictions and conditions under the Town and Country Planning Acts and conforms to the provisions of the Town and Country Planning Acts.

7.2 All necessary planning permissions, bylaw consents and other requisite statutory consents in relation to the occupation and use of the Property have been obtained.

8. Rights benefiting the Property

The Property has the benefit of all rights, easements and way leaves, (including rights of access and support) necessary for the use and enjoyment of the Property for its existing use and for the Grant Award Project, together with all usual services.

9. Development

Appropriate planning permission exists in respect of the Property for the development of the Grant Award Project and no breach or failure to comply with any conditions attached to such planning permission has occurred so far as the Lead Organisation can ascertain from usual searches and enquiries.

10. Local Authority and other Searches

All necessary Local Authority and other Searches, such as Index Map, Environmental, Commons Registration and Mining in relation to the occupation and use of the Property have been ordered and confirmation will follow.

11. Consents

No consent is necessary for the carrying out of the Grant Award Project (other than planning and building regulation consent) or to the charging of the Property in favour of the Funders or where such consent is required of some third party to the carrying out of the Grant Award Project or to the giving of such security this consent has been obtained and is attached to this certificate.

12. Disputes

There are no actual or reasonably foreseeable disputes or claims in relation to the Property.

13. Professional Indemnity

We confirm that we have fully investigated the title of the property and we have made all the usual and prudent searches and enquired with regard thereto (save as disclosed in the Schedule) and certify that the information given is correct.

[We are solicitors holding professional insurance cover of £ 5M.] Not applicable to in-house legal departments.

14. Duty of Care

We acknowledge a duty of care in respect of this certificate to The English Sports Council and their successors.

15. Requisitions

We confirm that we will attempt to satisfy any requisitions raised by the Land Registry in connection with any application to register the restriction on title or legal charge.

Signed.....

Date: Tuesday, 26 May 2015

SCHEDULE 1

(Leasehold Property Only)

We confirm that we have fully investigated the lease and certify the following:

Lease Terms

1. The length of the lease
[insert details]
2. The commencement date
[insert details]
3. The annual rent
[insert details]
4. Parties to the lease
[insert details]
5. The Leaseholder is the same as the Lead Organisation. [If **not**, please disclose in Schedule 2]
6. The lease contains adequate provision for the management, maintenance and repair of common parts, common services and any amenity area. [If **not**, please disclose in the schedule 2]
7. The lease does not contain provision for forfeiture on any ground other than non payment of rent or breach of covenant by the tenant. [If there is other provision for forfeiture please disclose in schedule 2]
8. The right of the Leaseholder to assign, charge or underlet is unfettered. [If **not**, please disclose in the schedule 2]
9. The insurance of the property is controlled by the Leaseholder. [If **not**, does the lessor's insurance cover the replacement value of the property and is the lessor obliged to apply insurance monies to reinstatement?]
10. There are no outstanding rents or other charges due under the lease.

Please confirm the following:

11. Does the lease contain any provision for the review of rent? Yes ☐ No ☐
(If **yes**, please disclose in Schedule 2).
12. Does the lease contain any options to determine? Yes ☐ No ☐
(If **yes**, please disclose in Schedule2).
13. Have Section 24 to 28 of the Landlord and Tenant act 1954 been excluded in relation to the tenancy created by the lease? Yes ☐ No ☐

SCHEDULE 2

Disclosures

Adverse Entries

Charges Register

- 1 Conveyance dated 6th December 1926 (attached)
Clauses 4(4) and 4(5), Schedule A
- 2 Conveyance dated 29th February 1928 (attached)
Clauses 6(4) and 6(5), First part of Schedule

Section 10

Confirmation in respect of up to date local authority and other searches to follow.

SCHEDULE 12

SIGNAGE AND GRANT PROMOTION GUIDANCE

It is an important condition of your award that you publicise your Lottery Grant and Project and give due reference to the Sport England investment you have received. To do this you must:

1. **Please note any press and publicity for this Award is embargoed until your Lottery Grant is confirmed.**
2. Include the appropriate Sport England/Lottery logos on all publicity and marketing materials including, but not limited to, websites, brochures, posters and leaflets. Please visit www.sportengland.org/logo to find out which logo to use and download it. The prominence of this logo should reflect both the value and relative size, when compared to other funders, of the award you have received.
3. Reference the Sport England investment you have received in all press releases and media interviews. The prominence of this reference should also reflect both the value and relative size, when compared to other funders, of your Lottery Grant.
4. Continuously promote the Project in accordance with Clause 7.8 of the Lottery Funding Agreement. We would request that you send publicity, marketing and media materials to Sport England by emailing copies to goodnews@sportengland.org
5. Arrange an official opening ceremony for your new or upgraded facility within a reasonable period after its completion, at which Sport England may be represented. You should email goodnews@sportengland.org with details of the event, with at least once month's notice.
6. As your Lottery Grant is for a capital project, you must display in a prominent position on your new or upgraded Facility, Sport England's signage, using Sport England's preferred supplier, DMA