Football Foundation

Facilities Grants

General Terms and Conditions of Grant

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1. Definitions

1.1 For the purposes of the Grant and the Grant Agreement (as defined below) the following expressions shall have the meanings respectively ascribed to them:

"Organisation Application"	means the application submitted by or for the Organisation for a Grant in respect of the Project and shall include all written and oral representations made by the Organisation to the Foundation regarding the Organisation, the Project and the Facilities
"Business Plan"	means a plan prepared by the Organisation relating to the financial and operational management and marketing of the Project and the Facilities
"Capital Funding"	means the Grant (or part of Grant) referred to in the Grant Offer Letter that relates to funding which is to be used for the purchase, construction or development of Facilities and/or Grant Assets
"Clawback Period"	means the period of 21 years from the date of acceptance of the Grant
"Facilities"	means any facility, capital equipment (including Grant Assets), buildings (including fixtures and fittings) and/or land in respect of which the Grant is made as specified in the Grant Agreement and shall include, without limitation, any facility, equipment, buildings and/or land proposed to be acquired or improved as a result of the Grant
"Football Development Plan"	means a plan prepared by the Organisation setting out the aims, objectives, responsibility and timescales relating to the development of football in the area in which the Facilities are situated
"Foundation"	means the Football Foundation (registered company number 3876305; registered charity number 1079309) whose registered office is at 30 Gloucester Place, London W1V 8FF and references to the Foundation shall include the Foundation, its staff and any other person representing the Foundation
"Funders"	means the Big Lottery Fund, the Exchequer, Sport England, the Football Association Limited and the Football Association Premier League Limited, as applicable
"General Terms and Conditions"	means these terms and conditions

"Grant"	means the sum referred to in the Grant Offer Letter awarded to assist in financing the Project which may consist of Capital Funding and/or Revenue Funding
"Grant Assets"	means any property (i) whose acquisition, creation or improvement is funded in total or in part by the Grant; and (ii) that has an acquisition cost or value (whichever is higher) of £1,000 or above; and (iii) that has an economic life of three years or more (based on normal accounting practice)
"Grant Agreement"	means the agreement entered into between the Organisation and the Football Foundation in the form of a Grant Offer Letter, which incorporates these General Terms and Conditions
"Grant Offer Letter"	means the grant offer letter sent to the Organisation confirming the Grant
Organisation"	means the organisation or organisations to which the Grant is made
"Practical Completion"	means, where the Facilities are land or buildings to be constructed or improved as a result of the Grant, the date specified in any certificate issued by the supervising architect, surveyor, engineer or other competent professional as the date on which work on the Facilities was practically completed under the terms of the relevant building contract
"Project"	means the project or projects described in the Application, the Football Development Plan and/or the Grant Offer Letter
"Project Specification"	means the most recent specification for the Project supplied by the Organisation and approved by the Foundation
"Revenue Funding"	means the Grant (or part of Grant) referred to in the Grant Offer letter that relates to funding which is to be used for management or development of projects and/or the purchase of equipment that does not constitute Grant Assets
"Sign Contractor"	means the person named in the Grant Agreement as the Foundation's authorised supplier of signs, or such other person as may from time to time be notified by the Foundation to the Organisation; and
"Sport England"	means The English Sports Council.

1.2 References in the Grant Agreement to any clause, sub-clause or Schedule without further designation shall be construed as a reference to the clause, sub-clause or Schedule to the Grant Agreement so numbered.

2. Use of Grant (All Grants)

2.1 The Grant will be used solely towards the Project in accordance with the Grant Agreement, and only by the Organisation, and under no circumstances shall it be used for any other purpose.

2.2 The Organisation will use its best endeavours to deliver the aims and objectives detailed in the Football Development Plan and in accordance with the Business Plan.

2.3 Delivery of the Project will comply with any Project Specifications agreed with the Foundation.

3. Construction of Facilities (Capital Funding Only)

Where land or buildings are to be acquired, constructed or improved as a result of the Grant: -

3.1 the highest standard of Facilities must be aimed for;

3.2 the Organisation must have security of tenure of the Facilities and/or the land on which the Facilities are built for the Clawback Period by means of a freehold or uninterruptible leasehold. A copy of any relevant lease must be sent to the Foundation on request;

3.3 the construction, improvement and/or development of the Facilities must be supervised throughout by a qualified architect, surveyor or engineer or other competent professional;

3.4 the Organisation must take into account and make appropriate provision for use and enjoyment of the Facilities by people with disabilities; and

3.5 the Organisation will notify the Foundation immediately following Practical Completion.

4. Construction/Development of the Facilities (Capital Funding Only)

In respect of the costs of construction and/or development of the Facilities:

4.1 at least three competitive tenders for the provision of the Facilities shall be obtained by the Organisation in accordance with normal tender and contract procedures;

4.2 an explanation of the tender accepted shall be submitted to the Foundation prior to works being commenced. The explanation must be satisfactory to the Foundation, failing which the Grant may be withdrawn by the Foundation at its sole discretion and any Grant monies already paid shall immediately become repayable to the Foundation;

4.3 a copy of the original “form of tender” from the appointed contractor for the construction works shall be submitted, together with a list of the unsuccessful tenders. On Facilities where a “tender report” is prepared by a consultant quantity surveyor, architect, or other professional, a copy of this report shall also be submitted; and

4.4 the Organisation shall ensure that the Foundation has the right, in its absolute discretion, to inspect and copy the relevant documents and records of all persons from whom tenders have been obtained in relation to the Project.

5. Management & Use of Project and Facilities (Capital Funding Only)

5.1 The purpose of the Project, the arrangements for management and community use of the Facilities and the purpose for which the Facilities are used shall be as set out in the Application and the Grant Agreement and shall not be changed throughout the Clawback Period without the prior written consent of the Foundation.

5.2 The Organisation undertakes, warrants and agrees to use its best endeavours to manage and operate the Project and the Facilities in accordance with the aims, objectives, targets, and timescales set out in the Football Development Plan and the Business Plan.

5.3 The Organisation shall at all times throughout the Project and the development of the Facilities and until the expiry of the Clawback Period:

5.3.1 ensure that, unless the Foundation has given its prior written consent, the fees and charges for use of the Project and the Facilities by members of the public do not increase beyond any increase in the Retail Price Index from the date on which the Application was approved by the board of the Foundation;

5.3.2 keep the Facilities, and all facilities, fittings or equipment used in connection with them in good repair and condition and undertake all things as may be necessary to ensure their proper maintenance;

5.3.3 decorate all internal and external parts of the Facilities following their construction as often as may be necessary in the opinion of the Foundation;

5.3.4 take out and keep in force a comprehensive policy of insurance with reputable insurers to cover the Project, the Facilities, the Grant Assets, their use and any activities carried out thereon against and in respect of all usual risks (including third party, public, employee and occupier’s liability) to their full replacement value (where relevant), and a copy of the current policy and evidence of premium payment shall be provided to the Foundation upon request;

5.3.5 make and operate satisfactory arrangements for the storage and safekeeping of any equipment, or Grant Assets, acquired or improved as a result of the Grant. If any such equipment is lost or

otherwise unavailable for use the Organisation shall replace it as soon as reasonably practicable at no cost to the Foundation;

5.3.6 take into account and make appropriate provision for use and enjoyment of the Project and the Facilities by people with disabilities;

5.3.7 ensure that no-one will be denied access to use the Project or the Facilities on grounds of disability, race, creed, colour, sex, occupation, sexual orientation, religion or political persuasion;

5.3.8 comply with all statutory requirements and other laws and regulations relating to the Project and the Facilities and the development and operation thereof, including without limitation employers' liability insurance, the national minimum wage, the "Working Time" Directive, health and safety, child protection, data protection, intellectual property, and religious, political, race, sex and disability discrimination requirements, laws and regulations.

5.4 The Organisation must inform the Foundation in writing of anything that materially threatens, makes unlikely, or delays the completion or success of the Project and the Facilities.

6. Management of the Project (Revenue Funding Only)

6.1 The purpose and the duration of the Project shall be as set out in the Application and the Grant Agreement and shall not be changed without the prior written consent of the Foundation.

6.2 The Organisation undertakes, warrants and agrees to use its best endeavours to manage and operate the Project in accordance with the Football Development Plan and the Business Plan.

6.3 The Organisation shall at all times throughout the Project:

6.3.1 ensure that, unless the Foundation has given its prior written consent, the fees and charges for the use or participation in the Project by members of the public do not increase beyond any increase in the Retail Price Index from the date on which the Application was approved by the board of the Foundation;

6.3.2 take out and keep in force a comprehensive policy of insurance with reputable insurers to cover the Project in respect of all the usual risks and provide a copy of the current policy and evidence of premium payment to the Foundation upon request; and

6.3.3 comply with the provisions of 5.3.5 to 5.3.8 and 5.4 in relation to the Revenue Funding.

6.4 Where Revenue Funding is to be used for the employment of staff or consultants the Organisation shall:

6.4.1 advertise for the post and supply details of the post, the recruitment process and any recruitment advertisements to the Foundation; and

6.4.2 obtain the prior written consent of the Foundation to the matters in clause 6.4.1; and

6.4.3 throughout the selection, recruitment and appointment process apply equal opportunity policies; and

6.4.4 supply to the Foundation details of the terms of employment if requested by the Foundation.

7. Payment

7.1 Payments of Grant will only be paid into an ordinary business bank account in the name of the Organisation. Cheques from the account must be signed by at least two individuals.

7.2 The Organisation shall not deposit any part of the Grant outside ordinary business accounts within the clearing bank system, without the prior written consent of the Foundation.

7.3 The Foundation reserves the right to call for proof of payment.

7.5 No Grant will be paid until the Foundation is satisfied (acting reasonably) that such payment will be in relation to proper expenditure for the Project.

7.6 The Organisation must promptly repay to the Foundation any Grant incorrectly paid to it as a result of any administrative error. This includes (without limitation) situations where either an incorrect value of Grant has been released or where Grant has been released in error before all applicable General Terms and Conditions of Grant have been complied with by the Organisation.

7.7 The Organisation must request the first payment of Grant within six (6) months of the date of the Grant Offer Letter, unless otherwise agreed in writing by the Foundation. If this date cannot be met, the Organisation must promptly send the Foundation a written explanation as to the reasons for the delay in requesting payment. If the first payment of Grant is not requested by the Organisation within six (6) months of the date of the Grant Offer Letter, the Grant will automatically lapse without the Foundation providing any additional warning or other form of notification to the Organisation. Thereafter, the Foundation will not be liable for making any future Grant payments and the Grant Agreement shall terminate immediately provided always that termination of the Grant Agreement for whatever cause shall not prejudice or affect the rights of one party against the other in respect of any breach of the Grant Agreement.

7.8 The Organisation must request the last payment of the Grant within twelve (12) months of the date that the first claim is paid by the Foundation, unless otherwise agreed in writing by the Foundation. If not requested within such

twelve (12) month period the Foundation will have no obligation to make any further payment(s) pursuant to the Grant Agreement.

8. Claiming Capital Funding

8.1 Capital Funding to purchase, construct or develop Facilities shall be paid as follows:

8.1.1 on compliance with any pre-construction conditions and pre-claim capital conditions set out in paragraph 1.1 of the Offer Letter and on receipt of appropriately completed claim forms and accompanying invoices the Foundation will pay claims at the same percentage rate that the Grant bears to the Project cost as set out in the Grant Offer Letter. This will continue until 95% of the Capital Funding has been released. The remaining 5% of the Capital Funding will only be paid:-

(a) on receipt of an independent auditors certificate (or, where previously agreed with the Foundation, a statement confirming the relevant accounts have been independently examined);

(b) on receipt of a certificate of practical completion;

(c) on receipt of a certificate confirming all relevant Building Control Regulations have been complied with and any mechanical and electrical test certificates;

(d) on receipt of written confirmation from the planning department confirming the discharge of any conditions attached to the planning approval; and

(e) on completion of a site visit by the Foundation or its agent; and

(f) on satisfaction any other condition that remains outstanding specified in the Grant Offer Letter.

8.1.2 the Organisation must ensure that sufficient funds are retained to meet the balance of any costs and to cover the period between the penultimate payment and completion of the work to be funded by the Capital Funding; and

8.1.3 claim forms will be provided by the Foundation and should be completed and returned as the work progresses. Each form must include a completed statement of expenditure and details of the net value of the work completed at each claim stage (excluding voluntary labour, other contributions in kind, contractual retention fees and other non-allowable costs). The form must be counter-signed by an appropriately qualified and authorised person and must be accompanied by appropriate supporting documentation.

9. Claiming Revenue Funding

9.1 On compliance with the pre-claim revenue conditions set out in paragraph 1.1 of the Offer Letter and on receipt of satisfactory completed revenue claim form and relevant supporting documents, the Foundation will pay claims six monthly in arrears in accordance with and at the same percentage rate detailed in Schedule One to the Grant Offer Letter.

9.2 Where Capital Funding is being provided then notwithstanding clause 9.1, no Revenue Funding will be paid unless the first claim under the Capital Funding element has been paid.

10. Project publicity

10.1 Where Capital Funding has been received:

10.1.1 throughout the Project and during the Clawback Period the Organisation will be asked to erect at the site of the Project and/or at the Facilities such internal and/or external signs reflecting the Grant as may be supplied to it by the Sign Contractor on behalf of the Foundation;

10.1.2 the Organisation shall be responsible for obtaining all approvals or consents for installation of the sign as may be required by statute, contract, landlord permission or otherwise;

10.1.3 on delivery of any sign to the Organisation the sign will become the property of the Organisation, which will maintain all signs to a satisfactory and safe condition. The Organisation will notify the Foundation and the Sign Contractor immediately if there are any defects in the sign or its installation;

10.1.4 the Organisation shall for the Clawback Period officially acknowledge the support of the Foundation in all materials which refer to the Project, and all spoken public presentations about the Project; and shall include (where appropriate or where requested by the Foundation) the Foundation's logo and, if asked by the Foundation, the names and/or logos of such of the Funders as the Foundation shall specify, provided always that the Foundation's logo may only be used with the prior written consent of the Foundation.;

10.1.5 the Organisation will co-operate with the Foundation in respect of publicity for the Grant. The Foundation will co-ordinate media activity in respect of the Grant. The Organisation shall not issue any public release nor hold any press conference about the Grant or the Facilities without the prior written consent of the Foundation; and

10.1.6 the Organisation shall arrange an official opening ceremony for the Project and/or the Facilities (in the latter case within a reasonable period after completion of the Facilities), which the Foundation may

attend. The Organisation shall liaise with the Foundation to agree a date of and the arrangements for the opening ceremony.

10.2 The Organisation will keep the Foundation informed of any sponsorship relating to an event, programme or facility wholly or substantially funded by the Grant, will use its best endeavours to include in any such sponsorship agreement(s) entered into after the date of this Agreement a clause prohibiting the sponsor ambushing the Foundation's Grant or by taking credit due to the Foundation or its Funders for that funding and will use all reasonable endeavours to prevent ambush marketing tactics by the sponsor and ensure the Foundation and its Funders receive appropriate credit proportionate to the amount of funding it has contributed. For the avoidance of doubt, this clause shall not prevent a sponsor taking full credit for its own funding.

10.3 Where Revenue Funding has been received the Organisation will give appropriate recognition for the financial contribution provided by the Foundation for the duration of the Project.

10.4 For all Grants the Foundation shall have the right to promote its association with the Organisation, the Project and Facilities publicly and the Organisation shall grant the Foundation a licence without charge to use the name and image of the Organisation without restriction for this purpose.

11. Project monitoring

11.1 The Project and the Facilities shall be closely monitored by the Foundation throughout the Clawback Period to ensure that the aims and objectives specified in the Application, Football Development Plan, Business Plan and Project Specification are being met, that the Grant Agreement is adhered to and that the Project and the Facilities represent good value for money.

11.2 Wherever it requires during the Clawback Period (including without limitation at any time both during the development and/or construction phases of the Project and the Facilities and after completion of the Project and the Facilities), the Foundation and any person authorised by the Foundation may make unannounced visits (including without limitation site visits, site audits and compliance visits) and may request meetings, for the purposes of monitoring the Project and the Facilities and monitoring compliance with the Grant Agreement. The Organisation will facilitate and co-operate in the arrangement and conduct of such visits and meetings, and shall allow the Foundation and any person authorised by the Foundation access to inspect the Project and/or the Facilities at any time.

11.3 The Organisation will promptly provide to the Foundation any information and/or reports (including without limitation regular progress reports) requested by the Foundation in connection with the Project, the Facilities or the Organisation and its activities. The Organisation will complete any questionnaires requested by and respond promptly to any questions raised by the Foundation.

11.4 The Organisation shall evaluate and monitor the Project and, where Capital Funding has been provided, the Facilities, their use and success, and shall cooperate with and provide all the assistance required by the Foundation to allow the Foundation to evaluate and monitor the Project and the Facilities and their use and success. In particular, but without limitation, the Organisation shall keep records of the number of jobs created by the Project and Facilities, the number of users and other beneficiaries of the Project and the Facilities, and such other information as the Foundation shall require from time to time.

11.5 The Organisation will provide a final report on the Project, in such form as is required by the Foundation, which confirms that the Project has been properly completed.

11.6 The Foundation may call for the views of any appropriate organisation or person on the progress of the Project.

11.7 The Organisation shall on request provide the Foundation with contact details of an individual who shall liaise with Sport England to provide the contact details of users of the Project to allow Sport England to monitor and evaluate use of the Project. In providing this information to both the Foundation and Sport England, the Organisation shall comply with all relevant data protection legislation.

12. Accounts and Records

12.1 If all or any part of the Grant is awarded for the purchase of Grant Assets the Organisation shall maintain a detailed register of the Grant Assets throughout the Clawback Period and shall supply the Foundation with a copy of this annually, or when new assets are acquired or disposed of (whichever is the sooner).

12.2 The Organisation shall keep separate, full, proper and up-to-date accounts and records regarding the development, purchase, financial trading and use of the Project and the Facilities. Any person or persons authorised by the Foundation shall be given access, at the Foundation's request, to these accounts and financial records and the Foundation shall have the right to take copies of such accounts and records.

12.3 The Organisation must have its accounts externally audited (or independently evaluated, where appropriate) and if requested by the Foundation must provide a copy of the audit (or evaluation) report and the annual accounts to the Foundation.

12.4 The Organisation must meet any relevant statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns.

12.5 The Grant must be shown in the Organisation's accounts as a restricted fund and not be included under general funds.

13. Mortgage, Disposal, Lease, or Change of Use of Facilities (Capital Funding Only)

13.1 During the Clawback Period, subject to the terms of any charge or charges to which the Foundation shall previously have consented, the Organisation shall not without the prior written consent of the Foundation's Chief Executive:

13.1.1 transfer, sell, lease, licence or otherwise dispose of all or any part of the Facility;

13.1.2 grant any charge, mortgage or other form of security or encumbrance over all or any part of the Facility; or

13.1.3 cease to use the Facility for the purposes previously approved by the Foundation.

The Organisation shall give written notice to the Foundation a reasonable period before it proposes to take any action that requires consent under this clause.

13.2 The Foundation may give consent in accordance with clause 13.1 subject to any or all of the following conditions:

13.2.1 the sale, lease, licence or other disposal is made at full market value as determined and evidenced by an independent professional valuation by an appropriately qualified expert approved in writing by the Foundation;

13.2.2 prior to the completion of the transfer, lease, licence, sale or other disposal the proposed new owner of the Facility enters into a deed of novation with the Foundation to ensure that the new owner is obliged to comply with the terms of the Grant Agreement in place of the Organisation;

13.2.3 the Organisation repays to the Foundation a sum equivalent to the Grant or at the discretion of the Foundation a sum equivalent to the Grant increased in line with inflation as determined by the Retail Price Index or such other sum as the Foundation at its discretion deems appropriate;

13.2.4 termination of the Grant Agreement;

13.3 failure to obtain consent as required by clause 13.1 or failure to comply with any conditions imposed in accordance with clause 13.2 shall entitle the Foundation to terminate the Grant Agreement and to receive repayment from the Organisation of a sum equivalent to the Grant or at the discretion of the Foundation a sum equivalent to the Grant increased in line with inflation as determined by the Retail Price Index or such other sum as the Foundation at its discretion deems appropriate.

14. Cessation or Suspension of Grant and Termination (all Grants)

14.1 Without prejudice to the Foundation's other rights and remedies, (a) the Foundation's obligation to make any payments of Grant shall forthwith cease; (b) the Foundation may make all further payments of Grant subject to such conditions as it may specify; (c) the Foundation may require the full amount of Grant released to the Organisation (or such other sum as the Foundation may require) to be repaid to the Foundation on demand and (d) the Foundation shall have the right at any time during the Clawback Period to terminate this Agreement forthwith or suspend all or any of its obligations hereunder upon such terms and for such period as the Foundation shall at its absolute discretion determine; if:

14.1.1 the Organisation ceases to operate for any reason, or it passes a resolution (or the Court makes an order) that it be wound up (other than for the purpose of a bona fide reconstruction or amalgamation), or, if it was a charity at the time that the Application was made, it ceases to be a charity;

14.1.2 the Organisation becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or any of its members are surcharged or a manager is appointed on behalf of a creditor in respect of its business or a part thereof, or it is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as amended;

14.1.3 within the Clawback Period the Organisation fails to comply with any of the General Terms and Conditions of the Grant Agreement;

14.1.4 in the reasonable opinion of the Foundation or any of the Funders the Organisation fails to apply any part of the Grant for the intended purpose;

14.1.5 in the reasonable opinion of the Foundation or any of the Funders the Organisation fails to complete the works to be carried out in executing the Project in accordance with the terms of and to the standard indicated in the Application (unless any variation has been previously approved in writing by the Foundation);

14.1.6 any of the circumstances described in clause 15.1 occur without the Foundation's prior approval of a new application as required by that clause;

14.1.7 the Organisation fails to complete the Project on time or within a reasonable period (when no time is specified) or it appears that the Project is unlikely to be completed on time or within such period;

14.1.8 after considering the purpose of the Grant, in the Foundation's opinion further payment of the Grant would not constitute good value for money. (However, the Foundation shall, subject to the other terms of this Agreement, continue to pay the Grant to the extent that

the Organisation has, with the prior written consent of the Foundation, contracted for goods and services and it is not practically possible to cancel such arrangements.);

14.1.9 there is evidence of financial mismanagement, breakdown of budgetary control or any other irregularity, within the Organisation;

14.1.10 in the reasonable opinion of the Foundation or any of the Funders, any of the assurances given or representations or information contained in the Application or other documents submitted by the Organisation to the Foundation were fraudulent, incorrect or misleading, or if the Organisation acts fraudulently. Any attempts to defraud the Foundation by any means will be pursued rigorously: a report will be submitted to the appropriate body and any other necessary action taken;

14.1.11 any assurance, representation, release of information or statement made regarding the Application or the Project has changed in a manner that has a materially adverse effect on the Project and the Organisation has not informed the Foundation of the change;

14.1.12 the Organisation, any member of the governing body, volunteer or member of staff of the Organisation, any person acting under the control or authority of the Organisation or any partner or partnership organisation connected in any way with the Application, the Project or the Facilities have acted fraudulently or negligently at any time or in a manner which might have a detrimental effect on the Project, or the completion, development or management of the Facilities;

14.1.13 the Organisation, any member of the governing body, volunteer or member of staff of the Organisation, any person acting under the control or authority of the Organisation, or any partner or partnership organisation connected in any way with the Application, the Project or the Facilities does anything which may bring the Foundation into disrepute;

14.1.14 the Organisation is offered for public subscription to flotation on the stock market; or

14.1.15 any of the following circumstances occur without the Organisation first notifying the Foundation and obtaining its prior written consent and the Foundation reasonably considers such circumstances to be materially detrimental to the Project: -

(a) a transfer of assets from the Organisation to a third party;

(b) merger or amalgamation by Organisation with another body (including a company established by the Organisation);

(c) except where the Organisation is a local authority or parish council any change to the composition, structure or key personnel of the Organisation; or

(d) except where the Organisation is a local authority or parish council, any change to the Organisation's constitution, in particular but without limitation as regards its purposes, payment to members and members of its governing body, distribution of assets (whether on dissolution or not) or admissions of members (where it has a membership).

14.2 Without prejudice to sub-clause 14.1 the Foundation may suspend all or any of its obligations under the Grant Agreement while investigations are carried out into any matter referred to in sub-clause 14.1.

14.3 If the Foundation chooses to suspend this Agreement pursuant to this clause and the Organisation remains in default of any of the provisions of sub-clause 14.1, or indicates its intention to remain in default of any such provision, the Foundation may terminate the Grant Agreement immediately upon notice in writing to the Organisation.

15. New Application

15.1 Without prejudice to clause 14, a new application must be submitted to the Foundation if prior to full payment of the Grant:

15.1.1 the Organisation proposes to change or vary the Application, the Project, its implementation, the works carried out or to be carried out in the execution of the Project, the Facilities or the purpose of the Facilities;

15.1.2 the Organisation proposes to dispose of the whole or any part of the Facilities;

15.1.3 there is a change to the ownership of the Facilities;

15.1.4 the legal structure or ownership of the Organisation changes;

15.1.5 it is proposed that the legal identity of the Organisation should change; or

15.1.6 there is a material change in the financial circumstances of the Organisation.

15.2 While the new application is being considered, no payments of the Grant shall be made and any payments made or liabilities incurred by the Organisation in respect of the Facility shall be at their sole risk and expense. In the event of the Grant being rescinded, the Foundation shall, at its sole discretion, be entitled to demand a full or partial refund of any payments of Grant already made.

16. Further conditions

16.1 The Organisation agrees and accepts that payments of Grant can only be assured to the extent that the Foundation has available funds.

16.2 The Foundation may on giving prior written notice to the Organisation assign or transmit the benefit and burden of the Grant Agreement established by virtue of these General Terms and Conditions to any successor body of the Foundation.

16.3 The Organisation acknowledges that the Grant and the Grant Agreement are personal to it and not transferable.

16.4 Unless otherwise agreed by the Foundation in writing, the Organisation must notify the Foundation in writing of any legal actions, claims or proceedings made or threatened against it (including any actions, claims or proceedings made or threatened against members of its governing body or staff) during the Clawback Period. Such notification shall be made as soon as practicable and in writing.

16.5 If the Organisation is not registered for VAT, this may be considered as part of the eligible project cost. Should the Organisation subsequently become registered for VAT, and be able to reclaim that element of expenditure, the reclaimed tax will be repaid to the Foundation. The Foundation will not increase the amount of the Grant if VAT is or becomes payable and/or unrecoverable. The Organisation is advised to seek its own advice on its own and the Project's status as regards VAT.

16.6 The Foundation shall have the right in its absolute discretion to disclose and make available for inspection and copying any information, documents, accounts and/or records relating to or concerning the Project, the Facilities and the Organisation to third parties including, without limitation, the Funders, the National Audit Office and any person authorised by any of them. The Foundation will be sensitive to situations where it is aware that confidentiality is a significant matter, but the Organisation acknowledges that the Foundation is obliged under the terms of agreements with the Funders to disclose certain information, documents, accounts and/or records relating to or concerning the Project, the Facilities and the Organisation to third parties.

16.7 Any failure, relaxation, forbearance, delay or indulgence by the Foundation in enforcing any of the terms or conditions of the Grant Agreement shall not be deemed a waiver of future enforcement of that or any other provision, and nor shall the granting of any time by the Foundation prejudice or affect or restrict any of its rights arising under the Grant Agreement or be deemed a waiver by the Foundation of any breach or subsequent or continuing breach.

17. Duration

Except where otherwise specified, the General Terms and Conditions of the Grant Agreement will apply from the date on which they are accepted by the Organisation until the later of:

17.1 the period of one year following payment of the last instalment of Grant;

17.2 so long as any Grant monies remain unspent by the Organisation;

17.3 where Capital Funding has been received for the duration of the Clawback Period; and

17.4 so long as any General Terms and Conditions of the Grant Agreement remain unperformed, or any event referred to in clause 14 has occurred and is continuing.

18. Warranties

The Organisation warrants, undertakes and agrees that:

18.1 it has all necessary resources and expertise to carry out the Project;

18.2 it has and will keep in place adequate procedures for dealing with any conflicts of interest;

18.3 it has and will keep in place systems to deal with the prevention of fraud;

18.4 all financial and other information concerning the Organisation comprised in the Application or otherwise disclosed to the Foundation is to the best of its knowledge and belief, true and fair;

18.5 it is not under any contractual or other restriction within its own or any other organisation's rules, regulations or otherwise which may prevent or materially impede meeting its obligations in connection with the Grant;

18.6 it is not aware of anything in its own affairs, which it has not disclosed to the Foundation or any of its advisers, which might reasonably have influenced the decision of the Foundation in making the Grant on the terms contained in the Grant Agreement;

18.7 since the date of the last accounts there has been no change in the financial position or prospects of the Organisation.

19. Multiple Organisations receiving the Grant

Where there is more than one organisation receiving the Grant and/or delivering the Project: -

19.1 where any standard, obligation, representation or warranty under this Agreement is expressed to be undertaken or adhered to by the Organisation, each organisation shall be jointly and severally responsible for it;

19.2 the Foundation may release or compromise the liability of any of the organisations acting as the Organisation under this Agreement or grant any time or other indulgence without affecting the liability of any of the other organisations; and

19.3 any consent or authority given by the Organisation under or in connection with this Agreement shall bind all the organisations.

20. Exclusion of Liability/Indemnity

20.1 The Foundation, its employees, agents, officers or sub-contractors will not at any time be liable to any person for anything in connection with the development, planning, construction, operation, management and/or administration of the Facilities or the Project. In particular but without limitation, it shall not be liable to the Organisation for any loss or damage arising directly or indirectly as a result of the compliance by the Organisation with the General Terms and Conditions of this Grant Agreement.

20.2 The Organisation will indemnify and hold harmless the Foundation, its employees, agents, officers or sub-contractors with respect to all claims of, and liability to, third persons for injury, death, loss or damage of any type arising out of or in connection with the Facilities, the Project and any activities carried out thereon except where such injury, death, loss or damage have resulted from the negligent act or omission of the Foundation or its employees or agents. In this latter case, the Organisation shall provide prompt notice to the Foundation of any such claim, and the Foundation shall have the sole right to control the defence of any such claim.

20.3 The Foundation has no liability for losses or costs arising from failure to make any payment of the Grant on any agreed date.

21. Security (Capital Funding)

21.1 With regard to Capital Funding only, in the event that the construction or development of the Facility or purchase of land for the Facility exceeds £100,000 in value the Foundation may require that the Organisation shall at its own cost, if the Foundation so requires:

21.1.1 enter a restriction in such form as the Foundation may require on the registered title of the relevant property ; and/or

21.1.2 grant or cause to be granted to the Foundation a legal charge over the relevant property in such form as the Foundation may require; and

21.1.3 in either case the Organisation shall execute such further documents and provide such assistance as the Foundation may reasonably require in order to effect either of the foregoing and the Organisation shall make the necessary registrations at Companies House and/or the Land Registry and supply the Foundation's solicitors with evidence of such registrations.

21.1.4 in the case of a charity and the giving of a legal charge comply with the provisions of s.38 of the Charities Act 1993 (as amended).

21.2 The Organisation shall provide in the case of a legal charge a solicitor's certificate of title confirming good and marketable title in respect of the relevant property in such form as the Foundation may require.

21.3 The Organisation shall provide a solicitors' undertaking to be responsible for the Foundation's solicitor's fees in connection with the grant of a legal charge or the entry of a restriction on the registered title or in the case of unregistered land a caution against first registration and the completion of a deed of dedication.

22. Law and Jurisdiction

The construction, validity and performance of the Grant Agreement shall be governed in all respect by English law and be subject to the non-exclusive jurisdiction of the English Courts. The parties undertake to each other to use their best endeavours wherever possible to resolve any dispute, which may arise under the Grant Agreement amicably.

23. Rights of Third Parties

Subject to clause 24 below, a person who is not party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Grant Agreement.

24. Funders

24.1 The Foundation has been appointed by Sport England to enter into agreements with Organisations for the purpose of distributing Lottery and government funds to Organisations.

24.2 The Foundation enters into the Grant Agreement as principal for itself and as agent for and on behalf of Sport England.

24.3 The Organisation acknowledges that copies of the Grant Agreement and any other information, documents, accounts and/or records may be disclosed and made available to the Funders, the National Audit Office and any person authorised by them, and their respective representatives.

24.4 The Funders have a right to enforce any of the Foundation's rights under the Grant Agreement. Such rights may not be altered or extinguished without the consent of the Funders.

24.5 The Funders shall have all rights conferred on the Foundation by the Grant Agreement including without limitation all rights to information, inspection, disclosure, access and clawback.

24.6 In the event of any of the events listed in clause 14 of these General Terms and Conditions occurring, the Funders have a right to have the Grant Agreement novated to the Funders or any successor of the Funders to allow them to take the place of the Foundation in relation to this Grant Agreement.

24.7 The Funders may disclose any information concerning the Organisation, the Project or the Facilities to any persons.

24.8 In the event of any termination of the Foundation's agreement with any Funder:

24.8.1 the Organisation will return to the relevant Funder all the documentation relating to the Grant and specified by the Funder at a date to be agreed between the Funder and the Foundation; and

24.8.2 the Organisation shall return to the relevant Funder any part of the Grant provided to the Foundation by such Funder which is unspent on the date that the Funder or the Foundation notified its desire to terminate the agreement between the Funder and the Foundation, subject to the agreed terms of termination.

24.9 Any of the Funders may assign all or any of its rights under this Agreement to any successor or such other body as the relevant Funder shall determine.