

# APPENDIX ONE

## THE STANDARD TERMS AND CONDITIONS OF AWARD



SPORT NORTHERN IRELAND  
HOUSE OF SPORT  
UPPER MALONE ROAD  
BELFAST  
BT9 5LA

## STANDARD TERMS AND CONDITIONS OF AWARD

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# 1. Definitions & Interpretation

<b>"We", "us", "our"</b>	The Applicant Organisation receiving the Award, referred to in the Letter of Offer.
<b>Sport Northern Ireland</b>	This means the Sports Council for Northern Ireland, an executive non-departmental public body, established on 31 December 1973, under the provisions of the Recreation and Youth Service (Northern Ireland) Order 1971.
<b>The Agreement</b>	The Agreement means the Letter of Offer and these Standard Terms and Conditions of Award (which term shall include the appendices), and any amendment or variation validly made thereto. In the case of conflict, the Letter of Offer will take precedence over these Standard Terms and Conditions.
<b>The Award</b>	The Award means the award referred to in the Letter of Offer.
<b>The Form of Acceptance</b>	This means the document to be sent back to Sport Northern Ireland acknowledging our acceptance of the Award.
<b>Commencement Date</b>	1 <sup>st</sup> April 2021 or such later date on which Sport Northern Ireland receives from us the signed and duly completed Form of Acceptance, together with any other documents that the Agreement requires us to complete and return, prior to commencement of the Agreement.
<b>The Project</b>	This means the project as set in the Business Case, Project Plan and other document submitted by us to Sport Northern Ireland, as the basis for receiving the Award, as referred to in the Letter of Offer.
<b>The Business Case</b>	This means the Business Case that complies with The Northern Ireland Guide to Expenditure Appraisal and Evaluation (NIGEAE) A business case is the systematic process for examining alternative uses of resources through the following methods: <ul style="list-style-type: none"> <li>• Designed to assist in defining problems and finding solutions that offer the best value for money;</li> <li>• A way of considering expenditure proposals initially from the emergence of the need for a policy, programme or project, until its implementation; and</li> <li>• The established vehicle for planning and approving public expenditure policies, programmes and projects.</li> </ul>
<b>The Offer Letter</b>	This means the letter sent by Sport Northern Ireland to us, setting out the offer of Award and enclosing these Standard Terms and Conditions.

<b>The Purpose</b>	The Purpose of the Award is to support our implementation and delivery of the Project, to achieve the Performance Measures, which is solely for the benefit of sport and recreation in Northern Ireland.
<b>The Performance Measures</b>	This means those Performance Measures agreed with Sport Northern Ireland that we will collect, analyse and report regarding our performance with the Project.
<b>Eligible Expenditure</b>	This means the expenditure that is deemed eligible by Sport Northern Ireland to deliver the Project. This is broken down into formal Budget Headings. Any request for a change of expenditure to the Budget Headings or to the total Eligible Expenditure should be made well in advance to Sport Northern Ireland on the Change Request Form.
<b>Partnership Funding</b>	This means those sums, excluding the Award secured by us (and properly evidenced to Sport Northern Ireland), to make up the total cost of the Project together with the Award.
<b>The Term</b>	The Term of the Agreement shall be from the Commencement Date until the date specified in the Letter of Offer, unless the Agreement is brought to an end at an earlier date in accordance with the Term.
<b>Intellectual Property</b>	This means any patent, registered designed, copyright and neighbouring rights, design right, database right, rights in relation to inventions, topography right, trade mark (whether registered or unregistered), service mark, application to register any of the aforementioned rights, trade secret, right in unpatented know-how, right of confidence and any other intellectual or industrial property right or right arising from the sporting, scientific, artistic fields of any nature whatsoever in any part of the world.
<b>An Asset</b>	An asset is a "capital item", which is a single item costing £1,000 (incl. VAT) or more and has a useful economic life of more than 12 months. For example, an annual software license costing £1,200 would not be considered "capital", whereas a photocopier costing £1,200 would. Items can not be broken down into separate parts of individually lower value in order to not be considered as capital items.

## 2. The Award

- 2.1 We agree that the provision of Exchequer Funding can be guaranteed only to the extent that the Department of Communities continues to operate and that Sport Northern Ireland receives funding from it.
- 2.2 Subject to and conditional upon our acceptance of and ongoing compliance with the Agreement, Sport Northern Ireland shall release the Award to us. Sport Northern Ireland shall not be obliged to pay the Award in advance of need or to increase the amount of Award, unless otherwise determined by Sport Northern Ireland in its absolute discretion. Under no circumstances will Sport Northern Ireland be obliged to increase the amount of the Award.
- 2.3 The Award is made towards the Project, described in the approved Business Case and referenced in the Offer Letter and must be used for the Purpose and is non-transferable and non-assignable.
- 2.4 We shall use our best endeavours to implement and deliver the Project and achieve the Purpose. We will use the Award exclusively for the Purpose and agree that we will hold any unused part of the Award on trust for Sport Northern Ireland at all times, and agree that we will notify Sport Northern Ireland, as soon as is reasonably possible, and repay any Award (including any unused Award) to Sport Northern Ireland, immediately upon demand, if any of the events listed in 8. Material Breach of Award occur.
- 2.5 We agree that the Award shall be used towards the efficient funding of the costs of the Project, as detailed in this Agreement, and specified under Eligible Expenditure, in the Offer Letter and for no other use whatsoever.
- 2.6 We agree that the Award will support the Eligible Expenditure, only on the items identified in the Offer Letter. If at any time, the total expenditure for the Project is found to exceed the total Eligible Expenditure, as stated in the Offer Letter, we accept that there will be no corresponding increase in award, unless otherwise agreed by Sport Northern Ireland in writing, and in response to a Change Control Request submitted by us. An increase of Award may be granted, only in exceptional circumstances.
- 2.7 We will notify Sport Northern Ireland, as soon as is reasonably possible, where we make any cost savings or otherwise complete an element or part of the Project under budget. We may submit a Change Request to the Eligible Expenditure, and specifically from an eligible Budget Heading to another, to Sport Northern Ireland, for consideration. Sport Northern Ireland is not obliged to approve a Change Request and will at its sole discretion consider such approval.

- 2.8 We shall, on Sport Northern Ireland's request, repay to Sport Northern Ireland any part of the Award incorrectly paid to us as a result of an administrative error. This includes, without limitation, where either an incorrect amount of the Award has been released or where part of the Award has been released in error, before the applicable terms and condition of the Agreement have been complied with by us to the satisfaction of Sport Northern Ireland. This obligation survives termination of the Agreement.
- 2.9 We must return to Sport Northern Ireland any appropriate share of any underspend of Award on the Project.
- 2.10 Where any part of the Award is diverted to any other purpose (other than with the prior consent of Sport Northern Ireland at their discretion), we shall notify Sport Northern Ireland, as soon as is reasonably possible, and repay on demand, an amount equal to that part of the Award and Sport Northern Ireland may also elect to terminate the Agreement at that point.
- 2.11 We may be required by Sport Northern Ireland, acting reasonably and in good faith, to vary or amend the Award, the Project or vary the Performance Measures. We shall not vary or amend the Award, the Project or the Performance Measures, without obtaining Sport Northern Ireland's prior written consent.
- 2.12 If we receive any further assistance (whether financial, benefits-in-kind or otherwise) from any third party, in respect of the Project (or for a similar Project), then we must notify Sport Northern Ireland, as soon as is reasonably possible, in writing and Sport Northern Ireland shall be entitled to revise the Award and/or demand repayment of any part of the Award as Sport Northern Ireland sees fit.
- 2.13 We shall ensure that the Project, and all funding associated with the Project, is managed in accordance with both the Standard Terms and Conditions of Award and Specific Terms and Conditions of Award as outlined in this, and any associated documentation.
- 2.14 Where the Agreement permits us to use part of the Award to fund activities of a third party (including but not limited to any parent, affiliate or subsidiary undertaking) as a means of achieving the Purpose, we shall ensure that such funding is applied only towards the achievement of the Purpose, and that the third party is required to repay such funding that is not used to achieve the Purpose. We shall ensure that the third party receives and retains appropriate books and records relating to the Award, paid to it by us. We shall be accountable at all times for the proper management and expenditure of all parts of the Award.

### **3. The Term of Award**

- 3.1 Termination of the Agreement, through expiration of the Term or otherwise, shall operate without prejudice to:
  - 3.1.1 Any rights or remedies which may have accrued to either Party prior to such termination; and
  - 3.1.2 Any part of the Agreement that is expressly stated to survive the termination of the Agreement.
  - 3.1.3 The Award period will end on the 31<sup>st</sup> March 2022

## 4. Award Performance: Monitoring, Reporting and Evaluation

- 4.1 Throughout the Term, and for a reasonable period thereafter (which shall be no longer than 12 months, unless otherwise agreed), we will collect such data as will enable us to regularly monitor, report and evaluate the progress we have made towards achieving the Performance Measures and to evidence our compliance with the Agreement to Sport Northern Ireland. We will report such data to Sport Northern Ireland, as stated in the Agreement as required in intervals and format as Sport Northern Ireland may reasonably require. We will report on such data in regular meetings with and submit reports to Sport Northern Ireland, arranged in accordance with the Agreement.
- 4.2 We will, as soon as is reasonably possible, report to you any failure to achieve one or more of the Performance Measures or where we reasonably believe that it is unlikely that any of the Performance Measures will not be achieved.
- 4.3 Where reasonably requested by Sport Northern Ireland, reports and other documents submitted to Sport Northern Ireland will be signed by our Accountable Officer, Chair of our Board or President. Any person signing on behalf of us will, by their signature, confirm that to the best of their information, knowledge and belief, the contents of any reports and documents are accurate and not misleading and that there is no relevant material matter omitted from self-assessment or other documents. Sport Northern Ireland shall give us reasonable notice of the date for submission of the reports or other documents.
- 4.4 Where Sport Northern Ireland confirms, at any point during the Term, including the review meetings and reports, that we have failed to achieve one or more Performance Measures, Sport Northern Ireland may, in its absolute discretion, reduce, suspend or terminate the Award. Sport Northern Ireland may consider, without limitation and in Sport Northern Ireland's absolute discretion, the following factors in deciding whether to reduce and/or defer the reductions to the Award:
- 4.4.1 Whether Sport Northern Ireland believes that there are significant mitigating circumstances for the failure to meet the Performance Measures; and
  - 4.4.2 Whether Sport Northern Ireland believes that there has been significant progress, sufficient to provide confidence that future Performance Measures will be achieved.
- 4.5 Prior to any reduction in Award, made by Sport Northern Ireland, we shall normally be given a three month notice period of the reduction. During this period we shall develop, obtain Sport Northern Ireland's agreement to and implement a Recovery Plan, aimed at improving our performance;



Without prejudice to any other rights or remedies, Sport Northern Ireland may have, Sport Northern Ireland may decide at the end of this notice period that:

- 4.5.1 Our Performance Measures shall be reduced in future years;
- 4.5.2 Any of our funded activities and associated Eligible Expenditure shall be stopped, reduced or altered;
- 4.5.3 Our Award shall be paid more frequently than profiled (and each payment reduced proportionally); and/or
- 4.5.5 New activities shall be commenced, or activities may be discontinued or changed.

- 4.6 Where we are dissatisfied with a funding decision, Sport Northern Ireland has taken in relation to any funding reductions determined under this clause, we may appeal the decision, in accordance with the provisions of the Funding Decisions Review Process, as set out in Sport Northern Ireland's Review Procedure, which can be found on the Sport Northern Ireland website.
- 4.7 We will provide such data to enable Sport Northern Ireland to complete a Post Project Evaluation which will be required after the Term, to determine if the Project Objectives and Performance Measures have been achieved.
- 4.8 Without prejudice to any of the terms and conditions of the Agreement, we will promptly comply with any reasonable request, which may be made from time to time by Sport Northern Ireland, the Department for Culture, Media and Sport or the Department for Communities, to co-operate with any monitoring and evaluation process and/or to carry out any monitoring and evaluation in respect of any of all our activities.
- 4.9 We permit Sport Northern Ireland, the Department of Culture, Media and Sport, the Department for Communities, the Northern Ireland Audit Office and their representatives, officers or agents from time to time, upon the giving of reasonable notice to enter any of our premises during normal working hours (unless a statutory or regulatory obligation requires entry outside of these hours) to
  - (a) inspect any asset or any accounting or other record in respect of any financial assistance, which has been paid or may become payable under the terms of this Agreement and to review or , if applicable, copy same or
  - (b) to comply with any statutory or regulatory obligation of Sport Northern Ireland or the Department for the Communities or the Northern Ireland Audit Office, subject always to the obligations of confidentiality set out in this Agreement. This clause shall survive expiry or prior termination of the Agreement.

## 5. Marketing, Publicity and Intellectual Property

- 5.1 Sport Northern Ireland will be entitled to publish details of the amount and type of assistance provided, pursuant to this Agreement, and has the right to request that we:
- 5.1.1 Refer to Sport Northern Ireland and the Department of Communities in all press statements and interviews for the period of the Award;
  - 5.1.2 Acknowledge Sport Northern Ireland and the Department of Communities in all speeches, photo calls, press conferences and also in all printed material including annual reports and other similar documentation;
  - 5.1.3 Install Sport Northern Ireland's promotional signage or other similar branding at all sports events and/or related promotional activities to bring the public's attention to Sport Northern Ireland and the Department of Communities involvement with the Small Grants programme;
  - 5.1.4 Ensure that Sport Northern Ireland's and Department of Communities Logo is visible on all press and media interviews;
  - 5.1.5 Acknowledge Sport Northern Ireland and the Department of Communities on all training clothing, and where appropriate, on all competition clothing and/or equipment at all related events, press conferences etc.; and
  - 5.1.6 Comply with any request from you to assist with publicity or promotion of the Award as you may deem appropriate. This may include attendance/participation at your events.
  - 5.1.7 Ensure that athletes benefitting from the Award are aware of the source of their funding from Sport Northern Ireland and that they co-operate with the above mentioned activity where requested. Where it is not possible or not practical to apply the above clause, we shall agreed with Sport Northern Ireland in advance.
- 5.2 We must give Sport Northern Ireland in writing notice of ten working days, in advance of official ceremonies or promotional opportunities and shall ensure that a representative or nominee of Sport Northern Ireland is given the opportunity to attend, participate and/or speak at such an event.
- 5.3 Sport Northern Ireland may, at its sole discretion, request at any time the removal of all banners, displays, signboards, plaques or other similar notices identifying Sport Northern Ireland and the Department of Communities association with the Award.
- 5.4 We must ensure that athletes benefitting from the Award are available, where reasonable, to support Sport Northern Ireland's work by volunteering events, across Northern Ireland.
- 5.5 We hereby agree that all Intellectual Property in the Logo and the Sport

Northern Ireland name and in any Sport Northern Ireland Material is the absolute property of Sport Northern Ireland and we must make no claim to ownership or do anything to adversely affect the same.

- 5.6 Sport Northern Ireland is committed to being open and accountable for the funding decisions it takes. Sport Northern Ireland may therefore, in its absolute discretion, and subject to the Standard Terms and Conditions, publicise:
- 5.6.1 Details and summaries of our performance against each Performance Measure;
  - 5.6.2 League tables\* of relative performance of each Governing Body of Sport against each Performance Measure;
  - 5.6.3 Comments about Sport Northern Ireland's view on our performance;
  - 5.6.4 Details of our funding awarded from Sport Northern Ireland, and in particular, any changes to the Award and the reasons why such changes have been made;
  - 5.6.5 Whether Sport Northern Ireland consider that we are potentially 'at risk' of future funding loss, as a result of your performance; and/or
  - 5.6.6 Details of exemplary performance by Governing Bodies of Sport by way of good practice examples for the sector.

\*Sport Northern Ireland shall ensure that we are provided with the details which Sport Northern Ireland intends to publish about our details in any league tables of relative performance. Sport Northern Ireland shall take account of any information provided by us concerning the intended publication.

## 6. Claims, Vouching and Payments of Award

- 6.1 The Award shall be made available from the Commencement Date against written claims in Sport Northern Ireland's standard form.
- 6.2 We shall identify a nominated Bank Account for the Award and we will be able to show income and expenditure specifically relating to the Award.
- 6.3 Where we are in receipt of funding from two or more Sport Northern Ireland Programmes, one bank account is sufficient, providing that our accounts have a separate Cost Code for the Sport Northern Ireland Programme and related expenditure.
- 6.4 We will take part in Sport Northern Ireland's Financial Systems Control Assessment, when requested, in order to arrive at a Rating, which will be used by Sport Northern Ireland to determine the level of vouching and verification to be undertaken during the Term of the Award.
- 6.5 We note that our Rating will be kept under review by Sport Northern Ireland during the Term of the Award and the quality of claims and supporting documentation submitted by us may impact the overall rating and the level of vouching to be undertaken.
- 6.6 The Rating allocated to us will determine the level of vouching undertaken by Sport Northern Ireland and the timing of the release of funds.  
**ROBUST** – Sport NI, on receipt of the initial budget claim, will release payment of up to 50% for salary costs (funded posts) and up to 75% for programme costs. During the award period, Sport Northern Ireland will select a sample size of 10% (from the total Sport Northern Ireland investment received by us) and request us to submit the relevant original documentation. The remaining balance of award can be released in-year upon submission of a further budget claim.  
**ADEQUATE** - Sport NI, on receipt of the initial budget claim, will release payment of up to 25% for salary costs (funded posts) and up to 75% for programme costs. Sport Northern Ireland will undertake 100% vouching to original invoices and reconcile all transactions to bank statements. Once the budget claim is expended, we should submit to Sport NI the relevant original documentation for vouching, along with a further budget claim. Sport NI will release the remaining 25% of the Award Amount upon receipt of final claim documentation at year end.
- 6.7 We will submit an itemised list of expenditure, as requested by Sport Northern Ireland, in the agreed format. All claims must be vouched by Sport Northern Ireland in line with the Rating, and meet Sport Northern Ireland's satisfaction including, but not limited to the following; original invoices, cheque and BACs payments, copy bank statements/ebanking documentation, tender documentation and copies of return paid cheques.
- 6.8 Whilst making every effort to do so, we accept that Sport Northern

Ireland cannot guarantee that the processing and settlement of payment will meet precisely our financial and contractual obligations relating to payments. We should ensure that we have sufficient funds available to settle all financial and contractual obligations as they arise.

## 7. Statutory Compliance

- 7.1 We and Sport Northern Ireland will comply with all statutory requirements and other laws and regulations relating to our respective operations, including (without limitation) all relevant health, safety, data protection, public procurement, employment and equality laws and regulations. We will further comply with such guidelines and/or codes of practice, as are specified in the Agreement.

### **Procurement**

- 7.2 We shall ensure that value for money is obtained in respect of all supplies and services wholly or partly funded from the Award. Projects funded by public monies and involving procurement should ensure that such activities are in accordance with the Northern Ireland Public Procurement Policy. We will ensure that any decisions made by us demonstrate best value and records are maintained to support decisions made. We shall ensure that whoever is carrying out procurement activity has no actual or perceived conflict of interest (personal or monetary) in a tender. This includes evaluation panel members. Any member of an evaluation panel who declares a conflict of interest in a particular tender will not be permitted to be involved in that tender. We shall adopt the following procurement procedures (or equivalent) according to the estimated value (inc. VAT) of the relevant contracts:

<b>Estimated Value</b>	<b>Tender Action Required</b>
Under £5,000	Best value for money must be demonstrated by requesting at least two written quotes (internet/email quotes are acceptable).
£5,000 and over	Open competition - A minimum of three tenders.

Our policies and procedures regarding procurement shall reflect the public procurement policy adopted by the Northern Ireland Executive in May 2002 (refreshed May 2009). All procurement undertaken by our organisation will ensure that value for money can be evidenced, in particular, all procurement, single or collaborative above £5,000 will be subject to formal tendering.

- 7.3 Where it is not possible or not practicable to apply the tender actions, we will ensure that value for money and management of any potential or perceived conflict of interest are at the centre of any procurement decisions and can demonstrate this to Sport Northern Ireland if required to do so.
- 7.4 The Award must not be used in, or paid to, any person, business or organisation that is political or religious in nature or used for any purpose connected thereto.

### ***Accounting***

- 7.5 Throughout the Term, and for a period of seven years thereafter, we will:
- 7.5.1 Maintain and keep full and proper accounts and financial records, detailing all sources of income and all of our expenditure related to the Award and the Purpose, for such period as required by law or for two years after the end of the Term, whichever is the longer period;
  - 7.5.2 Within the statutory time limit for filing annual accounts, or as soon as they are publicly available (whichever is the earlier), submit to Sport Northern Ireland the final accounts for each year that the Award was received, containing a certification by the auditor that they have examined our books and records and in their opinion the Award has been expended in accordance with the terms of the offer of the Award, or signed accounts which have been prepared by a CCAB recognised accountant or firm; and
  - 7.5.3 In the event of any suspected mishandling of funds and/or fraud, immediately afford you or your authorised representatives access to the accounts and records.
- 7.6 We will notify you, as soon as is reasonably possible, if there is a material adverse change to our financial circumstances that may affect our ability to achieve the Purpose, including (without limitation) any issues that may affect our solvency or status as a going concern.
- 7.7 We will make these financial records available to Sport Northern Ireland or external auditors or advisers upon request.

### ***Conflict of Interest***

- 7.8 We will, at all times, maintain and operate a Conflict of Interest Policy that is appropriate for an organisation that is receiving, using and dispensing public funds. Such policy should include, without limitations, provisions ensuring that in reaching decisions, the members of our relevant decision-making committee are not placed in a personal interests. We will provide a copy of that policy to you upon demand.

## ***Equal Opportunities Policy***

7.9 We will at all times:

7.9.1 We must operate an equal opportunities policy during and following completion of the Project and no-one shall be denied the right to equal access to any goods, facilities, services and/or employment opportunities attaching to the Project on grounds of race, gender, sexual orientation, disability, religious belief, political opinion, marital status, age, or having or not having dependants; in addition, the recipient shall take all reasonable steps to ensure that the opportunities and programmes assisted by this grant shall be run in an inclusive manner which will both aspire to and promote good relations.

7.9.2 Provide evidence of this Policy to Sport Northern Ireland upon demand;

7.9.3 Participate in any audits or research undertaken by Sport Northern Ireland or its authorised representatives, agents or researchers in relation to equal opportunities in sport.

### ***Insurance***

7.10 We agree to:

7.10.1 Obtain and maintain throughout the Term adequate insurance cover with reputable insurers in respect of third party, public, employer, employee, legal expenses, occupier's liability and any other relevant risk, in connection with any activities carried out and any facilities used by us; and

7.10.2 Provide evidence of such cover to Sport Northern Ireland upon demand.

### ***Exclusion of liability/indemnity***

7.11 We and Sport Northern Ireland agree that we are responsible for the delivery of the Project and the Performance Measures and that Sport Northern Ireland is granting the Award to assist us in funding the Project to achieve the Performance Measures.

7.12 We and Sport Northern Ireland agree that legal liability to third parties arising out of or connected in any way with the delivery of the Performance Measures rests with us and not Sport Northern Ireland.

7.13 Neither Sport Northern Ireland, nor any of its directors, officers,



employees, agents, representatives or sub-contractors (each, an "Indemnified Party") will at any time be liable to us or any other person, in relation to any matter arising in connection with our involvement and/or participation or any other person in the investment and/or any other matter related to the Award, including, without limitation, for any loss or damage arising directly or indirectly as a result of the our compliance or non-compliance with the terms and conditions of this Agreement.

- 7.14 We will indemnify and hold harmless an Indemnified Party, with respect to any and all claims made against the Indemnified Party for injury, death, loss, cost or damage of any type arising out of or in connection with the Award or the implementation or delivery of the Performance Measures, and any activities carried out in connection with the Award or the Performance Measures, except where such injury, death, loss, cost or damage has resulted from the negligent or otherwise wrongful acts or omissions of the Indemnified Party (including without limitation any breach of this Agreement by Sport Northern Ireland).

***Confidentiality, Freedom of Information and Data Protection***

- 7.15 Subject to the following provisions of this Clause, neither we nor Sport Northern Ireland shall, without the other prior written consent, use or disclose any confidential information relating to the other Party, which it learns as a consequence of entering into or performing this Agreement or drafting and delivering the Performance Measures.
- 7.16 The above limitations on use and disclosure shall not apply to information disclosed by either Sport Northern Ireland or us, pursuant to the requirements of a governmental authority or judicial order or legal requirement (e.g. disclosure required under the Freedom of Information Act 2000) or to information already in the public domain (otherwise than as a result of a breach of confidence by a Party), provided that, insofar as is reasonably practicable a Party consults with the other Party before disclosing any information pursuant to this clause.
- 7.17 We acknowledge and agree that Sport Northern Ireland shall be entitled to disclose our details to other government agencies and departments and bodies engaged in distributing funds (subject to the terms of the Data Protection Act 1998, known as the General Data Protection Regulations GDPR from May 2018 and to any other relevant legal restrictions which prevent the disclosure of such information) where Sport Northern Ireland considers that disclosure is necessary.
- 7.18 Insofar as is reasonably practicable, Sport Northern Ireland will give us notice of an opportunity to make representations in respect of any request for access to documents or information relating to this Agreement, provided always that the decision whether or not to permit access to such documents or information shall remain within Sport Northern Ireland's absolute discretion.

### ***Fair Processing Notice***

- 7.19 When this Project may relate to a group, Sport Northern Ireland acknowledges that data provided will relate to individuals. All information that Sport Northern Ireland holds concerning individuals will be held and processed by Sport Northern Ireland, strictly in accordance with the provisions of the Data Protection Act 1998 known as General Data Protection Regulations from May 2018. Such data will be used by Sport Northern Ireland to administer its relationship with us and our Project and to provide us with information about Sport Northern Ireland's activities and for related purposes. Sport Northern Ireland will not, without our consent, supply our name and address to any third party, except where such a transfer is a necessary part of the activities that Sport Northern Ireland undertakes, or Sport Northern Ireland is required to do so by operation of the law.
- 7.20 We (the grant recipient) are required to be compliant with all the requirements of the General Data Protection Regulations (GDPR). Sport NI will seek detailed confirmation of this, before the first actual payment of any award each year. Sport NI reserves the right to request detailed evidence of this compliance.

## **8. Material Breach of the Agreement**

- 8.1 If we breach any of the terms and conditions of the Agreement, Sport Northern Ireland may, in its absolute discretion:
- 8.1.1 Require us to pay back all or part of the Award (regardless of how much we have already spent); and/or
  - 8.1.2 Reduce the award in future years;
  - 8.1.3 Stop any future payments; and/or
  - 8.1.4 End this agreement immediately.
- 8.2 Sport Northern Ireland may take any of the actions set out in clause 8.2 in its absolute discretion, if any of the following events occurs:
- 8.2.1 ***Legal entitlement.*** Where the Purpose is not fulfilled or seems unlikely in Sport Northern Ireland's reasonable opinion to be fulfilled;
  - 8.2.2 ***Non achievement of Performance Measures.*** We fail to evidence the achievement of one or more of the agreed Performance Measures and therefore fail to evidence to Sport Northern Ireland sufficient contribution to the Purpose of the Project to warrant continued investment. Sport Northern Ireland will use its discretion in assessing progress against agreed Performance Measures;

- 8.2.3 **Failure to provide information.** We have continuously failed to submit Reports, Claims, Vouching Evidence and Evaluation Returns, in accordance with the Agreement.
- 8.2.4 **Recognition.** We no longer meet Sport Northern Ireland's **Recognition Criteria** and Sport Northern Ireland has taken the decision to remove us from **Sport Northern Ireland's List of Recognised Governing Bodies of Sport.**
- 8.2.5 **Material breach.** We have committed a breach of any term or condition of this Agreement which (i) is not capable of remedy; or (ii) has not been remedied following a notification from Sport Northern Ireland identifying the breach and requiring us to remedy it within 30 days (or such longer period as may be considered by Sport Northern Ireland as reasonable in the circumstances);
- 8.2.6 **Bankruptcy, administration, liquidation, etc.** We cease to operate for any reason, or are declared bankrupt, or are placed into receivership, administration or liquidation (or any analogous process), or enter into any arrangement or composition for the benefit of our creditors;
- 8.2.7 **Change in ownership or control, etc.** There is any change in our ownership or control or any material change in our membership, organisation, constitution or activities, either of which materially impacts on our ability to achieve the Performance Measures; or
- 8.2.8 **Fraudulent or materially misleading assurances and representations.** Any of the assurances given or the representations contained within the Application, Business Case for the Award or any other documents submitted by us to Sport Northern Ireland, in relation to the Award (i) were fraudulent or (ii) we knew or should have known they were materially misleading at the time given.
- 8.2.9 **Investment Raises a Profit.** The investment realises a profit or otherwise makes a positive contribution to our financial position (notice of which must immediately be given to you by us).
- 8.2.10 **Withdrawal of Funding.** At any stage throughout the Term, funding from another party is withdrawn and Sport Northern Ireland, acting reasonably and in good faith, determine that no further funding can therefore be made available to us.
- 8.3 Where payment of an Award is suspended, our entitlement to receive the Award shall automatically cease, until Sport Northern Ireland determines otherwise, at which stage either the eligibility for the Award to cover expenditure incurred during the period of suspension will be considered by Sport Northern Ireland or if Sport Northern Ireland decides that the Award shall no longer be supported, then only claims for expenditure incurred (whether invoiced or not) up to the point of suspension will be considered.

- 8.4 Sport Northern Ireland may require us to repay the Award (or part thereof, where so specified) in the following circumstances:
- 8.4.1 In the case of diversion of any part of the Award to a purpose without Sport Northern Ireland's consent (repayment will be required of diverted funds only, save that Sport Northern Ireland may also elect to terminate the Agreement on this ground, in which case repayment is required of any portions of the Award previously paid to us by Sport Northern Ireland);
  - 8.4.2 In the case of receipt by us of additional funds from a third party toward the eligible costs (but excluding Partnership Funds) and where Sport Northern Ireland decides, in its sole discretion, to require repayment of all or part of the Award;
  - 8.4.3 In the case that appropriate Partnership Funding is not obtained;
  - 8.4.4 In the case of incorrect payment to us of part of the Award (repayment will be required only of incorrectly paid funds);
  - 8.4.5 In the case where Award amounts are not fully utilised by us within a reasonable timeframe, that amount will be deducted from the Award;
  - 8.4.6 In the case of incorrect payment to us of amounts in excess of the total Award amount (repayment will be required of the amount incorrectly paid only);
  - 8.4.7 Where Award monies are used to make payments under a contract that does not comply with applicable public procurement regulations (repayment will be required only of Award funding used to make payments under such contract);
  - 8.4.8 In the event that there is a reduction or cost saving in the budgeted costs of the investment and where Sport Northern Ireland has requested the repayment (repayment will be required of cost savings on a pro rata basis).
- 8.5 In the case of an event that delays the performance of the Agreement for a continuous period of over six months, either we or Sport Northern Ireland shall be entitled to terminate the Agreement upon written notice to the other and we must repay to Sport Northern Ireland any part of the Award previously paid by Sport Northern Ireland to us.
- 8.6 Sport Northern Ireland shall have the right to off-set any payments or repayments due to it from us, pursuant to the provisions of this Agreement, against any future payments of the Award due to be made by us by Sport Northern Ireland, whether in the same financial year or another.

- 8.7 Where Sport Northern Ireland confirms that we have failed to achieve one or more of the Performance Measures, Sport Northern Ireland may, in its absolute discretion, reduce the amount of the Award allocated to achieve the Performance Measures in future years by a percentage appropriate to the Performance Measures, not achieved or the element of the Performance Measures not achieved. Sport Northern Ireland may consider, without limitation and its absolute discretion, the following factors in deciding whether to reduce and/or defer the reduction to the Award:
- 8.7.1 Whether you believe that there are significant mitigating circumstances for the failure to meet the Performance Measures;  
and
  - 8.7.2 Whether you believe that there has been significant progress, sufficient to provide confidence that future Performance Measures are likely to be achieved.

## **9. Representations, Warranties and Undertakings**

- 9.1 We represent, warrant and undertake that at the time of entering into the Agreement and throughout the Term:
- 9.1.1 All financial and other information concerning us that has been or will, during the Term, be disclosed to Sport Northern Ireland, in connection with the Award, is to the best of our knowledge and belief, true and fair;
  - 9.1.2 We are 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 us meeting our obligations in connection with this Agreement or our achievement of the Purpose;
- 9.2 We are not aware of any matter, which we have not disclosed to you, which might reasonably have influenced Sport Northern Ireland's decision to grant the Award on the terms contained in the Agreement;
- 9.2.1 We will strive to govern our sport with integrity;
  - 9.2.2 We will use the Award with due regard to regularity and propriety;
  - 9.2.3 We are and will remain throughout the Term a fit and proper recipient of public funds;
  - 9.2.4 We have established and will maintain throughout the Term appropriate management arrangements and financial procedures governing its use of the Award; and
  - 9.2.5 We will use the Award economically, efficiently and effectively.

## 10. Miscellaneous

- 10.1 We warrant, undertake and agree that:
- 10.1.1 All information, documentation and assurances provided to Sport Northern Ireland and the representations contained within the Application and Business Case for the Award is to the best of the our knowledge and belief, true and fair;
  - 10.1.2 We are not under any contractual or other restriction which might prevent or materially impede the due performance of our obligations in respect of the Performance Measures;
  - 10.1.3 As far as we are aware, there is no fact or circumstance relating to our affairs, which have not been disclosed to Sport Northern Ireland and which, if disclosed, might reasonably have been expected to influence Sport Northern Ireland's decision in relation to making the Award;
  - 10.1.4 We will comply with all statutory requirements and both Domestic and European laws and regulations relating to implementing the Performance Measures, including without limitation, all relevant Health & Safety and Employment related laws and regulations;
  - 10.1.5 We will not act or authorise any of our officers, employees, volunteers, members or participants to do any act or thing which, in Sport Northern Ireland's reasonable opinion, causes or might cause Sport Northern Ireland to be brought into disrepute. In the event that we have cause to believe that any such act or thing has occurred, we must notify Sport Northern Ireland, as soon as reasonably possible, and provide full details;
  - 10.1.6 We will indemnify and hold harmless Sport Northern Ireland, its servants and agents, 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 Award and any activities carried out there under, except where such injury, death, loss or damage has resulted from the negligent acts or omissions of Sport Northern Ireland;
  - 10.1.7 We will indemnify and hold harmless Sport Northern Ireland in relation to any matter whatsoever or howsoever arising in connection with the development, planning, delivery, implementation, management and/or administration of the Award.
- 10.2 **Assignment**
- Sport Northern Ireland will be entitled, on prior written notice to us, to assign or transfer the benefit and the burden of the Agreement to any successor body of Sport Northern Ireland. We will not be entitled to assign or otherwise transfer the benefit or burden of this Agreement without Sport Northern Ireland's prior consent.

***No waiver***

10.3 We or Sport Northern Ireland shall not be deemed to have waived any rights, powers or remedies under, or any breach of this Agreement unless that Party has signed an expressed written waiver to that effect. Any failure of delay of a Party in enforcing any of its rights, powers or remedies in relation to the Award in respect of any breach by the other Party shall be deemed to constitute a waiver of those rights, powers or remedies.

10.4 No single or partial exercise of any right, power or remedy under this Agreement or otherwise shall prevent a Party from any further exercise of a right, power or remedy or the exercise of any other right, power or remedy.

***No partnership or joint venture***

10.5 Nothing in this Agreement shall constitute or be construed as consisting a partnership or joint venture between us and Sport Northern Ireland or shall authorise one Party to enter into contractual relationships or incur obligations on behalf of the other Party. Neither Party will hold itself out or represent itself as the partner or agent of the other or permit any third party to make such representations.

***Tax***

10.6 Nothing in this Agreement is intended to create a VAT taxable supply.

10.7 Where we are VAT registered, claims shall be made net of VAT and we must provide Sport Northern Ireland with a copy of their VAT registration documentation upon request.

10.8 We and Sport Northern Ireland shall co-operate in good faith in resisting any argument by HM Revenue and Customs that VAT is payable in respect of the Award. In the extent, however, that HM Revenue and Customs determines that any part of this Agreement does create a right or obligation which gives rise to the payment of VAT, we, and not Sport Northern Ireland, shall be responsible for such VAT obligations. In such circumstances, we shall have the right to terminate the Agreement, effective 30 days after receipt of notice of termination, upon repayment to Sport Northern Ireland of the whole or such part of the Award as is appropriate in the circumstances, excluding any Committed Funds.

***Entire agreement and amendment***

10.9 These Terms and Conditions and the Agreement, including any appendices, constitute the whole and only agreement between us and Sport Northern Ireland, relating to the subject-matter of the Agreement. This Agreement supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements between us and Sport Northern Ireland of any nature whatsoever, whether or not in writing, relating to the subject-matter of the



Agreement, save to the extent that such drafts, agreements, undertakings, representations, warranties or arrangements have been incorporated into the Agreement.

- 10.10 Save as otherwise provided herein, this Agreement may not be amended except by written agreement signed by us and Sport Northern Ireland.

***Third Parties***

- 10.11 A person, who is not a party to this Agreement, has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of this Agreement.

***Law and jurisdiction***

- 10.12 This Agreement shall be governed by and construed in accordance with the laws of Northern Ireland and we and Sport Northern Ireland submit to the exclusive jurisdiction of the courts of Northern Ireland