

OLYMPIC LEGACY FUND



Department for
Communities



Crowdfunder

Terms & Conditions

SPORT NORTHERN IRELAND ("SNI")

Olympic Legacy Fund

Offer of Award: Standard Terms and Conditions

1. Agreed Terms

In these Standard Terms and Conditions, the following expressions shall have the meanings set out next to them:

"Agreement"	means the Letter of Offer, the Special Conditions, these Standard Terms and Conditions, the Award Acceptance Form or the Eligible Expenditure Document and any documents referred to in or attached to the Letter of Offer, the Special Conditions, these Standard Terms and Conditions, the Award Acceptance Form or the Eligible Expenditure Document;
"Agreed Purpose"	means the purpose for which funding may be made available as set out in Clause 5.2;
"Application"	the Award Recipients application for funding under "Olympic Legacy Fund" (as applicable);
"Award"	means the award stipulated in the Letter of Offer;
"Award Acceptance Form"	means the letter from the Award Recipient to SNI acknowledging the Award Recipient's acceptance of the Award and the terms of the Agreement;
"Award Recipient"	means the organisation that is the recipient of the Award;
"Claims"	means any claim, demand, proceedings or action taken by any person who is not a party to the Agreement;
"DFC"	means the Department for Communities, a department of the Northern Ireland Executive
"Default"	any breach of the obligations of a party (including but not limited to a fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of a party, its employees, servants or agents, in connection with or in relation to the subject-matter of the Agreement;
"DFP"	means the Department of Finance and Personnel a department of the Northern Ireland Executive;
"Effective Date"	means the date of execution of the Award Acceptance Form;
"Eligible Expenditure"	means the document setting out the permitted expenditure in relation to the Award;

Document"

"Expiry Date"

has the meaning given in Clause 2;

"Government"

the Government of the United Kingdom of Great Britain and Northern Ireland

"Health and Safety Regime"

the Health and Safety at Work (Northern Ireland) Order 1978, the Food Safety (Northern Ireland) Order 1991, the Health & Safety at Work etc. Act 1974 (and associated regulations), the Fire Services (Northern Ireland) Order 1984, the Industrial Pollution (Northern Ireland) Order 1997, the Waste and Contaminated Land (Northern Ireland) Order 1997, the Litter (Northern Ireland) Order 1994, the Genetically Modified Organisms (Northern Ireland) Order 1991 (and associated regulations), the Water (Northern Ireland) Order 1999, the Food and Environmental Protection Act 1985 and the Water and Sewerage Services (Northern Ireland) Order 2006 and any similar or analogous or applicable health, safety or environmental legislation in force from time to time;

"Insolvency Event"

the occurrence of any of the following events (or any event analogous to any of the following) in relation to the Award Recipient:

- (a) the Award Recipient passing a resolution for its winding up or a court of competent jurisdiction making an order for the entity to be wound up or dissolved or the entity being otherwise dissolved;
- (b) the appointment of an administrator of or, the making of an administration order in relation to, the entity, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or part of the Award Recipient's undertaking, assets, rights or revenue;
- (c) the Award Recipient entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or takes steps to obtain a moratorium or makes an application to a court of competent jurisdiction for protection from its creditors;
- (d) the Award Recipient being unable to pay its debts or being capable of being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (e) the Award Recipient entering into any arrangement, compromise or compromise or composition in satisfaction of its debts with

its creditors,

however, a resolution by the Award Recipient or a court order that the Award Recipient be wound up for the purpose of a bona fide reconstruction or amalgamation shall not amount to an Insolvency Event

"Intellectual Property Rights" or "IPRs"

means any patent, registered design, 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;

"IPR Claim"

means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR used in connection with the Project or as otherwise provided by the Award Recipient (or to which the Award Recipient has provided access) to SNI in the fulfilment of its obligations hereunder;

"Law"

means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body

"Letter of Offer"

means the letter sent by SNI to the Award Recipient setting out the offer of the Award and attaching these Standard Terms and Conditions;

"Losses"

means all damages, losses, liabilities, costs, expenses (including legal expenses), demands and charges but excluding the losses of the type referred to in clause 18.6;

"Maximum Award Level"

means the sum set out in the Letter of Offer as being the maximum level of funding that could be made available by SNI to the Award Recipient pursuant to the Agreement in order to assist it in achieving the Agreed Purpose, subject to and in accordance with the provisions of the Agreement;

"Partnership Funding"

means funding for the Project provided by third parties;

"Programme"

means the award scheme known as "Olympic Legacy Fund" delivered by SNI in Northern Ireland

	and funded by DFC;
"Project"	means the project, plan or other document submitted by the Award Recipient to SNI as a basis for receiving the Award as referred to in the Letter of Offer;
"Regulatory Bodies"	means those Government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Agreement or any other affairs of SNI or the Award Recipient and "Regulatory Body" shall be construed accordingly;
"Relevant Consent"	means any permission (including planning permission), approval, authorisation, licence or consent necessary from time to time for the carrying out of the Award Recipient's obligations under the Agreement;
"SNI"	means the Sports Council of 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 1973;
"Specific Terms and Conditions"	means any specific terms and conditions of Award referred to in the Letter of Offer;
"Standard Terms and Conditions"	means these terms and conditions of Award;
"Term"	means a period commencing on the Effective Date and ending on the Expiry Date or on the date of any earlier termination of the Agreement in accordance with its terms;
"VAT"	means value added tax as provided for in the Value Added Tax Act 1994
"United Kingdom"	means United Kingdom of Great Britain and Northern Ireland
"Working Day"	means any day other than a Saturday, Sunday or bank or public holiday in Northern Ireland.

- 1.1 In these Standard Terms and Conditions, unless the context otherwise requires:
 - 1.1.1 the singular includes the plural and vice versa.
 - 1.1.2 references to any statute, statutory provision or subordinate legislation including a reference to that statute, statutory provision or subordinate legislation as amended, extended or re-enacted from time to time and/or to any regulations made under it or to any Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
 - 1.1.3 any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
 - 1.1.4 references to persons include bodies corporate, unincorporated associations and partnerships, in each case whether or not they have a separate legal personality;
 - 1.1.5 the headings in the Agreement are inserted for convenience only and are to be ignored for the purposes of interpretation of the Agreement;
 - 1.1.6 any references in the Agreement to a "Clause" is a reference to a clause in the Agreement; and
 - 1.1.7 any reference to another agreement or document, or any deed or other instrument is to be construed as a reference to that other agreement, or document, deed or other instrument as amended, varied, supplemented, substituted or novated from time to time.
- 1.2 If there is any conflict between the Clauses and/or any other documents referred to in the Agreement, the conflict shall be resolved in accordance with the following descending order of precedence:
 - 1.2.1 the Letter of Offer;
 - 1.2.2 Special Terms and Conditions;
 - 1.2.3 Eligible Expenditure Document;
 - 1.2.4 the Standard Terms and Conditions; and
 - 1.2.5 other documents referred to.

2. Commencement of the Agreement

The Agreement shall commence upon the Effective Date and, provided that the Agreement is not brought to an end in accordance with these Standard Terms and Conditions, the Agreement shall terminate on the later of:

- 2.1 the date falling five years after the Effective Date;
- 2.2 the date on which the Award is spent; and

- 2.3 the expiry of the maximum period required under the Award assessment monitoring.

3. Due Diligence

The Award Recipient acknowledges that it:

- 3.1 has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of SNI or by or on behalf of any relevant third parties with whom the Award Recipient may be required to engage in order to deliver the Project;
- 3.2 has raised all relevant due diligence questions and has gathered all information that it has considered necessary to perform its duties and obligations under the Agreement with SNI before the Effective Date;
- 3.3 has satisfied itself as to the nature and extent of the risks assumed by it under the Agreement and has entered into the Agreement in reliance on its own due diligence alone;
- 3.4 is solely responsible for putting in place suitable arrangements with such third parties as are necessary for the delivery of the Project; and
- 3.5 SNI has entered into the Agreement in reliance on the representations, warranties and undertakings of the Award Recipient contained herein.

4. Warranties

4.1 The Award Recipient warrants and represents that:

- 4.1.1 the Agreement is executed by a duly authorised representative of the Award Recipient;
- 4.1.2 all information provided in the Application was true and accurate in all material respects when given and continue to be true and accurate in all material respects to the extent not subsequently expressly superseded by further written information furnished by or on behalf of the Award Recipient (which must also have been true and accurate when given) and there are no other facts or matters of which the Award Recipient is aware, after due and careful enquiry, the omission of which would have made or would make any such statement or information contained therein misleading, inaccurate or untrue in any material respect, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful enquiry;
- 4.1.3 it is not under any contractual or other restriction which might prevent or materially impede the due performance of the Award Recipient's obligations under the Agreement;
- 4.1.4 all necessary action has been taken (and not revoked) and any necessary third party consents, approvals, authorisations have been obtained and are valid and subsisting to authorise the execution, delivery and performance of the Agreement by the Award Recipient, and the Agreement when executed shall constitute a valid and legally binding agreement of the Award Recipient enforceable in accordance with the terms hereof;

- 4.1.5 the execution, delivery and performance of the Agreement by the Award Recipient does not:
- (a) contravene any Law to which it is subject; or
 - (b) result in any actual or potential breach of or default under any obligation, agreement, licence, instrument or consent to which the Award Recipient is a party or by which the Award Recipient is bound or which the Award Recipient requires to carry on its business; or
 - (c) result in any actual or potential breach of or default under any encumbrance, lease, contract, order, judgment, award, injunction, regulation or other restriction or obligation of any kind or character by which or to which any assets of the Award Recipient is bound or subject; or
 - (d) result in the creation, imposition, crystallisation or enforcement of any security interest whatsoever on any assets of the Award Recipient;
- 4.1.6 the Award Recipient is not, nor has it at any time been involved in any litigation (whether civil or criminal), arbitration, administrative or other proceedings and, without limitation, no dispute with or investigation by any statutory or governmental authority relating to the Award Recipient is taking place or has taken place, and no such proceedings, disputes or investigations are pending or (to its knowledge having made due and careful enquiry) threatened by or against it or any of its assets or any person for whose acts or defaults it may be vicariously liable that will or might have a material adverse effect on the ability of the Award Recipient to perform its obligations under the Agreement;
- 4.1.7 there is no outstanding judgement, order, decree, arbitral award or decision of any court, tribunal, arbitrator or governmental agency against the Award Recipient or any person for whose acts or defaults the Award Recipient may be vicariously liable that will or might have a material adverse effect on the ability of the Award Recipient to perform its obligations under the Agreement;
- 4.1.8 there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under the Agreement;
- 4.1.9 it is not in default in the filing, registration or recording of any document under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under the Agreement;
- 4.1.10 the Award Recipient is not aware of any material facts or circumstances that have not been disclosed to SNI and which might, if disclosed, materially adversely affect the decision of a prudent person considering whether or not to enter into the Agreement with the Award Recipient;

- 4.1.11 in entering the Agreement, neither it nor any officer, employee or agent of the Award Recipient has committed any Prohibited Act.
 - 4.1.12 once duly executed the Agreement will constitute its legal, valid and binding obligations.
 - 4.2 The Award Recipient hereby undertakes that for the duration of the Term:
 - 4.2.1 it shall obtain, maintain and continue to comply with all Relevant Consents and relevant regulatory obligations and Laws (including but not limited to all relevant environmental, health and safety, planning, public procurement, and employment laws) in the course of delivering the Project and performing its obligations under the Agreement and shall do so at its own cost. The Award Recipient shall provide a copy of any such Relevant Consents to SNI upon request.
 - 4.2.2 shall advise SNI of any fact, matter or circumstance of which it may become aware which would render any information provided in the Application to be false, inaccurate or misleading.
 - 4.3 Except as expressly stated or incorporated by reference in the Agreement, all warranties and representations whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

5. Grant of Award

- 5.1 In consideration of the performance by the Award Recipient of its duties and obligations under the Agreement and in reliance on the Award Recipient's warranties and representations pursuant to Clause 4, SNI agrees to grant funding to the Award Recipient subject to the terms and conditions of the Agreement.
- 5.2 The purpose of the Award is to support the Award Recipient's implementation and delivery of the Project solely for the benefit of sport and physical recreation in Northern Ireland and/or to encourage or assist individuals or teams from Northern Ireland in accordance with the terms and conditions of the Agreement.
- 5.3 The Award Recipient will use its best endeavours to implement and deliver the Project.
- 5.4 The Award shall not be increased by SNI under any circumstances.
- 5.5 Where the Award Recipient requires additional Partnership Funding to complete the Project, it shall be the sole responsibility of the Award Recipient to meet this additional financial need from other sources and SNI reserves the right to withhold payment of any funding until the Award Recipient can confirm to SNI's satisfaction that it has sufficient funds to meet the additional costs required.
- 5.6 If, at any time during the Term, funding becomes available from any other sources in respect of the Project, SNI must be notified without delay and reserves the right to reduce the Award by a sum equivalent to such third party funding. Where the Award is reduced to below the level of funds paid by SNI at the date of notification, SNI shall be entitled to be repaid on demand any funds paid by it above that level.

- 5.7 Where the Award Recipient makes any cost savings or otherwise completes an element or part of the Project under budget, then the surplus amount of the Award which remains outstanding under that particular cost heading may with the prior written consent of SNI (such consent not to be unreasonably withheld) be applied to another cost heading in order to achieve the Purpose.

6. **Payment of Award**

- 6.1 Subject as provided in the Agreement, SNI shall make the Award available to the Award Recipient in accordance with the Letter of Offer.
- 6.2 SNI may not make further funding available to the Award Recipient where the Award Recipient fails or ceases to comply fully with any conditions of the Award set out in the Letter of Offer or any provision of the Agreement.
- 6.3 SNI may suspend or cease funding payment of the Award should it wish to investigate any matters concerning the Project or its implementation by the Award Recipient. SNI accepts no liability for any consequence, whether direct or indirect, that results from such a suspension even if the investigation finds that there was no cause for concern.
- 6.4 Any funding paid to the Award Recipient pursuant to the Agreement is subject to the clawback provisions at Clause 20.2.
- 6.5 Where any funding paid to the Award Recipient is not spent by the Award Recipient in meeting the costs of the Project or is a mistaken overpayment, the Award Recipient must hold such funds in trust at all times for SNI in a secure bank account and, subject to Clause 6.6 the Award Recipient must repay the amount mistakenly paid or overpaid in full to SNI on demand.
- 6.6 If any mistaken payment or overpayment arises during the course of the Term, SNI reserves the right to set the appropriate sum off against any future funding payments (if any).

7. **Award Conditions**

- 7.1 Unless otherwise agreed by SNI in writing, the payment of any funding to the Award Recipient by SNI is subject to the following conditions (the "**Award Conditions**") in addition to all other terms and conditions contained in or referred to in the Agreement:
- 7.1.1 funding for the Project must be made available to SNI by DFC;
- 7.1.2 in delivering the Project, the Award Recipient must comply fully with:
- (a) the terms and conditions of the Agreement (as amended from time to time);
 - (b) all Laws and Relevant Consents (and conditions set out therein);
 - (c) such further instructions and directions as SNI may from time to time notify to the Award Recipient.
- 7.1.3 the funding must be used solely and exclusively by the Award Recipient for the Agreed Purpose and in the manner agreed with SNI;

- 7.1.4 the Award must be used by the Award Recipient in accordance with the profile outlined in the Letter of Offer;
- 7.1.5 the Award Recipient must not become ineligible to receive funding from SNI in connection with this Project;
- 7.1.6 the Award Recipient must not suffer an Insolvency Event;
- 7.1.7 the nature, scale or timing of the Project must not materially change during the Term (without the prior written consent of SNI);
- 7.1.8 the Award must not be used by the Award Recipient or any other person in connection with any activity which is related to any political, sectarian or racist motive and/or which is likely to bring SNI or DFC into disrepute;
- 7.1.9 the Award Recipient must not sell, transfer, assign, charge or grant any security over, or otherwise dispose of the capital works to any third party whatsoever without the prior written consent of SNI
- 7.1.10 the Award Recipient, its employees, servants or agents must not at any time act fraudulently, negligently, dishonestly, recklessly or in bad faith in the course of the implementation of the Agreement or the Project.
- 7.2 If the Award Recipient fails to comply with any of the Award Conditions, the Award Recipient shall immediately notify SNI and such failure shall be deemed to be a material default by the Award Recipient and Clause 20 shall apply.
- 7.3 Without prejudice to any other rights or remedies that may be available to it, SNI reserves the right to impose additional Award Conditions that it reasonably deems necessary if:
 - 7.3.1 the Award Recipient is in breach of or fails to comply with any provision of the Agreement;
 - 7.3.2 any part of the funding is withdrawn by SNI for any reason whatsoever;
 - 7.3.3 it is required to protect the reputation of SNI and/or protect public funds;
 - 7.3.4 such conditions are necessary to ensure that the Project is delivered in accordance with any other requirements of SNI;
 - 7.3.5 it is necessary to comply with any law or the rules of any regulatory organisation or a court of competent jurisdiction; and/or
 - 7.3.6 if there is any change in the constitution of the Award Recipient, including as a result of the Review of Public Administration which could affect its performance of the Agreement.

8. Monitoring and Reporting

- 8.1 The Award Recipient will monitor the progress of the project and shall promptly comply with any reasonable requirements that SNI may make in

terms of reporting and monitoring and shall supply such information to SNI immediately upon request.

- 8.2 The Award Recipient shall permit SNI and any Regulatory Body and their representatives, officers or agents from time to time upon the giving of reasonable notice to enter any premises of the Award Recipient during normal working hours (unless a statutory or regulatory obligation requires entry outside of these hours) to inspect any asset and any accounting or other record in respect of any financial assistance which has been paid or may become payable under the terms of the Agreement and to review and if applicable, copy same or to comply with any statutory or regulatory obligation of SNI or DFC or the Northern Ireland Audit Office subject always to the obligations of confidentiality set out in the Agreement.
- 8.3 The Award Recipient will acknowledge the grant in their annual reports and accounts covering the period of the project.
- 8.4 The Award Recipient will show the Award as related expenditure as a restricted fund under the description "Sport NI Funding (as applicable) in the Award Recipient's annual accounts and if the Award Recipient has more than one restricted fund, or, as a statutory authority, cannot show restricted funds in the accounts, the Award Recipient will include a note to the accounts identifying each restricted fund separately and if the Award Recipient has more than one award from Sport Northern Ireland, the Award Recipient will record each award separately in the notes in the accounts. The Award Recipient will identify unspent funds and assets in respect of the grant separately in the accounting records.
- 8.5 The Award Recipient will keep proper and up to date accounts and records for at least seven years after the termination of the Agreement, including summary profit and loss accounts and management accounts, personnel and payroll records and invoices, which will show how the grant has been used. The Award Recipient will make these records available to Sport Northern Ireland upon request.
- 8.6 The Award Recipient will report regularly and fully to all members of its governing body on the financial position of the Award Recipient.

9. Branding and Publicity

- 9.1 The Award Recipient shall comply with SNI's branding and publicity guidelines as at all times.
- 9.2 SNI will be entitled to publish details of the amounts and types of assistance provided pursuant to the Agreement and has the right to request the Award Recipient to:
 - 9.2.1 refer to SNI in all press statements and interviews referring to the Project;
 - 9.2.2 acknowledge SNI in all speeches, photo calls, press conferences and also in all printed material including annual reports and other similar documentation which refer to the Project;
 - 9.2.3 install promotional signage or other similar branding at all sports events and/or related promotional activities to bring the public's attention to SNI's involvement with the Project;

- 9.2.4 ensure that the SNI logo is visible on all press and media interviews;
 - 9.2.5 where appropriate acknowledge SNI on all training clothing and competition clothing and/or equipment at all related events, press conferences etc.; and
 - 9.2.6 comply with any request of SNI to assist with publicity or promotion of the Award as SNI may deem appropriate and this may include attendance at SNI related functions.
- 9.3 The Award Recipient must give SNI notice in writing ten working days in advance of official ceremonies or promotional opportunities and shall ensure that a representative or nominee of SNI is given the opportunity to participate and speak at such an event.
 - 9.4 SNI may, at its sole discretion, request at any time the removal of all banners, displays, signboards, plaques or other similar notice identifying SNI's association with the Project.
 - 9.5 The Award Recipient hereby agrees that all Intellectual Property in the SNI logo and the SNI name and any SNI Material is the absolute property of SNI and the Award Recipient must make no claim to ownership or do anything to adversely affect the same.
 - 9.6 The Award Recipient will not be entitled to use the SNI logo nor any mark or name confusingly similar to the SNI logo in respect of any material relating to the Award recipient or any other material whatsoever, without SNI's prior written consent.
 - 9.7 The Award Recipient must apply, in writing, to the SNI Marketing Manager, for permission to reproduce the SNI logo.
- 10. VAT**
- 10.1 Nothing in the Agreement is intended to create a taxable supply for VAT purposes by Sport Northern Ireland to the Award Recipient.
 - 10.2 Sport Northern Ireland shall not pay the Award Recipient any amounts in respect of VAT in addition to the grant and the grant made to the Award Recipient is inclusive of VAT.
- 11. Recovery of Sums Due**
- 11.1 If the conditions of any grant or award for any other project of the Award Recipient which have previously been supported by SNI are not fulfilled during the Term, then SNI may withhold or reduce the funding that may be made available by it pursuant to the Agreement until the terms of such other conditions have been fulfilled to SNI's satisfaction.
 - 11.2 SNI may retain, withhold or set off any amount owed to it or to any department, office or agency of Government by the Award Recipient under any other agreement against any amount due to the Award Recipient under the Agreement.
- 12. Equality, Diversity & Child Protection**

- 12.1 The Award Recipient shall comply with all applicable fair employment, equality of treatment and anti-discrimination legislation in Northern Ireland and with SNI's policies on equality and diversity as may be amended from time to time, copies of which will be provided by SNI to the Award Recipient at the Award Recipient's written request.
- 12.2 Without prejudice to the generality of Clause 12.1 the Award Recipient shall comply with the Fair Employment and Treatment (Northern Ireland) Order 1998 (as amended by the Fair Employment and Treatment Order (Amendment) Regulations (Northern Ireland 2003), the Sex Discrimination (Northern Ireland) Order 1976 as amended the Equal Pay Act (Northern Ireland) 1970 as amended, the Disability Discrimination Act 1995, the Disability Discrimination (Northern Ireland) Order 2006, the Race Relations (Northern Ireland) Order 1997 (as amended by the Race Relations (Amendment) Regulations (Northern Ireland) 2001 (Statutory Rule 2003) No 341), the Employment Relations (Northern Ireland) Order 1999, the Employment Rights (Northern Ireland) Order 1996, the Employment Equality (Sexual Orientation Regulations (Northern Ireland) 2003, the Employment Equality (Age) Regulations (Northern Ireland) 2006, and shall ensure that in its employment policies and in the fulfilment of its and their obligations under the Agreement, there shall be no unjustifiable inequality of treatment between:
- 12.2.1 persons of different religious beliefs, political opinion, racial group, age marital status or sexual orientation;
- 12.2.2 men and women generally;
- 12.2.3 persons with a disability and persons without; and
- 12.2.4 persons with or without dependents (including women who are pregnant or on maternity leave).
- 12.3 The Award Recipient shall in performing its obligations under the Agreement (and other relevant agreements), comply with the provisions of Section 75 of the Northern Ireland Act 1998, as if they were a public authority within the meaning of that section.
- 12.4 The Award Recipient further acknowledges that it and SNI must, in carrying out their functions, have due regard to the need to promote equality of opportunity as contemplated by the Northern Ireland Act 1998 and the Award Recipient shall use all reasonable endeavours to assist SNI in relation to the same including providing SNI with any information necessary for it to review and comply with its obligations under the Northern Ireland Act 1998.
- 12.5 The Award Recipient must ensure that it has in place prior to the Commencement Date a child protection policy and equality statement which is agreeable to SNI. In the absence of same, the Award Recipient shall use, as a pro forma, the child protection policy and equality statement drawn up by and available on request from SNI.
- 12.6 The Award Recipient must operate and regularly review its equal opportunities policy during and following completion of the Project, and such policy shall at all times be in a form acceptable to SNI. No-one shall be denied the right to equal access to the facilities and premises assisted by the Award and employment on the grounds of race, gender, sexual orientation, disability, religious belief, political opinion, marital status, age or having or

not having dependants and in addition, the Award Recipient shall take all reasonable steps to ensure that the facilities and premises assisted by the Award shall be run in an inclusive manner which will both aspire to and promote good relations. All Award Recipient policies in this regard shall be subject to the approval of SNI and the Award Recipient shall change the policy as and when required by SNI.

- 12.7 If the Project involves work with children, young people or vulnerable adults (together "**Vulnerable People**") the Award Recipient must take all reasonable steps to ensure their safety. The Award Recipient will have and carry out an appropriate written policy and set of procedures in place at all times to safeguard Vulnerable People, which will include procedures to check backgrounds and disclosures of all employees, volunteers, trustees or contractors who will supervise, care for or otherwise have significant direct contact with Vulnerable People with the Criminal Records Bureau.
- 12.8 The Award Recipient must provide evidence of the policies and procedure referred to at 12.1 to 12.7 above to SNI upon demand.

13. **Data Protection**

- 13.1 The Award Recipient shall comply with any notification requirements and duly observe all their obligations under the Data Protection Act 1998 (the "**DPA**"), which arise in connection with the Agreement.
- 13.2 Notwithstanding the general obligation in Clause 13.1, where the Award Recipient is processing Personal Data (as defined in the DPA) as a Data Processor (as defined in the DPA) for SNI, the Award Recipient shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA and:
 - 13.2.1 provide SNI with such information as SNI may reasonably require to satisfy itself that the Award Recipient is complying with its obligations under the DPA;
 - 13.2.2 promptly notify SNI of any breach of the security measures required to be put in place pursuant to this Clause 13.2; and
 - 13.2.3 ensure it does not knowingly or negligently do or omit to do anything which places SNI in breach of SNI's obligations under the DPA.
- 13.3 The provisions of this Clause 13 shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

14. **Freedom of Information**

- 14.1 The Award Recipient acknowledges that SNI is subject to the requirements of the Code of Practice on the Discharge of Public Authorities' Functions under Part 1 of the UK's Freedom of Information Legislation. The Award Recipient shall assist and cooperate with SNI to enable it to comply with its Information disclosure obligations thereunder.
- 14.2 The Award Recipient shall (at no cost to SNI):

- 14.2.1 transfer to SNI all Requests for Information that the Award Recipient receives (where it is reasonably apparent that such are intended to be Requests for Information for SNI) as soon as practicable and in any event within 2 Working Days of receiving a Request for Information;
 - 14.2.2 provide SNI with a copy of any Information held on behalf of SNI in the form that it requires within 5 Working Days (or such other period may be specified) of SNI's request; and
 - 14.2.3 provide all necessary assistance as may be requested by SNI to enable SNI to respond to the Request for Information within the time for compliance set out in the relevant Freedom of Information Legislation.
- 14.3 SNI shall be responsible for determining in its absolute discretion whether any other information is:
- 14.3.1 exempt from disclosure in accordance with the provisions of the relevant Freedom of Information Legislation;
 - 14.3.2 is to be disclosed in response to a Request for Information; or
 - 14.3.3 to be made available to the public through inclusion in a Publication Scheme.
- 14.4 In no event shall the Award Recipient respond directly to a Request for Information unless expressly authorised to do so by SNI.
- 14.5 The Award Recipient acknowledges that SNI may, acting in accordance with the Freedom of Information Legislation, be obliged to disclose Information:
- 14.5.1 without consulting or obtaining consent from the Award Recipient; or
 - 14.5.2 following consultation with the Award Recipient, and having taken the Award Recipient's views into account.
- 14.6 For the purposes of this clause 14:
- 14.6.1 "**Freedom of Information Legislation**" means the Freedom of Information Act 2000, (an Act of Parliament of the United Kingdom) and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in the United Kingdom in relation to such legislation, and the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner in the United Kingdom or relevant department or agency of the Government in relation to such regulations;
 - 14.6.2 "**Information**" has the meaning given under section 84 of the Freedom of Information Act 2000; and
 - 14.6.3 "**Request for Information**" means a request for information or an apparent request under the Freedom of Information Legislation in relation to the Agreement or the Project

15. Confidentiality

- 15.1 Except to the extent set out in this Clause 15 or where disclosure is expressly permitted elsewhere in the Agreement, each party shall treat the other party's Confidential Information as confidential and safeguard it accordingly and not disclose the other party's Confidential Information to any other person without the owner's prior written consent.
- 15.2 Clause 15.1 shall not apply to the extent that:
- 15.2.1 such disclosure is a requirement of Law placed upon the party making the disclosure or which SNI discloses pursuant to Clause 14 (Freedom of Information);
 - 15.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 15.2.3 such information was obtained from a third party without obligation of confidentiality;
 - 15.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Agreement; or
 - 15.2.5 it is independently developed without access to the other party's Confidential Information.
- 15.3 Nothing in the Agreement shall prevent SNI from disclosing the Award Recipient's Confidential Information:
- 15.3.1 to any Government department;
 - 15.3.2 to any consultant, contractor or other person engaged by SNI or any person conducting a review of the Project;
 - 15.3.3 for the purpose of the examination and certification of the SNI's accounts; or
 - 15.3.4 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which SNI has used its resources.
- 15.4 For the purposes of this Clause 15, "**Confidential Information**" shall mean all confidential information (however recorded, preserved or disclosed) disclosed by a party or its employees, officers, representatives or advisers (the "**Disclosing Party**") to the other party and that party's employees, officers, representatives or advisers including any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, customers, clients, suppliers, plans, of the Disclosing Party; and (ii) the IPRs of the Disclosing Party.

16. **General Obligations of the Award Recipient**

- 16.1 If any part of the grant is to buy a capital item, series of capital items, such as equipment or other items, or particular services, the Award Recipient will keep all receipts and invoices over £1,000 for seven years after the grant.
- 16.2 The Award Recipient will keep all assets funded by the grant safely and in good repair and will ensure there is adequate insurance cover. Any loss

resulting from payments made for assets before delivery will be the responsibility of the Award Recipient. If the asset is damaged, destroyed or stolen, the Award Recipient must inform Sport Northern Ireland in writing and the Award Recipient must repair or replace it.

16.3 The Award Recipient shall:

16.3.1 at all times allocate sufficient resources to comply with its obligations under the Agreement;

16.3.2 be responsible for the security and safety aspects of the Project at all times and shall comply with the Health and Safety Regime; and

16.3.3 co-operate at all times with SNI in relation to the Project.

16.4 Any change in the way in which the Award Recipient performs its obligations under the Agreement which would materially increase SNI's risk or reduce the effect of the governance provisions of the Agreement shall require SNI's prior written approval.

17. **Force Majeure**

In the event that either party is unable to perform its obligations under the Agreement by reason events, omissions, happenings or non-happenings, beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or Regulatory Bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Award Recipient, (a "**Force Majeure Event**", that party shall not be liable for its non-compliance with such obligations for the period of and to the extent affected by that cause.

18. **Liability and indemnities**

18.1 Neither party limits its liability for:

18.1.1 death or personal injury caused by its negligence, or that of its employees or agents; or

18.1.2 fraud by it or its employees; or

18.1.3 breach of any obligation as to title implied by statute.

18.2 The Award Recipient shall at all times, during and after the Term, on written demand indemnify SNI, its employees, servants and agents and keep such persons indemnified against all Claims and Losses:

18.2.1 incurred by, awarded against or agreed to be paid by SNI arising from an IPR Claim;

18.2.2 in respect of any injury to or death of any person whatsoever or in respect of any loss of or damage to property caused (or alleged to be caused) by or arising from any act, neglect, default, or omission of the Award Recipient, its employees, servants or agents.

18.3 In the event that either party becomes aware of any Claim of the kind referred to in Clause 18.2:

- 18.3.1 it will notify the other party in writing of the Claim; and
- 18.3.2 the Award Recipient shall conduct all negotiations and proceedings and SNI shall provide the Award Recipient with such reasonable assistance as may be required by the Award Recipient, at the Award Recipient's cost, regarding the Claim; and
- 18.3.3 SNI will not, without first consulting with the Award Recipient, make an admission relating to the Claim; and
- 18.3.4 the Award Recipient shall consider and defend the Claim diligently using competent counsel and in such a way as not to bring the reputation of the SNI into disrepute; and
- 18.3.5 the Award Recipient shall not settle or compromise the Claim without SNI's prior written consent (not to be unreasonably withheld or delayed).
- 18.4 If as a result of a Claim the Project cannot be completed in whole or in part, this shall be treated as a material Default which is incapable of remedy and SNI may terminate the Agreement by written notice with immediate effect and, without prejudice to the indemnity set out in Clause 18.2.
- 18.5 Subject to Clauses 18.1 and 18.6, SNI's total aggregate liability for all Defaults by SNI shall in no event exceed the Maximum Award Level.
- 18.6 Subject to Clause 18.1, neither party will be liable to the other party for:
 - 18.6.1 any indirect special or consequential loss or damage;
 - 18.6.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).
- 18.7 SNI may recover as a direct loss:
 - 18.7.1 any additional operational and/or administrative costs and expenses arising from the Award Recipient's Default;
 - 18.7.2 any wasted expenditure or charges rendered unnecessary and/or incurred by SNI arising from the Award Recipient's Default; and
 - 18.7.3 any anticipated savings.
- 18.8 The parties expressly agree that if any limitation or provision contained or expressly referred to in this Clause 18 is held to be invalid under any Law, it will be deemed omitted to that extent, and if any party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Clause 18.
- 18.9 Nothing in this Clause 18 shall act to reduce or affect a party's general duty to mitigate its loss.

19. Insurance

The Award Recipient agrees (i) to obtain and maintain throughout the Term adequate insurance cover with reputable insurers in respect of third party / public /

employee / legal expenses / occupier's liability and any other relevant risk in connection with any activities carried out and any facilities used by the Award Recipient; and (ii) to provide evidence of such cover to SNI upon demand.

20. Suspension and Termination

20.1 Clause 20.2 shall apply in the event that:

20.1.1 the Award Recipient or the Project ceases to comply with any condition of Award;

20.1.2 the Award Recipient is, in the reasonable opinion of SNI, in material Default of any of its obligations under the Agreement where this is capable of remedy but has not been remedied by the Award Recipient in accordance with any timeframe specified by SNI;

20.1.3 the Award Recipient is in material Default under the Agreement where this is not capable of remedy;

20.1.4 the Award Recipient commits a Default which results in its criminal prosecution and conviction under the Health and Safety Regime;

20.1.5 in the reasonable view of SNI,

- (a) the Project has been substantially jeopardised as to its future continuance, or the Project has become unsatisfactory to an unacceptable degree or the financial viability of the Project is no longer tenable for whatever reason; or
- (b) the Agreed Purpose is not fulfilled or seems unlikely to be fulfilled; or
- (c) it is necessary to protect public money;
- (d) funding for the Project is withdrawn by DFC, DFP the National Lottery or any other relevant source of funding and SNI acting reasonably in good faith determines that no further funding can therefore be made available to the Award Recipient; or
- (e) SNI is required to do so by law;
- (f) a Force Majeure Event endures for a continuous period of more than one hundred and twenty (120) days;
- (g) an Insolvency Event affecting the Award Recipient occurs; or
- (h) the Agreement expressly provides for suspension or cessation of payments, or clawback of payments or termination (as the case may be).

20.2 In the circumstances set out in Clause 20.1 SNI shall be entitled at its sole discretion to:

20.2.1 suspend or cease making any further funding payments to the Award Recipient; and/or

20.2.2 require the Award Recipient to pay on demand the whole or part of any funding that has been paid by SNI to the Award Recipient and, without prejudice to any other right or remedy available to it; and/or

20.2.3 terminate the Agreement by notice in writing to the Award Recipient.

20.3 Nothing contained in the Agreement shall be construed as prohibiting SNI from pursuing any other remedies available to SNI, either at law or in equity, for such breach or threatened breach including specific performance and recovery of monetary damages.

20.4 The Award Recipient may terminate the Agreement if SNI is in material breach of its obligation to pay agreed and undisputed funding instalments by giving SNI ninety (90) days written notice specifying the breach and requiring its remedy.

20.5 Following the service of a termination notice for any reason the Award Recipient shall continue to be under an obligation to comply with its obligations under the Agreement until the date of the termination.

20.6 Termination or expiry of the Agreement shall not affect any provision of the Agreement which is expressly or by implication intended to come into effect on, or to continue in effect after, such termination or expiry.

20.7 Without prejudice to the foregoing generality, the relevant provisions of Clauses 1, 8, 18, 20, 22, 29 and 32 shall survive the termination or expiry of the Agreement.

21. Assignment

21.1 SNI will be entitled, on prior written notice to the Award Recipient, to assign or transfer the benefit and the burden of the Agreement to any successor body of SNI.

21.2 The Award Recipient will not be entitled to assign or otherwise transfer the benefit or burden of the Agreement without the prior consent of SNI.

22. Waiver and Cumulative Remedies

22.1 The rights and remedies provided by the Agreement may be waived only in writing by the relevant party in a manner that expressly states that a waiver is intended, and such waiver shall only be operative with regard to the specific circumstances referred to.

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

22.3 The rights and remedies provided by the Agreement are cumulative and, unless otherwise provided in the Agreement, are not exclusive of any right or remedies provided at law or in equity or otherwise under the Agreement.

23. No partnership or joint venture

Nothing in the Agreement is intended to create a partnership, or legal relationship of any kind that would impose liability upon one party for the act or failure to act of the other party, or to authorise either party to act as agent for the other party. Neither party shall have authority to make representations, act in the name of, or on behalf of, or to otherwise bind the other party.

24. Prevention of Corruption and Fraud

24.1 The Award Recipient agrees to comply at all times with the Anti Fraud/Corruption policy of SNI, as amended or varied from time to time.

24.2 It will be the responsibility of the Award Recipient to take whatever action is necessary to minimise the risk of fraud and to notify SNI immediately of any instances of attempted, suspected or proven fraud. All instances of suspected fraud will be reported to the Police Service of Northern Ireland.

24.3 The Award Recipient shall not:

24.3.1 offer or agree to give any person working for or engaged by SNI or any other public body, servant or official in the United Kingdom any gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to the Agreement or the Project, or any other agreement between the Award Recipient and SNI or any other public body, servant or official in the United Kingdom, including its award to the Award Recipient and any of the rights and obligations contained within it; nor

24.3.2 enter into the Agreement if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the SNI or any other public body, servant or official in the United Kingdom by or for the Award Recipient, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to SNI before execution of the Agreement.

24.3.3 If the Award Recipient (including any Award Recipient employee, servant or agent, in all cases whether or not acting with the Award Recipient's knowledge):

(a) breaches or commits any offence under the Prevention of Corruption Acts 1889 – 1916 in relation to the Project or the Agreement, or breaches any other contract with SNI or any other public body, servant or official in the United Kingdom or breaches or commits any offence under any equivalent Laws in any other relevant jurisdictions in relation to the Project or the Agreement; or

(b) defrauds or attempts to defraud or conspires to defraud SNI,

SNI may terminate the Agreement by written notice with immediate effect.

24.4 Any termination under Clause 24.3 shall be without prejudice to any right or remedy which has already accrued, or subsequently accrues, to SNI.

24.5 Any dispute relating to the interpretation of this Clause 24 or the amount or value of any gift, consideration or commission, shall be determined by SNI and its decision shall be final and conclusive.

25. Severance

If any provision of the Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed without effect to the remaining provisions.

26. Further Assurances

Each party undertakes at the request of the other, and at the cost of the requesting party to do all acts and execute all documents which may be necessary to give effect to the meaning of the Agreement.

27. Entire Agreement

27.1 The Agreement, together with the documents referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the parties in relation to such matters notwithstanding the terms of any previous agreement or arrangement expressed to survive termination

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

27.3 Nothing in this Clause 27 shall operate to exclude any liability for fraud.

28. Third Party Rights

28.1 A person who is not a party to the Agreement has no right under the Contracts (Rights of Third parties) Act 1999 to enforce any term of the Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

28.2 Any rights created under Clause 28.1 may be altered or extinguished by the parties without the consent of the third party beneficiaries.

29. Notices

29.1 Any notices given under or in relation to the Agreement shall be in writing in the English language, signed by or on behalf of the party giving it and shall be served by delivering it personally or by sending it by pre-paid first class post, recorded delivery or registered post or by fax or email to the address and for the attention of:

29.1.1 in the case of SNI, Willie Devlin at SNI, the House of Sport, Malone Road, Belfast BT9 5LA;

29.1.2 In the case of the Award Recipient, the relevant party notified for such purpose in the Award Recipient's application.

29.2 A notice shall be deemed to have been received:

29.2.1 if delivered personally, at the time of delivery;

29.2.2 in the case of pre-paid first class post, three Working Days from the date of posting;

29.2.3 in the case of fax, on the day of transmission if sent before 16:00 hours of any Working Day and otherwise at 09:00 hours on the next Working Day and provided that, at the time of transmission of a fax, an error-free transmission report has been received by the sender; and

29.2.4 in the case of email, on the day of transmission if sent before 16:00 hours of any Working Day and otherwise at 09:00 hours on the next Working Day.

29.3 In proving service, it shall be sufficient to prove that the envelope containing the notice was addressed to the relevant party at its address for the receipt of notices (or as otherwise notified by that party) and delivered either to that address or into the custody of the postal authorities as pre-paid first class post, recorded delivery, registered post or airmail letter, or that the notice was transmitted by fax to the fax number of the relevant party at its fax number previously notified for the receipt of notices (or as otherwise notified by that party) or that the notice was transmitted by email to the email address of the relevant party as previously notified.

30. **Costs**

Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in respect of compliance with their obligations under the Agreement.

31. **Variation**

Save as otherwise provided herein, the Agreement may not be amended except by written agreement signed by both parties.

32. **Law and jurisdiction**

The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Northern Ireland and each party agrees to submit to the exclusive jurisdiction of the courts of Northern Ireland.