

Sports Facilities Fund

Offer of Award: Standard Terms and Conditions

These are sportscotland's Standard Conditions referred to in our Offer of Award dated 8 June 2012. You will need to provide us with the information marked with an asterisk, to our satisfaction, before we can issue you with a Letter of Authorisation to commence.

1 Award

With regard to the provision of Lottery Fund finance only, finance can be guaranteed only to the extent that the National Lottery continues to operate and sportscotland continues to receive funds from it. (This condition does not apply in this case: sportscotland guarantees the availability of the finance for this award.)

2 Purpose

2.1 The award must be used for the purpose set out in the approved application made to us and is non-transferable. Any amendment or variation to the project must be with our prior written agreement. Where the purpose of the project or its ownership or the legal identity of the applicant changes at any time throughout the duration of this Award, you must submit another application for our consideration.

2.2 No significant change may be made to: the project plans or specifications; your constitution; the project's management arrangements; the agreed programme of use of the facility; or the security of tenure arrangements, without our prior written agreement.

2.3 You must inform us fully and immediately in writing of any material changes relating to the structure or circumstances of your organisation or the funded facility.

3 Cost Variations

3.1 The award will support the actual expenditure only on the items identified in the approved application and will not be increased in any circumstances. If you require substantial additional funds from us you will have to submit a revised application for re-assessment and this Award will be withdrawn.

3.2 An appropriate share of any under spend on the project must be returned to us.

3.3 Any Value Added Tax recovered by your organisation will be deducted from project costs in calculating eligible expenditure for award purposes. In appropriate cases we may request copies of VAT quarterly/annual returns and supporting documentation.

4 Financial Plans

We ask you to provide an updated financial plan, including appropriate evidence that all sources of funding are in place, before the project proceeds. If further assistance becomes available from any other sources in respect of the project, we should be notified without delay and reserve the right to revise our Offer of Award. The financial plan should include a timetable of projected expenditure indicating the timing of claims for instalments of our award.

5 Accounts

5.1 When specifically required to do so by us, you shall prepare an annual statement of accounts in respect of the receipt and disbursement of this award and shall have the statement audited by an independent Auditor registered with a recognised accounting body.

5.2 The Auditor shall be required to certify that:

"We have examined the books and records of the Applicant and in our opinion the award from sportscotland has been expended in accordance with the terms of the offer of the award and the conditions attached to it."

- 5.3 You shall make available to us at all times and on reasonable notice sight of your organisation's full and proper accounts and financial records.

6 Contracts

- 6.1 For construction projects costing more than £20,000 (excluding VAT and Professional Fees) the work must be carried out using a suitable version of the Standard Form of Building Contract issued by the Joint Contracts Tribunal or a recognised equivalent. Where the contract cost exceeds £150,000, a Performance Bond amounting to 10% of the contract sum must be provided by the contractor. *
- 6.2 The contract price should be obtained as the result of competitive tendering by a minimum of three contractors/suppliers and in line with relevant European and domestic legislation. As part of the process you will need to provide us with: *
- 6.2.1 A list of proposed tenderers for our approval prior to seeking tenders; *
- 6.2.2 The tender documentation; *
- 6.2.3 Confirmation that all tenderers will be required to complete a Certificate of Non-Collusion; *
- 6.2.4 Confirmation that the tender contains a clause requiring that all timber and wood derived products used on the project are from a sustainable source and certified by the Forest Stewardship Council. The successful contractor(s) should be required to produce the relevant certificates, etc for inspection by the architect/project manager. *
- 6.2.5 A written declaration of interest must be provided where any member of your organisation has any association or connection with any of the tenderers or project Design Team; *
- 6.2.6 Notification of the closing date for tenders and the arrangements made for the tender opening meeting. We should be given the opportunity to attend this meeting;
- 6.2.7 A copy of the approved tender report, confirming that you have received copies of the tender documentation submitted by the lowest three tenderers. We reserve the right to examine the tenders submitted; *
- 6.2.8 Suppliers/contractors must not be appointed and the work must not begin until permission to proceed is obtained from sportscotland. Permission to proceed will be granted or withheld at our discretion; and
- 6.2.9 A copy of the completed Form of Tender, signed by the successful contractor, embodying a cost analysis broken down into BCIS elements. *
- 6.3 You will need to advise us of the dates of project meetings and provide us with copies of the minutes of these meetings, monthly cost reports and, ultimately, a summary of the agreed Final Account.
- 6.4 During construction, you must supply us with regular progress reports on the project and any further financial or other information that we may require to monitor our Lottery and Exchequer expenditure.
- 6.5 We also need written confirmation, where appropriate, that:
- 6.5.1 All members of the design team have adequate professional indemnity insurance; *
- 6.5.2 All aspects of the Construction (Design & Management) Regulations 2007 are being/have been complied with; *
- 6.5.3 All aspects of the Housing Grants, Construction and Regeneration Act 1996 are being complied with; and *
- 6.5.4 You comply with all relevant domestic and European legislation on procurement. *

7 Project Management

You need to ensure that the implementation of the project is managed by a competent person authorised to act on your behalf. This person will be responsible for:

- 7.1 Checking and approving all claims for payment submitted by contractors, suppliers and any other party employed on the contract;
- 7.2 Carrying out inspections at the appropriate times, instructing any remedial action and issuing a Certificate of Practical Completion or similar; and
- 7.3 Carrying out an inspection at the end of the defects liability period, instructing any remedial action and issuing a Making Good Defects Certificate or similar.

8 Agents

If you have employed an agent/adviser to act on your organisation's behalf in preparing or implementing the project please provide us with details of the appointment (i.e. background to the appointment, qualifications and the personal relationship if any). In addition, please confirm in writing that you accept that you are bound by the agent/adviser's actions. *

9 Planning Permission

You are responsible for obtaining Planning Permission(s) and Building Warrant(s), where appropriate, and displaying them to us for our approval before the project commences. *

10 Insurance: Project Implementation

You must ensure that adequate insurance cover (public and employer's liability and all-risks insurance) is taken out and maintained during the course of the building contract. You must forward the relevant documentation for our approval before the project commences. *

11 Insurance: Completed Project

We require that you take out and maintain index-linked insurance cover against loss or damage to the facility due to all risks including storm, tempest, fire, aircraft, explosion, earthquake and, where appropriate, impact by vehicles including own vehicles. Within one month of the completion of the project we need written evidence that an appropriate policy is in place. Alternatively, if you are a public sector organisation, exceptionally we can accept a written undertaking that you will make good any loss or damage to the facilities we are helping to fund.

12 Inspection

You will grant access to our representatives to inspect the facilities both during construction and following completion, by prior arrangement with yourselves. We must be made aware of and reserve the right to be represented at any project/site meetings.

13 Monitoring

13.1 In your application you provided us with information on the expected pattern and extent of use of your facilities and the stated aims and objectives of the project (as shown in Sections 7 and 9 of the application form and/or as agreed with us subsequently). Because we need to satisfy ourselves that the project is operating in accordance with our award we will be asking you to report on, among other things, the extent to which the project aims and objectives and usage targets have been met. Therefore you should take steps to monitor the impact and success of the project so that you can provide us with the relevant information. Following project completion we will send you copies of the questionnaires you will be required to complete for our monitoring purposes. In addition, dependent on your project, you may be asked to provide further information about the management and operation of the project.

13.2 Our representatives and/or nominees have the right to visit the completed facilities at any reasonable time by prior arrangement with you.

14 Management

14.1 You must provide us with details of the proposed management structure of the facility, for *

our approval. Once agreed, the arrangements for management of the completed facility should not be changed without our prior written approval.

- 14.2 If you sub-let the management of the facility, the contract you enter into with the operator must protect this Award between sportscotland and yourselves.

15 Profits (Applicable to Profit Distributing Bodies)

You must tell us if the project supported by our award realises a distributable profit or contributes to your overall distributable profit. A proportion of distributable annual profits based on the ratio of the Lottery or Exchequer Award to total project costs should be repaid to us until the amount of our award has been repaid in full. This option may be exercised at our sole discretion.

16 Equal Opportunities, Child and Vulnerable Adults Protection Policies

You are required to operate an equal opportunities policy where no one is denied the right to equal access to your facilities on the grounds of age, race, creed, colour, gender, disability, occupation, religion, sexual orientation or political persuasion or marital status or having or not having dependants. Further, we need to be satisfied that there is equality of opportunity in terms of the playing rights and the rights of members to attend general meetings, vote and hold office.

You are also required to adopt and operate a Child and Vulnerable Adults Protection Policy. These policies must form part of the Constitution and will apply for as long as the applicant body, or its successor organisation, exists. Changes can only be made to the constitution with the express written permission of sportscotland or its successor.

17 Dissolution Policy

All clubs, trusts, etc which are not Public Bodies must have in place or adopt a Winding-Up or Dissolution Policy. The Policy will identify the organisation or organisations that will receive any profit or surplus upon the winding-up or dissolution of the Club, etc. The recipient organisation will be of similar nature to the Club, be approved by sportscotland and will not alter at any time without sportscotland's approval. This policy must form part of the Constitution and will apply for as long as the applicant body, or its successor organisation, exists. Changes can only be made to the constitution with the express written permission of sportscotland, or its successor.

18 Security of Tenure

You must provide us with the following documentation, to our satisfaction, before we can give you authorisation to commence:

- 18.1 Written evidence of your organisation's security of tenure arrangements through either ownership of the facilities or by way of a lease/access agreement for the duration of this Award (for example, a Land Registry certificate, disposition or draft lease.) We require to be satisfied with the terms of the missives, disposition, lease or access agreement and for the agreements to be finalised to our approval before any payment of award can be made. *
- 18.2 Written confirmation from the Landlord/Feu Superior of the project site that it has consented to the proposed project; and *
- 18.3 Written confirmation that there are no restrictive covenants or burdens over the project area that may adversely affect the project. *

19 Mortgage, Legal Charges (Applicable to Awards of more than £25,000)

If at any time throughout the duration of this Award you propose to raise a mortgage from or grant a security or charge over facilities supported by the Lottery or Exchequer, whether land, buildings or other assets, you will require our prior written approval. This approval may be granted or withheld at our sole discretion.

20 Repairs and Replacements

You will be responsible for the repair, maintenance and eventual replacement or renewal of the facilities provided with the help of the Lottery or Exchequer award. Before the project commences you must provide us with written confirmation that you will undertake a programme of maintenance and repair in order to safeguard the asset. *

21 Sales, Disposals

- 21.1 Assets or goods wholly or partly acquired, restored, conserved or improved through Lottery or Exchequer funding shall not be sold at any time throughout the duration of this Award unless advance written notification is given to us and their full current market value is realised. We will only consider approving any sale if:
- 21.1.1 The full market value of the assets in question do not exceed £10,000 or 5% of the total value of the award whichever is the smaller; and
- 21.1.2 The proceeds of the disposal are used to benefit the project for which the award was made.
- 21.2 In the event of the sale or disposal of the assets or goods acquired, restored, conserved or improved with the help of a Lottery or Exchequer award taking place at any time throughout the duration of this Award, the full amount of the award or an appropriate proportion of the proceeds, whichever is the greater, shall be repaid to us. The share of the proceeds repayable shall be in direct proportion to the share of the project cost originally met from the Lottery or Exchequer. We may waive this requirement if we consider that this would be inappropriate having regard to all the circumstances.

22 Fraud

You must take whatever action is necessary to minimise the risk of fraud and to notify us immediately of any instances of attempted, suspected or proven fraud.

23 Repayment

- 23.1 We may require the award to be repaid in full or in part if any of the award conditions are breached.
- 23.2 Where there is a material change in purpose, ownership, or the legal identity of the applicant, at any time throughout the duration of this Award.
- 23.2.1 A new application must be submitted for our consideration; and
- 23.2.2 The award may have to be repaid in full or in part if the change is such that in our view your organisation is unlikely to fulfil the purposes for which the award was made originally.
- 23.3 The award will become repayable to us and any future payments stopped, where your organisation:
- 23.3.1 Ceases to operate; or is declared bankrupt, or is placed into receivership or liquidation, or an Administrator is appointed to it. In this event, you must agree with us suitable arrangements for disposal of the asset;
- 23.3.2 Fails to apply the award for the purposes for which it is provided, or fails to complete the project in accordance with the approved application;
- 23.3.3 Fails to complete the project;
- 23.3.4 Fails to construct or maintain the facility to a reasonable standard as agreed by both parties;
- 23.3.5 Has completed the application form fraudulently, incorrectly or misleadingly in any particular;
- 23.3.6 Has acted fraudulently or negligently at any time during the implementation of the project;
- 23.3.7 Has commenced work on the project by way of contract or start on site prior to a

Letter of Authorisation issued by us, or

23.3.8 Someone acting on your behalf has provided any written information to us in connection with the application and/or the payment of award and it is found to be false or misleading in any material respect.

23.4 If any of the events specified in Conditions 22.1, 22.2 and 22.3, above, occur before payment of the award or any part or instalment of it, we shall be under no obligation to pay the award or the balance of award and you shall be deemed to have forfeited all claims to the payment of award.

24 **Publicity**

24.1 Assistance towards the project will be acknowledged by the display of a site signboard, specifying the relevant funding source, during the construction of the facilities.

24.2 We will provide a plaque and/or a banner(s) or similar notices carrying the **sportscotland** Lottery or Exchequer logo and publicity message, which will be erected, displayed and maintained by you at the facilities permanently. Our specific requirements in terms of the form and extent of this permanent attribution are set out in the Offer Letter.

24.3 We will make arrangements for an initial press release concerning the project and thereafter no project-specific press releases or announcements will be issued without prior consultation between **sportscotland** and yourselves.

24.4 When the project is nearing completion please tell us in order that arrangements can be made for our Chairman or other representative to take part in any official ceremony and to present a plaque to mark our involvement in the project. Also, please let us know of any launch or official ceremony during construction of the facilities at which we will be given the opportunity to participate.

24.5 You will continue to acknowledge the **sportscotland** Lottery or Exchequer award in annual reports, web sites, event publicity and programmes (including programmes, letter heading, prices, opening times etc) using the **sportscotland** Lottery or Exchequer logo, whenever possible. You should give us the chance to approve any artwork, which incorporates the **sportscotland** Lottery or Exchequer logo, before publication.

24.6 We have a discretionary right to remove/replace from the facility, all banners, signboards, plaques or other similar notice identifying **sportscotland's** association with the applicant.

25 **Liability**

sportscotland or its agents shall not at any time be liable to any person in relation to any matter arising in connection with the development, planning, construction, operation, management and/or administration of the project and shall not be liable to your organisation for any loss or damage arising directly or indirectly as a result of your compliance with the terms and conditions of this Award.

26 **Intellectual Property**

You hereby acknowledge that all intellectual property rights in **sportscotland's** logo and name and any derivatives of either of the same are the absolute property of **sportscotland** and the applicant shall make no claim to the ownership or do anything to adversely affect the same.

27 **Payment of Award**

Once you have accepted and fulfilled the terms and conditions of this Award and we have found satisfactory the appropriate supporting documentation, the process of payment of award will be as follows:

27.1 Claims for payment of instalments or final payment of the award will be made on the **sportscotland** Lottery or Exchequer claim form certified as appropriate by not less than three suitably qualified persons authorised to act on your behalf and supported by original invoices, valuation certificates or other equivalent documents.

27.2 Claims for payment towards services provided in-kind must be supported by sufficient evidence to put a value on the relevant works.

27.3 Payment will be made by phased payments during the implementation of the project, paid in stages on receipt of certified claims supported by original invoices/certificates (photocopies cannot be accepted). Interim payments will be calculated in the ratio of our award to total project cost or eligible project cost, as appropriate.

- 27.4 At the same time as we issue a Letter of Authorisation to start we will ask you to complete and return to us a Claims Profile setting out the likely pattern of claims, a Bank Details Schedule and a copy of the bank/building society mandate.
- 27.5 Within 30 days of us settling your claim, you will need to provide proof of payment of the account(s) which is/are the subject of the claim. If you cannot provide this information the award may have to be repaid.
- 27.6 While we will make every effort to do so, we cannot guarantee that the processing and settlement of claims will meet precisely your organisation's contractual obligations relating to due dates for payment. So, you should ensure that you have sufficient funds available, either from your own resources or through a bank or other lender, to settle all financial and contractual obligations as they arise during the implementation through to completion of the project.

28 Banking Arrangements

- 28.1 Payment will be made directly to your bank/building society account as appropriate using the Bank Automated Clearing System (BACS).
- 28.2 We ask you to provide evidence that authorisation by not less than two signatories is required for all withdrawal or transfers from your nominated bank/building society account(s).
- 28.3 You must advise us of any change of signatories and provide us with a copy of the relevant mandate

Declaration

We have read and understand the terms and conditions of Annex 1 as set out above in Clauses 1 to 28 inclusive

1

Signature.....*John Armstrong*.....

Name [Block].....*JOHN ARMSTRONG*.....

Position.....*TRUSTEE*.....

2

Signature.....*David Casey*.....

Name [Block].....*DAVID CASEY*.....

Position.....*GENERAL MANAGER*.....

Date.....*17/07/12*.....