



LEE VALLEY REGIONAL PARK AUTHORITY
ADDITIONAL AUTHORITY MEETING
26 MARCH 2015 AT 11:00

Agenda Item No:

6

Report No:

A/4203/15

MEMORANDUM OF UNDERSTANDING AND SPORT ENGLAND CONSENT

Presented by the Assistant Director of Legal & Property Services

SUMMARY

Following agreement by the Lee Valley Regional Park Authority on 5 February 2015 (paper A/4201/15) to enter into the Leisure Services Contract commencing on 1 April 2015, this report requests approval of a Memorandum of Understanding between the parties (Lee Valley Regional Park Authority and Lee Valley Leisure Trust Limited) which details various matters that will not be finalised prior to commencement date. The parties have agreed that these various matters can be completed after the commencement date but within an agreed timeframe.

This report also advises Members of the conditions which have been set by Sport England to enable its consent to the Leisure Services Contract and associated leases. Members are asked to approve the conditions.

RECOMMENDATIONS

- Members Approve:
- (1) entering into the Memorandum of Understanding attached as Appendix A to this report;
 - (2) the conditions attached to Sport England consent as set out as Appendix C to this report; and
 - (3) subject to (2) above the signing of the conditional consent letter with Sport England attached as Appendix B to this report.

BACKGROUND

- 1 In 2013 Lee Valley Regional Park Authority (the Authority) approved the principle of transferring the management of its Venues to a New Organisational Model. Following consideration of the options during 2013 and following detailed discussion Members agreed that an in-house Trust would best meet the needs of the Authority in the short-term. The reasons were as follows:

- help generate additional sporting and leisure opportunities through engaging another body to support the Authority's obligations through a contract for the management of the venues;
 - address the current financial pressures generated by the business rates bill;
 - allow the Authority to fully develop operations at the new and complex 2012 legacy venues; and
 - test the market in the near future to ensure value for money.
- 2 The Lee Valley Leisure Trust Limited (the Trust) was established by the Authority as an Industrial Provident Society in 2013.

Following the Authority decision in February 2014 (Paper A/4181/14) to post a Contract Award Notice of the Authority's intention to enter into a Leisure Services Contract with the Lee Valley Leisure Trust Limited officers worked together with external consultants, legal advisors and Members of the Contract Negotiation and Monitoring Working Group to agree the detailed terms of the Contract documentation with the Trust.

- 3 The Member Task and Finish Working Group set up by the Authority has provided oversight and enabled detailed Member discussions on the many aspects of this process. In broad terms the Working Group has focused on developing an operating model which delivers the optimum financial, strategic and management outcomes for the Authority.
- 4 The Authority decided at an Additional Authority meeting in April 2014 (Paper A/4182/14) and subject to financial appraisal and due diligence that 13 of its venues including some non-sporting venues would be included in the transfer of services to the Trust.

Subsequently at the Additional Authority meeting of 5 February 2014 (Paper A/4201/15) it was agreed to also include part of the Waterworks facility in the transfer of services to the Trust.

- 5 The Authority agreed at an Additional Authority meeting on 5 February 2015 to enter into the Leisure Services Contract commencing on 1 April 2015 and delegated to the Chief Executive and the Assistant Director Legal & Property Services, in consultation with the Chairman, to make any final amendments to the Leisure Services Contract and finalise and execute the individual venue leases as appropriate.
- 6 Refinement and minor amendments to the Leisure Services Contract have been undertaken since approval on 5 February 2015 and discussed with the Chairman but various matters will not be finalised prior to the commencement date. These various matters are as detailed in the Memorandum of Understanding, attached as Appendix A to this report. The parties have agreed that these various matters can be completed after the commencement date but within an agreed timeframe.

MEMORANDUM OF UNDERSTANDING

- 7 The Memorandum of Understanding between the Authority and the Trust details the various matters which the parties have agreed can be completed after commencement (1 April 2015) but within an agreed timeframe.
- 8 The various matters relate to:

- maintenance of Head House land;
 - criteria eligibility for new Trust employees appointed after 1 April 2015 for membership of the Local Government Pension Scheme;
 - compliance with obligations of the co-operation agreement with the London Legacy Development Corporation for the continued provision of combined heat and power systems covering Queen Elizabeth Olympic Park;
 - terms of the service level agreements between the Authority and the Trust;
 - compliance with obligations of specific new agreements with third parties entered into by the Authority after commencement date;
 - granting of the lease for the letting of 2 treatment rooms at Lee Valley VeloPark;
 - planning requirements for proposed developments at the marinas;
 - completion of Schedule 2, Retained and Assumed Contracts;
 - identification of Special Events within the Specification;
 - landscaping works at Lee Valley Hockey & Tennis Centre; and
 - resolving details of the Intellectual Property clauses within the Contract which are broadly covered in the contract in the interim and will be subject to the principles agreed in the Memorandum of Understanding.
- 9 The agreement to the Memorandum of Understanding will enable the parties to sign up to the Leisure Services Contract and the various leases which need to commence on the 1st April 2015.

SPORT ENGLAND CONSENT

- 10 A number of consents are required from bodies which have an 'interest' in some of the venues which are being transferred to the Trust. Consents have been obtained from The London Marathon Trust, Lawn Tennis Association and Department for Communities & Local Government (in relation to the East of England Development Agency investment in the Lee Valley White Water Centre).
- 11 The one outstanding and most significant consent required is from Sport England (SE). SE has invested significant capital into 3 of the Authority's venues - VeloPark, Athletics Centre and White Water Centre. The Lottery Funding Agreements (LFAs) associated with each of the venues obliges the Authority to deliver a range of sports development and community sport outcomes. The Authority has successfully met these obligations since the venues opened.
- 12 Whilst the Leisure Services Contract does oblige the Trust to fulfil these same LFA obligations SE wishes to ensure that it has adequate safeguards in place, with what is a new operating model and a departure from the arrangement SE has had with the Authority for the past decade.
- 13 Appendix C to this report sets out the conditions upon which SE consent will be given. The consent letter is attached as Appendix B to this report.

The conditions fall into 3 broad areas:

- a) the LFA obligations need to 'flow through' to the Trust completely and to apply in every aspect as they currently do with the Authority. SE is looking to strengthen the Leisure Services Contract via the clauses in Appendix B to this report;
- b) Audit and monitoring: SE is stipulating a comprehensive audit and

monitoring regime which will provide it with the level of assurance it needs in the context of what is a new operating arrangement and a new relationship between SE and the Trust. This area is covered under section 5. of Appendix B to this report;

- c) **Business continuity in the event of termination of the Leisure Services Contract:** the Leisure Services Contract does currently provide for this but SE want to see a detailed contingency and transition plan. This is referred to in section 9.(c) of Appendix C to this report.

These 3 areas were discussed by the Authority and Trust Chairs on 24 March and there was agreement to what SE has required.

Members are asked to approve the SE conditions which have now been incorporated into the Leisure Services Contract and the relevant leases which relate to the LFA's as per their requirements and the letter in Appendix B to this report.

ENVIRONMENTAL IMPLICATIONS

- 14 There are no environmental implications arising directly from the recommendations in this report.

FINANCIAL IMPLICATIONS

- 15 There are no financial implications arising directly from the recommendations in this report.

HUMAN RESOURCE IMPLICATIONS

- 16 There are no human resource implications arising directly from the recommendations in this report.

LEGAL IMPLICATIONS

- 17 The legal implications are dealt with in the body of the report.

RISK MANAGEMENT IMPLICATIONS

- 18 Risks are identified in the Authority's corporate risk register. Managing these risks is a fundamental part of the Authority's governance and system of internal control.
- 19 **SR1 The Authority enters into contractual/partnership agreements without accurately quantifying the liabilities arising from them**

Mitigation: Resources have been set aside to deal with the financial, legal and risk management issues set out in this paper. External legal advice, financial and HR consultants have been employed to advise the Authority on the establishment of a Trust. In addition dual running costs of £250,000 have been built into the budget to manage the potential additional requirements of having two organisations.

20 SR9 Failure to comply with statutory requirements

Mitigation: Resources have been set aside to deal with the legal and risk management issues set out in this paper. External legal advice and consultants have been employed to advise the Authority on the establishment of a Trust. In addition dual running costs of £250,000 have been built into the budget to manage the potential additional requirements of having two organisations.

21 SR12 Impact of new operational model and Governance requirements

Mitigation: The move to a new operational model was a major strategic risk to the organisation and identified within the corporate risk register. This report and its recommendations demonstrate that the Authority has managed these risks to date and put in place robust measures to manage these risks going forward. The corporate register is managed and monitored at Member level (by the Audit Committee) and the risks and mitigation have been scrutinised by Members of the Contract Negotiation & Monitoring Working Group, with all key decisions being taken by the full Authority. There will be further risks identified through the implementation stage of any change and these will be managed through the existing risk management processes the Authority has in place.

EQUALITY IMPLICATIONS

- 22 There are no equality implications arising directly from the recommendations in this report.

Author: Beryl Foster, 01992 709 836, bfoster@leevalleypark.org.uk

PREVIOUS COMMITTEE REPORTS

Additional Authority	A/4201/15	Leisure Services Contract for the Operation and Delivery of Services at Authority Venues	5 February 2015
Additional Authority	A/4198/14	Employee Terms & Conditions and Benefits	20 November 2014
Additional Authority	A/4197/14	Pension Discussion Paper	20 November 2014
Authority	A/4197/14	Support Services – Lee Valley Regional Park Authority and Lee Valley Leisure Trust Ltd	23 October 2014
Additional Authority	A/4193/14	Proposed Senior Management Structures for Lee Valley Regional Park Authority	31 July 2014
Additional Authority	A/4192/14	Recruitment of Trustees to the Lee Valley Leisure Trust board and Authority Appointments	31 July 2014
Executive Committee	E/354/14	New Organisational Model – Work Programme External	15 May 2014

Additional Authority	A/4182/14	Support A New Operational Model for the Lee Valley Regional Park Authority Venues	10 April 2014
Additional Authority	A/4181/14	A New Operational Model for the Lee Valley Regional Park Authority Venues	27 February 2014
New Organisational Model Working Group	NEW/01/14	Progress Report	16 January 2014
Additional Authority	A/4176/13	A New Organisational Model for the Lee Valley Regional Park Authority	21 November 2013

APPENDIX ATTACHED

Appendix A	Memorandum of Understanding
Appendix B	Letter from Sport England
Appendix C	Conditions for Sport England's consent

LIST OF ABBREVIATIONS

the Authority	Lee Valley Regional Park Authority
the Trust	Lee Valley Leisure Trust Limited
SE	Sport England
LFA	Lottery Funding Agreement

Memorandum of Understanding:

Date:

The Parties:

LEE VALLEY REGIONAL PARK AUTHORITY (Authority) and LEE VALLEY LEISURE TRUST LIMITED (Trust)

In consideration of the parties today entering into an Agreement (LSC) for the delivery by the Trust of certain leisure and sporting services (Services) on behalf of the Authority the parties have agreed that they will, acting in good faith, seek to do all things and complete all deeds and documents reasonably required to give effect to the arrangements set out in this Memorandum of Understanding (MoU), in accordance with its terms.

The parties acknowledge and confirm that other than in relation to paragraph 10 below the LSC takes precedence over the content of this MoU where there is duplication and/or inconsistency between the two documents.

1. At the Lee Valley VeloPark there is an area known as the Head House (Head House Land) shown on the attached plan edged red for which the Authority will receive a commuted sum for its maintenance. The Trust agrees that, subject to receiving an appropriate apportioned amount of the commuted sum (to be agreed between the parties acting reasonably), it will put, keep and maintain the Head House Land in a good and reasonable condition generally in accordance with the landscaping and grounds maintenance obligations placed on the Trust under the terms of the LSC. The Authority will lead on resolving this item.
2. The parties will seek to agree by 30 June 2015 the criteria for the eligibility of new employees joining the employment of the Trust after 1 April 2015 for membership of the Local Government Pension Scheme administered by the London Pension Funds Authority. The Trust will provide their proposals and the Authority will respond.
3. The Authority has been requested to enter into a co-operation agreement (Co-op Agreement) with the London Legacy Development Corporation for the continued provision of combined heat and power systems (CHP) to the Lee valley VeloPark and the Lee Valley Hockey and Tennis Centre (Centres) by GDF Suez Cofeley plc (Cofeley) for the balance of an existing 40 years agreement covering the whole of the Queen Elizabeth Olympic Park that will include, inter alia, a right for Cofeley to access the Centres for the purposes of the maintenance and repair of the CHP. The Trust agrees to comply with the obligations of the Authority under the Co-op Agreement subject to i) the Authority first confirming with the Trust the nature of the obligations to be adhered to pursuant to the Co-Op Agreement, and ii) the parties agreeing an adequate amount of additional funding for the Trust in accordance with the LSC. If requested by the Authority the Trust (acting reasonably), being satisfied as to the nature of the obligations and the adequacy of Management Fee, shall enter into Co-Op Agreement as an additional counterparty. The Authority will lead on resolving this item.
4. The parties will seek to agree as soon as reasonably practicable and in any event no later than 12 months after the Commencement Date the terms of the several service level agreements

covering the reciprocal arrangements for the delivery of relevant services between the Authority and the Trust and the parties to complete the same once agreed. The Authority will lead on resolving this item.

5. In relation to the Landscaping Works identified in the lease for the LV Hockey and Tennis facility the parties agree that a Trust representative will be consulted and involved in the project management of the finalisation of the Landscaping Works. Further the Trust representative's views regarding the final landscape designs and timescales for their implementation would be sought and jointly agreed subject to the over-arching planning permission conditions. The Authority will lead on this item.
6. The Authority intends to enter into the agreements listed in the Schedule below (New Agreements) and the Trust, without prejudice to the terms of the LSC, undertakes with the Authority that it will, at all times after the New Agreements have been entered into (and subject to the Trust having been provided with copies of the completed agreements and subject to the Authority providing adequate funding in accordance with the LSC), ensure that the Authority is able to comply with the service provision and other obligations in all respects of the New Agreements. The Trust shall promptly take all reasonable steps and do all acts and things reasonably within its power, and otherwise cooperate with the Authority as the Authority may reasonably request, to assist the Authority with it complying with each of the New Agreements subject to the Authority providing adequate funding in accordance with the LSC. The Authority will lead on resolving this item.
7. In relation to the Lee valley VeloPark terms have been conditionally agreed and approved by Authority Members for a letting to Health Consultants Incorporated Limited of a part of the premises for use as treatment rooms (the grant of the lease being conditional on Secretary of State and Sport England consents). The lease will not be concluded before 1 April 2015 and the Trust agrees to join in with the Authority to grant the lease for a term of 10 years. The Authority will lead on resolving this item.
8. The Authority has agreed to install a new larger container for the chandlery at Lee Valley Marina Stanstead (Chandlery) and a new toilet block at Lee Valley Marina Springfield (Toilets). In the case of the Chandlery whilst an application for planning permission has been submitted on behalf of the Authority as at the date of this memorandum no planning permission has been obtained. In respect of the toilets the works will not have been completed by the date of this memorandum. It is confirmed for the avoidance of doubt that the Authority consents for the purposes of the respective leases to the replacement of the Chandlery and the Toilets and will pay the costs for obtaining any statutory consents for their installation. The Authority will lead on resolving this item.
9. The information provided in Schedule 2 of the LSC is only up to date for the period to the end of February 2015 and the Authority undertakes to provide the complete list of contracts by 30 June 2015. The Authority will lead on resolving this item subject to the Trust providing sufficient information to the Authority from the financial information and procurement systems.

10. Notwithstanding the terms of clause 20.2 of the LSC no list of Special Events have been identified in the Specification in the LSC and for the purposes of the clause the programme of events is comprised in the attached "What's On Guide". The Authority will lead on resolving this item.
11. The parties have agreed the following principles for provisions to cover Intellectual Property Rights (IPR):
 - The Authority owns its IP as it currently exists and shall allow (by way of licencing or other) the Trust to use it for the period of the Agreement and for the provision of the Services.
 - The Trust will create IP during the contract term and in so far as it is created for the provision of the Services and during the period of the Agreement then it be given to the Authority by way of a royalty free licence and the Trust continues to be able to use it during the Service Period and for a further period to be agreed between the parties acting reasonably.
 - The Trust will create IP during the contract term whilst developing its business and this will be vested in the Trust unless and to the extent the parties agree a licence for the same will be granted to the Authority
 - Where the Trust do work for the Authority through the SLA for non-Trust related matters i.e parklands or strategic authority business and IP is created, this will need licenced to the Authority and the Trust will use reasonable endeavours to secure this for the Authority.

The Parties will use all reasonable endeavours to agree a deed of variation to the LSC to incorporate the above detailed principles within 4 weeks of the date of signature of the LSC.

SCHEDULE

List of New Agreements

- **Variation of Lottery Funding Agreement in relation to Lee Valley VeloPark**

Parties: Sport England and Lee Valley Regional Park Authority

- **2016 UCI Track Cycling World Championships Venue Hire Agreement**

Parties: British Cycling Events Ltd and Lee Valley Regional Park Authority

- **Revolution Series Agreement (future events)**

Parties: FACE Partnership Limited and Lee Valley Regional Park Authority

- **Funding Agreement in relation to Lee Valley Hockey and Tennis Centre**

Parties: Sport England and Lee Valley Regional Park Authority

- **2015 Canoe Slalom World Championships Venue Hire Agreement**

Parties: British Canoe Union and Lee Valley Regional Park Authority

- **Venue Hire Agreement in relation to 1-hour record attempt on 7 June 2015**

Dated: TBC

Parties: TBC and Lee Valley Regional Park Authority

- **Venue Hire/Usage Agreement(s) in relation to three hockey international matches in 2015**

Parties: England Hockey and Lee Valley Regional Park Authority

To be prepared on the letterhead of the English Sports Council

Date: ● 2015

Lee Valley Regional Park Authority
Myddelton House
Bulls Cross
Enfield
Middlesex
EN2 9HG

Dear Sirs,

Proposal to appoint Lee Valley Leisure Trust as operator of VeloPark, White Water Canoe and Kayak Slalom Centre and the Lee Valley Athletics Centre

Sport England entered into lottery and/or exchequer funding agreements with the Lee Valley Regional Park Authority ("LVRPA") with respect to:

- (a) the London VeloPark dated 3 November 2010 (as amended);
- (b) the White Water Canoe and Kayak Slalom Centre at Broxbourne dated 4 March 2009 (as amended); and
- (c) the Lee Valley Athletics Centre dated November 2004 and 24 January 2011 (as amended) respectively.

(the "Funding Agreements")

LVRPA is now proposing to appoint the Lee Valley Leisure Trust Limited (the "Trust") as the operator of its facilities within the Lee Valley Leisure Park, including the London VeloPark, White Water Canoe and Kayak Slalom Centre at Broxbourne and the Lee Valley Athletics Centre which are the subject of the Funding Agreements (each a "Funded Facility" and together the "Funded Facilities"). The appointment of the Trust shall be under a leisure services contract with the Trust that includes a service specification for each of the Funded Facilities (the "Leisure Services Contract") and LVRPA shall also grant a lease of each of the Funded Facilities to the Trust (each a "Lease"). The Leisure Services Contract and the Lease for each Funded Facility will be in the form which was emailed by Beryl Foster of LVRPA to [●] on 26 March 2015 and stated to be the final form of these documents (each document being an "Agreed Form").

Under the terms of the Funding Agreements, Sport England's consent is required for LVRPA to enter into the Leisure Services Contract and the Leases in respect of the Funded Facilities.

Upon LVRPA's agreement to the following by signing and dating this letter below, we consent to LVRPA entering into the Leisure Services Contract and the Lease for each Funded Facility with Lee Valley Leisure Trust Limited strictly in the Agreed Form:

1. LVRPA agrees that it will at all times be responsible, and remain liable, to Sport England for the conduct of the Trust including, without limitation, any conduct of the Trust that

causes LVRPA to breach any of its obligations under the Funding Agreement or gives rise to any right to payment for Sport England under a Funding Agreement.

2. By no later than 30 June 2015, LVRPA will demonstrate to Sport England's reasonable satisfaction:
 - (a) that it has in place reasonable and appropriate mechanisms and measures to manage its arrangements with the Trust in order to ensure that the Trust operates the Funded Facilities efficiently and in accordance with the requirements of the Funding Agreements; and
 - (b) that it has in place reasonable contingency and transition plans (and has the necessary rights to implement and execute those contingency and transition plans) to ensure the continuing operation of the Funded Facilities as required by the Funding Agreements in the event that the Leisure Services Contract with the Trust is terminated for any reason.
3. LVRPA agrees that it will:
 - (a) enter into the Leisure Services Contract and the Lease for each Funded Facility with Lee Valley Leisure Trust Limited strictly in the Agreed Form within 30 days of the date of this letter; and
 - (b) thereafter not agree to, or permit, changes to Leisure Services Contract or relevant Leases entered into with Lee Valley Leisure Trust Limited to the extent they relate to or may affect the Funded Facilities (including any services provided at or in relation to the Funded Facilities) without obtaining Sport England's prior written consent.
4. LVRPA will promptly (and in any event within 14 days) following the granting of the Lease to the Lee Valley Leisure Trust Limited provide evidence to Sport England's reasonable satisfaction that the Lease of each Funded Facility has been properly contracted out of the Landlord and Tenant Act 1954.
5. LVRPA agrees that failure to comply with any obligations set out in (2), (3) or (4) above will be deemed to be:
 - (a) a material breach of all the Funding Agreements; and
 - (b) an "Event of Default" or an event giving rise to the right to repayment of the relevant grant (as the case may be) under each Funding Agreement.
6. Consent by Sport England to LVRPA entering into the Leisure Services Contract and the Lease for each Funded Facility strictly in the Agreed Form with Lee Valley Leisure Trust Limited does not constitute judgment or approval by Sport England:
 - (a) of the soundness or suitability of the terms of the Leisure Services Contract or Leases for achieving LVRPA's purposes or objectives;
 - (b) that the transaction contemplated by the Leisure Services Contract or Leases has commercial merit or complies with the applicable law; or
 - (c) that the transaction contemplated by Leisure Services Contract or Leases complies with LVRPA's obligations under the Funding Agreements.

7. The giving of consent by Sport England or any correspondence or discussions in relation to the Leisure Services Contract or Leases shall not be deemed to:
- (a) give rise to or place Sport England under any responsibility, obligation or liability in relation to the Funded Facilities (save as expressly set out in the Funding Agreements); or
 - (b) prejudice, fetter or constitute a waiver of any of Sport England's rights or LVRPA's obligations under the Funding Agreements; or
 - (c) relieve LVRPA from any of its obligations under the Funding Agreements.
8. Sport England's consent is specific to LVRPA entering into the Leisure Services Contract and the Lease for each Funded Facility with Lee Valley Leisure Trust Limited strictly in the Agreed Form and does constitute consent to any other operator arrangement or to any other matter that under the terms of the Funding Agreement requires Sport England's consent. If LVRPA does not enter into the Leisure Services Contract and the Lease for each Funded Facility with Lee Valley Leisure Trust Limited strictly in the Agreed Form within 30 days of the date of this letter then Sport England's consent shall be deemed to be withdrawn and of no effect.

Please sign below and return a copy to us to confirm your agreement to (1) to (8) above.

Yours faithfully

.....
Signed for and on behalf of The English Sports Council

We accept and agree to the terms of this letter:

.....
Signed for and on behalf of Lee Valley Regional
Park Authority by:

.....
Print name:

Date:

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**Conditions for Sport England's Consent to LVRPA proposed Leisure Services Contract
and associated leases**

1. Insert new definitions:

- (a) **"Sport England Conditions"** mean the requirements set out in Schedule [xx]
- (b) **"Grant Funded Facilities"** means the Lee Valley Athletics Centre, the Lee Valley Velopark and the Lee Valley White Water Centre.

2. Insert a new clause 38.2 as follows:

"Without prejudice to the generality of clause 38.1, and without limitation, the Trust shall comply with the Sport England Conditions in respect of the Grant Funded Facilities."

3. Insert a new clause 38.3 as follows:

"The parties agree that:

- (a) to the extent that any terms of this Agreement or the terms of any Lease for the Grant Funded Facilities conflict with or contradict clauses 38.1 and 38.2 of this Agreement (or there is any ambiguity over which term prevails), clauses 38.1 and 38.2 of this Agreement will prevail.
- (b) the terms of this Agreement and the terms of any Lease for the Grant Funded Facilities shall at all times be interpreted as being subject to compliance by the Trust with clauses 38.1 and 38.2; and
- (c) the Trust shall not be relieved of liability for any breach of clauses 38.1 or 38.2 by reference to, or by reason of, any other obligation or right under this Agreement or the terms of the Lease."

4. Insert a new clause 38.4 as follows:

"In respect of the Trust and the Grant Funded Facilities (including all services and activities carried on by the Trust in respect of the Grant Funded Facilities) the Trust:

- (a) agrees, notwithstanding any other clause of this Agreement, that the Authority may disclose the terms of this Agreement and any information which it is provided about the Grant Funded Facilities pursuant to this Agreement to Sport England;
- (b) will permit Sport England to exercise the same rights of access, to be provided with reports or information, to attend at meetings, to audit and to monitor (and all such similar rights) as:
 - (i) the Authority is entitled to do so pursuant to the Agreement; and
 - (ii) Sport England or any third party (including the Comptroller and Auditor General) currently has in respect of the Authority under the Prior Agreements relating to the Grant Funded Facilities as though the Trust was named in place of the Authority; and

5. Insert a new clause 38.5 as follows:

"In addition to, and without prejudice or limitation to, clause 38.4 the Trust will:

- (a) report on a yearly basis to Sport England (in such form and in such detail as Sport England may reasonably require) performance at each Grant Funded Facility

against the relevant "Legacy Plan" or "Operations Plan" or "Action Plan" (as the case may be) as required by the relevant Prior Agreement;

- (b) if requested by Sport England, meet with Sport England (with or without the Authority) on an annual basis to review performance at each Grant Funded Facility the relevant "Legacy Plan" or "Operations Plan" or "Action Plan" (as the case may be) as required by the relevant Prior Agreement and discuss what may be appropriate targets for the following year;
- (c) ensure Sport England is provided with reasonable notice of, and is entitled to attend as an observer, any meetings held or attended by the trustees of the Trust and that Sport England receives any papers provided to the trustees of the Trust to the extent that such relate to the Grant Funded Facilities; and
- (d) if requested by Sport England, ensure that senior authorised representatives of the Trust meet with the Authority and Sport England on a quarterly basis to review the financial performance of the Trust and provide all such information as Sport England may reasonably require to enable Sport England to assess the Trust's financial status and ability to operate of the Facilities and the Site in accordance with this Agreement in order to meet the requirements of the Prior Agreements relating to the Grant Funded Facilities."

6. Amend clause 68 to expressly grant Sport England third party rights in respect of clause 38 as follows:

68 Contracts (Rights of Third Parties) Act 1999

68.1 Save as set out in clause 68.3, no person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

68.2 Nothing contained in Clause 68.1 shall affect any right or remedy of any third party which exists or is available other than under the Contracts (Rights of Third Parties) Act 1999.

68.3 Sport England may enforce clause 38, and any rights expressly granted to it pursuant to this Agreement, for the purpose of, and in accordance with, the Contracts (Rights of Third Parties) Act 1999.

7. Amendments are made to the form of lease for the Valley Athletics Centre; the Lee Valley Velopark; and the Lee Valley White Water Centre so that the terms of the lease are consistent with the LFAs and the obligations on the Trust under clause 38.1 of the Leisure Services Contract.

(NOTE. SE is reviewing the proposed amendments to the lease received on 24 March 2015)

8. We will need to confirm that the list of Prior Agreements in the proposed Services Contract is accurate.
9. LVRPA enters into the form of consent required by Sport England that, amongst other things, confirms that LVRPA agrees that:
- (a) Under the LFA, LVRPA will be responsible and liable to Sport England for the conduct of the Trust including any conduct of the Trust that causes LVRPA to

breach the LFA or creates an event of default giving rise to clawback or a right to a share of proceeds from a disposal.

- (b) The granting of consent does not constitute an approval by Sport England of the merits of transaction and does not vary, prejudice, fetter or limit any rights of Sport England or obligations of LVRPA under the LFA.
- (c) By no later than 30 June 2015, LVRPA will demonstrate to Sport England's reasonable satisfaction:
 - (i) the mechanisms and measures the Authority has in place to ensure that the Trust operates the facilities efficiently and in accordance with the requirements of the LFAS; and
 - (ii) the contingency and transition plans LVRPA has in place for the continuing operation of the Facilities as required by the LFA in the event that the Leisure Services Contract with the Trust is terminated for any reason.
- (d) The consent is to the specific form of Services Contract which has been provided to Sport England (please therefore send the latest version). Changes to the Leisure Services Contract or related leases will not be made without Sport England's consent;
- (e) Following the granting of the lease LVRPA will provides evidence to Sport England that the each Lease has been properly contracted out of the Landlord and Tenant Act 1954; and
- (f) Failure to comply with any obligations to be performed following the granting of consent including (c) to (e) above will be deemed an event of default giving rise to a right of clawback by Sport England under the LFAs.

24 March 2015

SCHEDULE [XX]

1. DEFINITIONS AND INTERPRETATION

- 1.1 Reference to a Prior Agreements in this Schedule means any agreement to which Sport England is a party that relates to the Granted Funded Sites.
- 1.2 Capitalised terms used in the remainder of this is Schedule [x] shall have the same meaning as given to them herein, or in the relevant Prior Agreement, with the exception of "Leases", "Trust", "Term", "Trading Subsidiaries" which have the definition given to them in this Services Agreement.

2. TRUST'S OBLIGATIONS

The Trust will:

- (a) maintain and operate the Facilities and the Site to achieve the Strategic Purpose, or the Approved Purpose, as the case may be (and this shall apply irrespective of whether the relevant Lease permit other uses).
- (b) operate the Facility and the Site at all times in accordance with, and in order to achieve, the relevant Legacy Plan or Operations Plan or Action Plan (as the case may be);
- (c) not make any changes to the Legacy Plan or Operations Plan or Action Plan (as the case may be) without the written consent of Sport England;
- (d) ensure that the Facility achieves and maintains such accreditation and rankings as may be required in the relevant Prior Agreement;
- (e) at all times during the Term, comply with all relevant laws and codes of practice, including planning conditions attached to planning permission approvals in respect of the Site, equal opportunities legislation, the Construction (Design and Management) Regulations 2007, European Union and United Kingdom procurement legislation;
- (f) recognise the contribution made by Sport England to each Project as reasonably required by Sport England from time to time, by displaying signs at the relevant Facility or the Site as required by Sport England from time to time, including using the common Lottery branding if required by the relevant Prior Agreement;
- (g) maintain the Facilities and the Site at all times to comply with any design requirements in the relevant Prior Agreement, including any Agreed Design and the Design Requirements or Minimum Design Requirements, as the case may be;
- (h) ensure that there is no promotion, advertising, sponsorship or merchandising of tobacco based products whether by the Trust or any other person, at or in connection with the Facilities or at the Site;
- (i) inform Sport England within five (5) days of any loss or damage to the Site or Facilities that would have a material adverse effect on the Authority's ability to comply with the its obligations to maintain and operate the Facilities and the Site in accordance with the relevant Prior Agreement (including where the Trust will

- not be able to carry out the relevant obligation on behalf of the Authority in accordance with this Services Agreement);
- (j) not contract any third party to operate the Facility except as permitted by the relevant Prior Agreement;
 - (k) uphold the same obligations of confidentiality and limitations with respect to announcements, to which the Authority is subject under the relevant Prior Agreement;
 - (l) ensure that the Facilities and Site are covered by a comprehensive policy of insurance with reputable insurers against all risks which would be prudent to insure against to its full replacement value, and a copy shall be provided to Sport England before the entry into effect of such policies and upon any material changes or replacement of such policies.
 - (m) keep the Site and the Facilities at all times in good repair and condition and maintain and operate the Facilities and the Site in accordance with all applicable laws and relevant codes of practice;
 - (n) secure the Facilities and the Site to prevent access by unauthorised persons and comply with plans for securing the Facilities as set out in the relevant the Legacy Plan or Operations Plan or Action Plan (as the case may be);
 - (o) allow Sport England such access at reasonable times to the Facilities and the Site to enable Sport England to inspect the Facilities and any works to or on the Facilities or the Site, monitor the conduct and progress of the relevant purpose or project, and monitor compliance with the terms of the relevant Prior Agreement, including the operation of the Facilities in accordance with the relevant the Legacy Plan or Operations Plan or Action Plan (as the case may be);
 - (p) notwithstanding any rights under any Leases, not sell, transfer, assign, grant or otherwise dispose of any interest (including, without limitation, the granting of naming rights or intellectual property rights in) the whole or part of Facilities or the Site (or any assets or goods wholly or partially acquired, restored, conserved, enhanced or improved with the Lottery Grant or Exchequer Grant, as the case may be), except to the extent the Authority would have been permitted to do so in accordance with the relevant Prior Agreement; and
 - (q) Without limiting paragraph (o), and for the avoidance of doubt, the Trust will not:
 - (i) exercise any rights to sublet, assign or part with possession of any percentage of the Facilities or the Site (including to the Trust's Trading Subsidiary) under the Leases other than as the Authority is permitted to do so by the relevant Prior Agreement, and where certain criteria as set out in the relevant Prior Agreement are required to be met, the Trust meets and fulfils such criteria; or
 - (ii) create or permit to be created any mortgage or charge over the Leases, or any asset acquired or financed wholly or in part using the Grant, Lottery Grant or the Exchequer Grant, as the case may be, or any interest therein (including any permitted property interest granted to a third party in the Facilities or the Site).

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