

13<sup>th</sup> May 2020**APPROVED ACTIVITY PROVIDER LICENCE (RESIDENTIAL)**

This Agreement is made the 28-Oct-2020 between **The Award Scheme Limited**, a private limited company registered in England & Wales with company number 02173914, and having its registered address at Gulliver House, Madeira Walk, Windsor, Berkshire, SL4 1EU ("**ASL**") and the **Approved Activity Provider** named below, upon and subject to the terms and conditions appended hereto ("**the Terms and Conditions**"). ASL is the trading company acting on behalf of The Duke of Edinburgh's Award, a body established by Royal Charter (registered charity number 1072490, company number RC000806) whose registered office is at Gulliver House, Madeira Walk, Windsor, Berkshire, SL4 1EU ("**the Charity**").

<b>Name of Approved Activity Provider</b>	Peat Rigg Outdoor Training Centres
<b>Contact Details for Approved Activity Provider</b>	Cropton Pickering North Yorkshire YO18 8EX
	<b>Tel:</b> 01751 417112
	<b>E-mail:</b> ian@peatrigg.co.uk
<b>Registered Company or Charity Number</b>	6082372
<b>Invoicing details</b>	PO Number not required
<b>Named individual for invoicing</b>	Ian Thorpe
<b>Address for invoices</b>	
	<b>E-mail:</b>
<b>Type of Approved Activity Provider</b>	Residential
<b>Activity</b>	Outdoor activities
<b>Licence Fee</b>	BAND: R1 <i>Note: The Licence Fee may be subject to annual increase.</i>
<b>Approved Activity Provider Manager</b>	Ian Thorpe
<b>Commencement Date</b>	1st November 2020
<b>Term</b>	3 Years unless terminated earlier in accordance with clause 10
<b>Territory</b>	United Kingdom

**I, the licence signatory, hereby declare that the following policies/licences are in place as required by the terms of the licence:**

- Safeguarding and/or Child Protection Policy (in accordance with the standards set out in clause 3.1)
- Insurance
- Complaints Procedure
- AALA (where applicable)
- Health & Safety Policy
- Equal Opportunities
- Emergency Procedure
- Risk Assessment Policy

**Signed:** *Ian Thorpe*

**Title / Position:** Director

**Date:** 28-Oct-2020

Duly authorised to sign for and on behalf of the  
Approved Activity Provider

**Signed:** *Philip Ingleton*

**Title / Position:** Director of UK Services

**Date:** 29-Oct-2020

Duly authorised to sign for and on behalf of The  
Award Scheme Limited

**TERMS AND CONDITIONS**  
**APPROVED ACTIVITY PROVIDER LICENCE (RESIDENTIAL)**

Where any of the following expressions are used in the Terms and Conditions they shall have the following meanings:

**1. Definitions**

1.1 Unless the context indicates otherwise states or requires, the terms set out on the Front Sheet (page 1) of this Agreement shall have the meanings attributed to them there and the following expressions shall have the following meanings when used in this Agreement:

"Accounting Date"	31 <sup>st</sup> March and 30 <sup>th</sup> September in each Contract Year;
"Accounting Period"	means the period from the Commencement Date to the next following Accounting Date and each six month period ending on an Accounting Date thereafter;
"Agreement"	means this agreement, including the Front Sheet, the Schedule and any documents referred to in it;
"Approved Activity Provider"	means the organisation noted on the Front Sheet that is licensed by ASL or the Charity under the terms of this Agreement to deliver specified activities (as noted on the Front Sheet);
"Assessor"	means the adult who is responsible for checking the relevant Participants' progress and who agrees the completion of a section of their DofE Programme in accordance with clause 3.4;
"Brand Guidelines"	means the guidelines, amended from time to time, governing the use of the Trade Marks and the overall Charity brand, a copy of which will be provided to the Approved Activity Provider by ASL or the Charity;
"Contract Year"	means the period of twelve (12) months from the Commencement Date and thereafter each twelve (12) month period (or part thereof), commencing on the anniversary of the Commencement Date, throughout the Term;
"DofE Centre"	means a location where the DofE Programmes are run, including, for example, a school, youth centre or Young Offender Institution, with the possibility of more than one DofE Group operating at a DofE Centre; references in this Agreement to a DofE Centre shall include the owners, organisers and other persons with responsibility for the DofE Centre as the context so admits;
"DofE Group"	means a group of young people based in a DofE Centre who are working together on a DofE Programme; references in this Agreement to a DofE Group shall include the DofE Centre as the context so admits (and <i>vice versa</i> );
"DofE Handbook"	means <i>'The Handbook for DofE Leaders'</i> (as updated from time to time) which outlines the current requirements and conditions of DofE Programmes;

"DofE Leader"	means the person whom assumes responsibility for a DofE Group operating at a DofE Centre and/or other such location;
"DofE Magazine"	means the magazine relating to the DofE Programme which is aimed at DofE Leaders;
"DofE Programme"	means a series of activities covering different sections that Participants select and undertake to achieve Bronze, Silver or Gold Duke of Edinburgh's Award and receive a Duke of Edinburgh's Award Certificate (as further explained in the DofE Handbook and as set out on the Website);
"eDofE"	means the online management system created by the Charity to assist Licensed Organisations and is used by DofE Groups to record Participants' DofE Programme activity;
"e-Induction"	means the free online induction course summarising the ethos, structure and delivery of DofE Programmes as detailed by the Modular Training Framework available at <a href="http://www.DofE.org/training">www.DofE.org/training</a> ;
"Front Sheet"	means page 1 of this Agreement, which sets out certain important details applicable to the Agreement;
"Introduction to the DofE Course"	means the introductory course summarising the ethos, structure and delivery of DofE Programmes as detailed by the Modular Training Framework;
"Licensed Organisation"	means an organisation that has been licensed by ASL to deliver DofE Programmes, including Operating Authorities, Directly Licenced Centres, National Operating Authorities and DofE Business Operators, as further described in the DofE Handbook;
"Major Incident"	means (without limitation) matters of potential national significance, serious casualties or loss of life, considerable damage caused by a person involved with the DofE Programme or an action that could seriously jeopardise the overall reputation of the Charity, ASL or the DofE Programme;
"Mission Statement"	means the statement summarising the mission and objectives of the Charity set out on the Website and as may be updated from time to time;
"Modular Training Framework"	means the programme of training required to be taken as appropriate by any Staff appointed by the Approved Activity Provider to assist in delivering DofE Programmes;
"Participant"	means an individual who participates in a DofE Programme;
"Quality Review"	means a check carried out by the Charity's staff either as part of the re-licensing process or as an operational quality support check;
"Services"	means all the services to be provided by the Approved Activity Provider as set out in this Agreement and as may be agreed between the parties from time to time including

	the provision of resources to enable the Participants to learn and perform the Activity as a section of their DofE Programme;
"Staff"	means employees of the Approved Activity Provider including (without limitation) any Assessor, supervisor, or volunteer appointed by the Approved Activity Provider to assist in the delivery of the Services;
"Staff Trainer"	means a DofE Course Director or a third party individual or organisation appointed from time to time to provide Staff Training Courses;
"Staff Training Courses"	means those courses that ASL and/or the Charity may require members of Staff to undertake from time to time, including the online e-Induction course and the Introduction to the DofE Course, before the Staff may be involved in the provision of the Services or within the first six (6) months after the Commencement Date;
"Term"	means the length of time which this Agreement is valid for, as stated on the Front Sheet;
"Trade Marks"	means the trade marks listed in the Schedule, including all registrations and applications for those trade marks, or any other words, names, phrases, logos, devices, insignia or signs which may after the date of this Agreement be notified to the Approved Activity Provider; and
"Website"	means the website accessible at <a href="http://www.DofE.org">www.DofE.org</a> (as may be updated from time to time).

1.2 In this Agreement:

- (a) clause headings are included for convenience only and shall not affect the construction of the Agreement;
- (b) references to clauses and the Schedule are references to the clauses and the Schedule to this Agreement;
- (c) unless the context otherwise requires: (i) words denoting the singular shall include the plural and *vice versa*; (ii) references to persons shall include bodies corporate, partnerships, unincorporated associations, individuals and any other legal or commercial entity or undertaking; and (iii) references to the word "include", "including", "in particular" and "for example" are to be construed without limitation;
- (d) references to the "parties" means the parties to this Agreement and "party" means any one of them and shall include that person's permitted assignees, transferees or successors in title; and
- (e) references to any legislation or to any provision of any legislation shall include any modification, replacement or re-enactment of that legislation for the time being in force and include any order, regulation, instrument or other subordinate legislation made under the relevant statute or statutory provision.

**2. Appointment and role of the parties**

- 2.1 For the duration of the Term, ASL appoints the Approved Activity Provider as one of its licensed and approved providers of the Activity in the Territory, and to perform the Services for the benefit of the Participants on a non-exclusive basis.

- 2.2 ASL is responsible for licensing the delivery to, and overseeing the operation of, DofE Programmes by Licensed Organisations. ASL is under a duty to provide to each Licensed Organisation with a list of its licensed and approved Activity Providers. Following signature of this Agreement, ASL shall add the Approved Activity Provider to this list.
- 2.3 It shall be the responsibility of the Approved Activity Provider to enter into an agreement with the Licensed Organisation and/or DofE Centre as appropriate.

### **3. Main Conditions of the Approved Activity Provider Licence**

It is a condition of the appointment of the Approved Activity Provider pursuant to clause 2.1 of this Agreement that the Approved Activity Provider complies with the terms of this clause 3. For the avoidance of doubt, a failure by the Approved Activity Provider to comply with any of the terms of this clause 3 shall entitle ASL to immediately suspend or terminate the Agreement.

#### **3.1 Welfare of the Participants**

- 3.1.1 The Approved Activity Provider shall adopt, and at all times implement and ensure the Staff adhere to, a Safeguarding and/or Child Protection Policy, together with operational procedures, that incorporates appropriate checks including those set out in clause 3.1.3., complies with all applicable law and legislation and reflects good industry practice. As a minimum, the Safeguarding and/or Child Protection Policy must meet the following standards:

- (a) The policy is dated and is less than three years old;
- (b) The policy contains a due date for review;
- (c) The policy contains the signature of the most senior person in the AAP;
- (d) The policy confirms that a senior member of staff has been identified as the Designated Safeguarding Lead in the organisation;
- (e) The policy contains or is linked to procedures for managing allegations against Staff and volunteers;
- (f) The policy makes reference to recording and reporting procedures; and
- (g) The policy is in line with current legislation and statutory guidance including recruitment and selection procedures.

- 3.1.2 The Approved Activity Provider shall ensure that adequate systems are in place to protect the health and safety of Participants and Staff and that these comply with applicable law and legislation.

- 3.1.3 The Approved Activity Provider shall perform reasonable checks on Staff following a risk assessment of the role of the individual concerned to ensure that those undertaking regulated activity or regulated work, as defined under the Safeguarding Vulnerable Groups Act 2006, Protection of Vulnerable Groups (Scotland) Act 2007 and Safeguarding of Vulnerable Groups (Northern Ireland) Order 2007 are not barred from doing so. The Approved Activity Provider shall carefully assess any adverse information received and take a reasonable decision on the basis of that assessment whether to allow such individuals to provide the Services, including the Participant Training.

- 3.1.4 If ASL or the Charity have concerns about the conduct or ability of a member of Staff to undertake his or her role they shall (in writing) make their concerns known to the Approved Activity Provider who shall, within a reasonable time:

- (a) investigate those concerns and take appropriate action accordingly to the policies and procedures; and
- (b) notify ASL and/or the Charity of the actions taken following the investigation.

#### **3.2 Staff**

- 3.2.1 The Approved Activity Provider shall appoint the Approved Activity Provider Manager to act as the designated co-ordinator in order to manage all aspects of the Services, including liaising

with ASL and the Charity (as applicable). The Charity will provide a support pack to the Approved Activity Provider Manager that sets out his/her role and responsibilities.

- 3.2.2 The Approved Activity Provider shall ensure, so far as is possible, that the same Staff provide the Participant Training to each Licensed Organisation and/or DofE Centre or Participant for each given section of their DofE Programme, to ensure consistency of delivery.
- 3.2.3 The Approved Activity Provider shall ensure that it assigns a sufficient number of Staff to guarantee that the Participant Training is delivered effectively and safely.
- 3.2.4 If any member of Staff also maintains a role within a Licensed Organisation, then the Approved Activity Provider (for whom that member of Staff works, volunteers or owns) may not deliver any part of the DofE Programme activities or services to that Licensed Organisation. The Approved Activity Provider shall notify any such conflicts of interest to ASL and/or the Charity as soon as they are identified.

### 3.3 Staff Training

- 3.3.1 Staff who deliver the Services must attend and pass the Staff Training Courses that are relevant to their roles and responsibilities, whether offered by ASL, the Charity or by the Staff Trainer, in accordance with clause 3.3.3. As a minimum all Staff should complete e-Induction. The Approved Activity Provider Manager must also attend the Introduction to the DofE Course. If ASL and/or the Charity recommend that other Staff should attend the Introduction to the DofE Course, the Approved Activity Provider shall take reasonable steps to ensure that this occurs.
- 3.3.2 If relevant, any costs of Staff attending any Staff Training Courses shall be charged to the Approved Activity Provider at the rates from time to time in force, which will be notified to the Approved Activity Provider and published by the Charity on an annual basis.
- 3.3.3 All required staff training must be completed within six (6) months of signing this Agreement. The Charity will use reasonable endeavours to provide a sufficient number of training opportunities for the Approved Activity Provider to meet this requirement.

### 3.4 Agreement Conditions

- 3.4.1 In providing the Activity to the Licensed Organisation the Approved Activity Provider shall enter into an agreement with the Licensed Organisation to provide the Activity. This agreement shall:
  - (a) last no longer than the Licensed Organisation's Licence term with ASL and/or the Charity;
  - (b) afford no exclusivity to the Approved Activity Provider. Licensed Organisations are entitled to enter into multiple agreements with Approved Activity Providers and/or deliver Residential activities through their own Staff once they have the relevant level of expertise.

### 3.5 Section Conditions

- 3.5.1 In providing the Activity, the Approved Activity Provider shall:
  - (a) adhere to all the requirements of the DofE Programme as set for each level of the DofE Programme and described in the DofE Handbook; and
  - (b) adhere to all the conditions of the relevant section(s) of the DofE Programme, as set out in the DofE Handbook.
- 3.5.2 The Approved Activity Provider shall ensure that sufficient emergency procedures are in place to ensure that Participants remain safe in the event of injury or the threat of injury. These procedures must be proportionate to the number of Participants and/or the potential risks involved in the Activity.

### 3.6 Assessment

3.6.1 The Approved Activity Provider shall be responsible for recommending appropriate types of Assessors and/or assessing the competence of each Participant in performing the Activity, in accordance with the standards, requirements and other conditions set by the Charity (including conditions relating to the relevant section(s) of the DofE Programme), as set out in the DofE Handbook and on the Website. An Assessor may be an employee, volunteer or managed directly by the Approved Activity Provider, or another suitable adult, as advised by the Approved Activity Provider and agreed by the Charity. This role will be agreed between the Approved Activity Provider and ASL and/or the Charity in advance of the Approved Activity Provider being licensed.

3.6.2 Each Assessor shall provide an Assessor's report for each Participant in accordance with clause 3.6.1.

### 3.7 Records and Reporting

3.7.1 Subject to clause 11, the Approved Activity Provider shall keep full and adequate records of all aspects of its provision of the Services. These records shall include, but shall not be limited to, information concerning:

- (a) the name of each Participant (where applicable) and all Staff involved with the Activity;
- (b) the activity details of each Participant as required by the Charity;
- (c) any accident, incident or other occurrence leading to damage or injury; (d) all activities and/or training exercises undertaken as part of the Services;
- (e) details of any complaint made to the Approved Activity Provider in relation to the Services and/or the DofE Programme; and
- (f) the places, venues or premises used by the Approved Activity Provider to deliver the Services.

3.7.2 ASL and/or the Charity shall be entitled to inspect these records at any time with reasonable notice, and the Approved Activity Provider shall provide copies of all such records (in electronic or hard copy form, at the election of ASL or the Charity) at the reasonable request of ASL or the Charity.

3.7.3 The Approved Activity Provider shall provide to ASL via the Charity an electronic statement on every Accounting Date (or within two days after such date) which details how many Participants have undertaken the Activity in the preceding six (6) months between each Accounting Date.

3.7.4 Pursuant to clause 3.7.1 (c), the Approved Activity provider shall notify ASL or the Charity as soon as possible in the event of any incident or accident as described in Incident Reporting for Licensed Organisations and Approved Activity Providers, a copy of which shall be supplied to the Approved Activity Provider.

### 3.8 Communication and Quality Assurance

3.8.1 Without prejudice to clause 3.8.3, the Approved Activity Provider is responsible for ensuring that all information relating to the provision of the Services that should be communicated to the Licensed Organisation, DofE Centre and/or the Participants is so communicated. ASL and the Charity shall have no responsibility for relaying such information to the Licensed Organisation, DofE Centre and/or the Participants.

3.8.2 Where an Approved Activity Provider is in direct communication with participants, the Approved Activity Provider shall be responsible for ensuring parental/guardian consent (if the participant is under 18) is gained to carry out the Activity.

3.8.3 The Approved Activity Provider shall notify the Charity of any complaint received that is not resolved within four (4) weeks of the initial complaint being made. The Approved Activity Provider shall if necessary take action in relation to such complaints and keep ASL, the Charity



and the Licensed Organisation (where appropriate) fully updated in writing or by e-mail as well as by telephone on progress of resolving the complaint.

3.8.4 In addition to its obligations under clause 3.7, the Approved Activity Provider shall set up, operate and maintain a system for dealing with and reporting matters concerning the provision of the Services, in particular in the event of any accident or damage caused to or by the Approved Activity Provider, the Participants or any third parties. The Approved Activity Provider shall keep such records and systems accurate and up to date (and shall retain them for a period of six (6) years) and make them available to ASL or the Charity to inspect on request.

### 3.9 Documents and Equipment

3.9.1 The Approved Activity Provider shall provide the following documents to each Participant:

- (a) copies of the indemnity and consent forms, to be signed by all Participants (or, if applicable, a parent or legal guardian) unless otherwise provided to Participants by their DofE Centre;
- (b) copies (on request) of the insurance policy, in accordance with clause 7; and
- (c) any other information or materials that may be reasonably required by the Participants to partake in the Activity.

### 3.10 Equal Opportunities

The Approved Activity Provider shall operate DofE Programmes in a non-discriminatory manner that reflects ASL and the Charity's commitment to equal opportunities (about which, more information is available on request from the Charity).

### 3.11 Overriding Objective

In providing the Services, the Approved Activity Provider shall at all times be responsible for supporting the achievement of the Charity's overall aim as expressed in its Mission Statement and for promoting and fostering the ten guiding principles as set out in the DofE Handbook.

## **4. Obligations and Rights of ASL**

4.1 ASL or the Charity shall, at the reasonable request of the Approved Activity Provider, provide, through the Charity, advice and guidance on delivering the Activity as part of the DofE Programmes, and make available to the Approved Activity Provider its know-how, the DofE Handbook and other documents and information relating to the DofE Programmes.

4.2 ASL, through the Charity, shall undertake a Quality Review of the Services at least once during the Term. In addition, ASL and/or the Charity shall have the right, from time to time, to undertake spot-check inspections of the Services being provided to the Participants, as well as to seek feedback from the Participants (and where relevant their parents and/or legal guardians). The Approved Activity Provider hereby agrees to accede to all reasonable requests of ASL or the Charity whilst undertaking such spot-check inspections.

4.3 ASL or the Charity shall appoint a designated co-ordinator from within the Charity to develop and manage all aspects of its relationship with the Approved Activity Provider and the provision of the Services, and the Approved Activity Provider undertakes to cooperate with and assist the co-ordinator at all times during the Term.

4.4 ASL and the Charity shall co-operate with and assist the Approved Activity Provider at all times in establishing and maintaining the quality control and reporting mechanisms required to be set-up under clause 3.7.

4.5 ASL or the Charity shall maintain a register of Approved Activity Providers and will draw this to the attention of the Licensed Organisations.

4.6 ASL reserves the right to alter the services it provides provided it gives the Approved Activity Provider ninety (90) days' notice of any such change.

4.7 Trade Mark Licence

4.7.1 Subject to the terms and conditions of this Agreement, ASL hereby grants to the Approved Activity Provider a non-exclusive, royalty-free licence for the Term to use the Trade Marks for all purposes connected with the supply of the Services, provided that the Approved Activity Provider shall:

- (a) use the Trade Marks in accordance with the Brand Guidelines, and such other reasonable instructions of ASL or the Charity in relation to the appearance of the Trade Marks;
- (b) always use the Trade Marks in such a manner that their distinctiveness and reputation is maintained and do nothing which may lessen the distinctiveness of the Trade Marks or that may bring ASL, the Charity or the DoFE Programme into disrepute;
- (c) not use the Trade Marks as part of the corporate or business name, logo or style of the Approved Activity Provider;
- (d) not use or seek to register any mark or name the same as or confusingly similar to the Trade Marks. No other trade marks nor variants on the Trade Marks shall be used in relation to the Services without the ASL's or the Charity's prior written consent;
- (e) not do or permit to be done any act which would be likely to jeopardise the ownership by the Charity of the Trade Marks; and
- (f) use such of the Trade Marks, or any new name, logo or brand, as ASL and/or or the Charity may on reasonable notice require, and always use the Trade Marks in accordance with the current version of the Brand Guidelines, from time to time issued by ASL or the Charity.

4.7.2 All goodwill in the Trade Marks arising from use of the Trade Marks by the Approved Activity Provider shall belong to the Charity and shall be assigned to the Charity on request. For the avoidance of doubt, this trade mark licence shall terminate on termination of this Agreement.

**5. Fees and Payment**

5.1 Licence Fee

In consideration of the appointment of the Approved Activity Provider pursuant to clause 2.1, the Approved Activity Provider shall pay ASL the Licence Fee annually in advance, the first payment to be made on signature of this Agreement and on each anniversary thereafter. The Licence Fee may be reviewed at the expiry of each Contract Year and any increase to the Licence Fee shall be notified to the Approved Activity Provider.

5.2 Payment Terms

5.2.1 Unless otherwise stated, the Approved Activity Provider shall pay all monies due to ASL within thirty (30) days of the date of each valid invoice submitted to the Approved Activity Provider.

5.2.2 All sums payable under this Agreement are exclusive of VAT (unless otherwise stated) which shall, where applicable, be payable in addition at the rate and in the manner from time to time prescribed by law.

5.2.3 All sums payable under this Agreement are non-refundable.

5.2.4 Notwithstanding any provision to the contrary, after the termination of this Agreement in accordance with the provisions in clause 10, ASL shall be entitled to all unpaid fees and/or interest payable under the terms specified in the Agreement within thirty (30) days' after the effective date of such termination.

### 5.3 Default of Payment

- 5.3.1 The Approved Activity Provider fails to pay (i) when and as required to be paid any fee due under this agreement, and/or (ii) any interest payable in the terms specified under this Agreement.
- 5.3.2 If any default occurs ASL may:
- (a) declare the commitment of ASL to make advances for this Agreement to be terminated whereupon such commitment and obligation under this Agreement shall be terminated; and/or
  - (b) declare the unpaid amount of the outstanding fee, all interest accrued, and all other amounts owing or payable to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Approved Activity Provider; and/or
  - (c) exercise all rights and remedies available to ASL under this Agreement or applicable in law and to pursue any and all available remedies for collection of such fees and interest, including but not limited to the exercise of all rights and remedies against the Approved Activity Provider.
- 5.3.3 To the extent permitted by applicable law, all remedies contained within this Agreement or by law afforded shall be cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising and all shall be available to ASL until the monies owed has been paid and satisfied in full. During the existence of a Default in Payment, interest shall accrue on fees due and owing from the date of the same until resolved, if resolution is allowed, at the default rate stated in the below.
- 5.3.4 If payment due under this Agreement is not paid within thirty (30) days' after its due date it shall be subject to a late payment interest charge of five percent (5.00%) of the total payment due. The Approved Activity Provider agrees to pay and stipulate that five percent (5.00%) of the total payment due is a reasonable amount for a late payment interest charge.

## 6. Advertising, Publicity and Reputation Management

- 6.1 The Approved Activity Provider may purchase advertising, at the market rate in force from time to time, in the DofE Magazine. The Approved Activity Provider may also have access to other marketing and promotional opportunities to be agreed with ASL and/or the Charity on a case by case basis.
- 6.2 The Approved Activity Provider shall be free to publicise the fact that it is an Approved Activity Provider and to use the designation "Approved Activity Provider for The Duke of Edinburgh's Award" and the Trade Marks, provided always that the Brand Guidelines are complied with. For the avoidance of doubt, the Approved Activity Provider may not use the Charity's other logos or brand names, only the Approved Activity Provider logo and any other Trade Marks as set out in the Schedule and made available to the Approved Activity Provider. The Approved Activity Provider may not release any press releases or other publicity material relating to ASL or the Charity without the prior written consent of the Charity (such consent not to be unreasonably withheld).
- 6.3 In the event of any incident, accident or injury to a Participant, ASL and/or the Charity and the Approved Activity Provider shall discuss and agree the appropriate strategy for dealing with any potential negative publicity, including any negative publicity concerning the Charity and the DofE Programme. No press release or public comment shall be issued unless agreed with the Charity and/or ASL in writing in advance.

## **7. Insurance**

The Approved Activity Provider undertakes to maintain in force a policy or policies of insurance with a reputable insurer for not less than £5 million against all liability for any single claim due to any damage to property or injury to persons arising from the acts or omissions of the Approved Activity Provider, the Staff or the Approved Activity Provider's agents, servants or other representatives in connection with the Approved Activity Provider's obligations under this Agreement (including those obligations the Approved Activity Provider owes to the Staff). For the avoidance of doubt, the policy shall include comprehensive third party cover for each Participant and accompanying Approved Activity Provider leader. On request, a copy of the insurance policy certificate must be provided to ASL via the Charity and also made available on request for the Participants to view.

## **8. General Obligation and Warranties**

8.1 The Approved Activity Provider hereby warrants, agrees and undertakes that:

- (a) it has the right and ability to enter and perform this Agreement;
- (b) it, including any of the Staff employed to provide the Services on behalf of the Approved Activity Provider shall possess the qualifications and competence necessary to provide the Services to the highest professional standards and in accordance with the terms of this Agreement, and the Approved Activity Provider shall ensure all of its Staff are kept up to date on all relevant developments and are re-trained as and when necessary;
- (c) each of its Staff members possess (i) an up to date First Aid certificate (where this is relevant to their role), such qualification to be renewed every three (3) years, and (ii) (if applicable) a Full UK Driving Licence and (iii) any and all other qualifications and/or experience necessary to carry out their role;
- (d) it shall provide the Services with all due professional skill and care and in accordance with all applicable legislation and good industry practice to be expected of an expert skilled in the provision of the Services;
- (e) it shall at the earliest opportunity draw to the attention of ASL or the Charity any particular requirements it needs to perform its obligations under this Agreement;
- (f) where relevant, it is a recognised member of, and where required holds licences from, the relevant authority or governing body of the Activity;
- (g) it shall do nothing (whether by act or omission) in the course of performing the Services and its obligations under this Agreement that may bring the Charity, ASL or the DofE Programmes into disrepute;
- (h) it shall maintain in place throughout the Term an adequate Safeguarding and/or Child Protection Policy (in accordance with the standards set out in clause 3.1) and ensure that all Staff are aware of and implement that policy; and
- (i) it shall provide the Services in a non-discriminatory manner that reflects the Charity's commitment to equal opportunities as set out in the DofE Handbook.

8.2 ASL warrants, agrees and undertakes that:

- (a) it has the right and ability to enter and perform this Agreement; and
- (b) it shall provide, via the Charity, such help and assistance as is reasonably required by the Approved Activity Provider and which is notified to ASL or the Charity.

## **9. Liability and Indemnities**

- 9.1 The Approved Activity Provider shall be responsible and liable at all times for the health and safety of each Participant while such Participant is under the care of the Approved Activity Provider.
- 9.2 Without prejudice to any rights or remedies of ASL, the Approved Activity Provider shall indemnify, and keep indemnified, ASL, the Charity, the Participants and the Licensed Organisation and DofE Centres fully against all claims, proceedings, actions, damages, costs, suits, demands, losses, liabilities, charges, expenses and any other liabilities incurred by or made against ASL or the Charity in respect of any loss, direct or indirect, or damage or personal injury which arises from any statements made, advice or information given or omitted to be given or anything done or omitted to be done by the Approved Activity Provider under or otherwise relating to the provision of the Services or any of the Approved Activity Provider's other obligations under this Agreement to the extent that such loss, damage or injury is caused by the Approved Activity Provider's negligence (whether caused by an act or omission), breach of this Agreement (including breach of any warranty given in this Agreement) or any other wrongful act or omission of the Approved Activity Provider, the Staff or its associates, agents, servants and sub-contractors.
- 9.3 Neither ASL nor the Charity shall be liable for any matter arising as between the Approved Activity Provider and Participants. The Approved Activity Provider acknowledges that it shall be its responsibility to manage the relationship including entering into any contract with the Participants.
- 9.4 Without prejudice to any other provisions of this Agreement, neither ASL nor the Charity shall be liable for any act or omission of the Approved Activity Provider, whether or not such action was taken pursuant to any advice given by ASL or the Charity or in reliance on any materials provided by ASL or the Charity.
- 9.5 Nothing in this Agreement is intended and nor shall it be construed as an attempt by either party to exclude or limit its liability for any liability which cannot be excluded or limited under applicable law, including liability for death or personal injury caused by negligence or for fraud.

## **10. Term and Termination**

- 10.1 This Agreement shall commence on the Commencement Date and shall, subject to clauses 10.2, 10.3 and 10.4, continue in force until terminated by one party serving on the other no less than ninety (90) days' prior written notice, such termination to take effect on the expiry of such notice period.
- 10.2 Where the Approved Activity Provider serves notice of termination to ASL, as directed in 10.1 and subject to clause 10.2 notice must be written and served by the Licence Signatory, or person(s) of equivalent status within the Approved Activity Provider where the Licence Signatory is unavailable.
- 10.3 Each party shall be entitled to terminate this Agreement by written notice forthwith if:
- (a) the other enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof; or
  - (b) the other ceases or threatens to cease to carry on its business or is otherwise unable to meet its debts as they fall due; or
  - (c) the other party commits a material or persistent breach of this Agreement, and (in the case of a breach capable of remedy) such breach is not remedied within thirty (30) days of notice of the same.
- 10.4 ASL shall be entitled to terminate this Agreement by written notice forthwith if there shall be any change in Control of the Approved Activity Provider or any holding company of the Approved

Activity Provider, where "Control" means the ability to direct and/or control the affairs, and/or secure the conduct of the affairs, of the Approved Activity Provider or any holding company (as the case may be) whether by virtue of contract, ownership of shares or otherwise.

- 10.5 The termination of this Agreement, however arising, shall be without prejudice to:
- (a) the rights and obligations of either party accrued prior to termination; and
  - (b) the operation of provisions hereof which expressly or impliedly have effect after termination.
- 10.6 The Approved Activity Provider shall co-operate fully with ASL or the Licensed Organisation before, during and after termination of this Agreement to facilitate so far as reasonably possible the continued provision of the Services, either by the Charity or through an alternative activity provider selected by ASL, the Charity or the Licensed Organisation.
- 10.7 Subject to the requirements of clause 5.3.4, all materials bearing the Trade Marks or containing a reference to the name of ASL, the Charity or the DofE Programmes must be either delivered up to ASL and/or the Charity or destroyed (at the election of ASL and/or the Charity in its sole discretion), including in the case of electronic copies permanently deleted, either (i) in situations where this Agreement is terminated in accordance with clause 10.1, within the ninety (90) day notice period for termination referred to therein or (ii) in situations where this Agreement is cancelled or terminated pursuant to clauses 10.2. or 10.3, immediately upon termination. After termination of this Agreement in no event shall the Approved Activity Provider make or claim an association, commercial or non-commercial, to the DofE Programmes, ASL or the Charity, including (without limitation) creating an association through misleading statements or conduct.
- 10.8 On the termination of this Agreement the Approved Activity Provider shall return to ASL or the Charity all data provided to it by ASL or the Charity and all records kept by the Approved Activity Provider as part of its performance of the Services under this Agreement.

## **11. Data Protection**

- 11.1 For the purpose of this Clause 11 "Data Protection Legislation" shall mean, as applicable:
- (a) The Data Protection Act 1998; or
  - (b) Regulation (EU) 2016/679 of the European Parliament and of Council of 27 April 2016 on the protection of natural persons with regard to the Processing of Personal Data and repealing Directive 95/46/EC (General Data Protection Regulation "the GDPR") OJ119/1, 4.5.2016, together with any implementation of the above law of the United Kingdom.

The terms "Controller", "Data Subject", "Personal Data", "Processor", and "Subject Access Request" shall have the meanings attributed to them in the Data Protection Legislation, and "Processing" and "Process" shall be construed accordingly.

- 11.2. The Approved Activity Provider shall protect all personal data that it receives or creates as a result of providing the Services or otherwise in connection with this Agreement, and in particular shall:
- (a) comply at all times with the Data Protection Legislation and all other laws, enactments, regulations, orders and standards applicable to its processing of any personal data about Participants and/or any other persons pursuant to this Agreement;
  - (b) take appropriate technical and organisational measures against unauthorised or unlawful processing of ant personal data and against accidental loss, theft, destruction of or damage to the personal data;

- (c) not use any personal data for purposes outside the Agreement or pass it to any third parties; and
- (d) observe any guidelines, procedures or policies provided to it by ASL and/or the charity in relation to the processing of personal data.

11.3. To the extent that ASL and/or the Charity is the data controller of any personal data, the Approved Activity Provider in addition shall:

- (a) process that personal data only in accordance with ASL's and/or the Charity's instructions and the consents obtained from the relevant data subject, unless and until it obtains consent from that data subject to any additional processing; and
- (b) co-operate with and provide all reasonable assistance to ASL and/or the Charity in relation to any complaint or request in relation to the processing of that personal data, and promptly inform ASL and/or the Charity where any such complaint or request is received by it.

11.4. ASL and the Approved Activity Provider agree to co-operate and provide any necessary assistance to enable the other party to respond to a Subject Access Request and to deal with any Data Subject exercising any other rights under the Data Protection Legislation in accordance with such Data Protection Legislation.

11.5 In processing, using or sharing the data, the Approved Activity Provider shall abide by the Charity's privacy policy, a copy of which can be supplied to the Approved Activity Provider on request.

## **12. Anti-Bribery**

The Approved Activity Provider will not act in a manner (in particular when acting as an associated person of ASL or the Charity) that constitutes a breach of applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010. The Approved Activity Provider shall comply with any policies or procedures imposed by ASL or the Charity from time to time governing anti-bribery, and the Approved Activity Provider warrants that, in performing the Services, it will not induce or improperly reward any third party, including any public official, to act improperly. For the purposes of this clause to act improperly and the meaning of an "associated person" shall be interpreted in accordance with the Bribery Act 2010.

## **13. Third Party Rights**

The Approved Activity Provider accepts and acknowledges that it is the intention that the Charity and/or any Participant may enforce any term of this Agreement that expressly or by implication confers a benefit on them by virtue of the Contracts (Rights of Third Parties) Act 1999.

## **14. General**

### **14.1 Notices**

Any notice, request or other document to be submitted under this Agreement shall be in writing and be delivered personally, sent by first class post or by e-mail and addressed to the person holding the post or title as noted on the Front Sheet, or such other address as that party shall notify in accordance with this clause. The notice will be effective if posted on the second working day after posting and if sent by e-mail when the sender receives confirmation of receipt.

### **14.2 Assignment, sub-contracting etc.**

14.2.1 The Approved Activity Provider shall not, without the prior written consent of ASL, assign, sub-license, sub-contract or otherwise transfer to, or hold on trust for, any third party any of its rights or obligations under this Agreement.

14.2.2 ASL shall be entitled to sub-contract its obligations under this Agreement to the Charity.

14.3 Confidentiality

Save that the Approved Activity Provider shall be free to publicise its relationship with ASL and the Charity in accordance with clause 6, each of ASL, the Charity and the Approved Activity Provider shall, save as may be required by law, keep confidential (without limit in time) both the terms of this Agreement and any confidential information of the other party which is obtained by them as a consequence of the Approved Activity Provider providing the Services, other than any information which is or becomes publicly available except as a consequence of the receiving party being in breach of this obligation.

14.4 Entire agreement

This Agreement together with any documents referred to in it, constitutes the whole agreement between the parties relating to its subject matter and supersedes any prior agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter provided that this clause shall not operate to exclude either party's liability to the other for fraudulent misrepresentation. This Agreement may only be varied in writing if signed by each party's authorised representative.

14.5 Waiver

Failure or neglect by either party to enforce at any time any of the provisions of this Agreement shall not be construed nor shall be deemed to be a waiver of that party's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice that party's rights to take subsequent action.

14.6 Severability

If any of the terms, conditions or provisions of this Agreement shall be determined invalid, unlawful or unenforceable to any extent, such term, condition or provision shall be severed from the remaining terms, conditions or provisions which shall continue to be valid to the fullest extent permitted by law.

14.7 Relationship of the parties


Nothing contained in this Agreement shall be construed as establishing or creating between the Approved Activity Provider and ASL (or the Charity) the relationship of employer and employee or principal and agent, it being understood that the position of the Approved Activity Provider in performing its obligations under this Agreement is that of an independent contractor. Except as expressly permitted by this Agreement, the Approved Activity Provider shall not have any authority to hold itself out as ASL or the Charity for any purpose whatsoever.

14.8 Law

The parties hereby agree that this Agreement shall be governed by and interpreted in accordance with English Law, and hereby submit to the exclusive jurisdiction of the English Courts.



**The Schedule****The Trade Marks**

<b>Registration/ Application No.</b>	<b>Trade Mark</b>	<b>Image</b>
6642251	"DofE"	N/A (word mark)
EU6642251	The Duke of Edinburgh's Award	N/A (word mark)
6639306 (NB only the logo element of this mark will be protected by trade mark registration)		

All Trade Marks must be used in conjunction with the Brand Guidelines as issued by the Charity from time to time.