



# CIMSPA Partner Contractual Terms and Conditions

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FUNDED PARTNER

## Section E. Terms and Conditions

### 1. Definitions

- 1.1. In this agreement the words and expressions listed below shall have the meaning assigned to them as follows:
  - 1.1.1 CIMSPA Partner Contract shall mean the **agreement**, comprising Sections A to E and the Employer Partner Contractual Terms and Conditions.
  - 1.1.2 Confidential information shall have the meaning set out in Section E, clause 9.1.
  - 1.1.3 Data protection legislation means the Data Protection Act 2018 and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation – “GDPR”) and any equivalent or implementing legislation in the UK.
  - 1.1.4 Direct losses means losses which are not consequential losses as defined in Section E, clause 8.3.
  - 1.1.5 Endorsed qualification(s) means the qualifications submitted by You and approved by CIMSPA. This list will appear in the Partnership Directory.
  - 1.1.6 Initial Term means the period commencing on the commencement date and expiring one year after the commencement date.
  - 1.1.7 Party or Parties means CIMSPA and/or You.
  - 1.1.8 Renewal Term means a period of time equal to the Initial Term.

### 2. Term of Agreement

- 2.1. The agreement will commence on the date stipulated on Your Partnership Contract and, unless terminated earlier in accordance with its terms, continue for the Initial Term and will automatically renew at the end of the Initial Term (in accordance with the process set out in clause 2.2 below), and each Renewal Term for a further Renewal Term.
- 2.2. Subject to You continuing to meet any required partnership conditions (which will be notified to You by CIMSPA as part of the renewal process, Your partnership will automatically renew annually. You will receive notification of Your upcoming renewal prior to Your renewal date. The notification will detail (amongst other things) any amendments to the partnership conditions, any amendments to this CIMSPA Partnership Contract, any change to Fees, together with any information on Your rights to cancellation. If You do not wish to renew Your partnership, You must notify CIMSPA, in writing by email or letter of Your intention to cancel at least 10 days prior to Your renewal date. Failure to notify CIMSPA that You do not want to renew Your partnership, will mean that an automatic Renewal Term will commence for a further year after the expiry of the Initial Term. The same process shall apply at the expiry of any Renewal Term. Should an automatic Renewal Term commence due to Your failing to notify CIMSPA that You wish to cancel within the timescales stated in this clause You will have to pay the Fee, as detailed in Section C.

### 3. CIMSPA’s Rights and Responsibilities

- 3.1. CIMSPA agrees to provide You with the services outlined in Section A of this agreement. The content of Section A may be reviewed annually, and any amendments advised to You in accordance with the renewal process outlined in Section E clause 2.2.
- 3.2. CIMSPA may investigate any breaches to the agreement, Code of Conduct, Quality Assurance Strategy, Policy or Endorsement and Monitoring Processes and initiate disciplinary proceedings.

Where breaches have occurred CIMSPA may issue suspensions, sanctions or termination of this agreement and partnership services to You.

- 3.3. CIMSPA may withdraw endorsement of any CIMSPA endorsed degree(s), qualification(s) or education product(s) with a minimum of three months' notice. In the event such notice is given, You may;
  - 3.3.1. Deliver and complete such formerly endorsed degree(s), qualification(s) or education products where necessary to meet contractual obligations entered into on or before the expiry of the notice period; and
  - 3.3.2. Allow learner(s) already working towards such formerly endorsed degree(s), qualification(s), or education product(s), prior to the notice date given, to complete their learning so that the learner is not disadvantaged.

## 4. Your Rights and Responsibilities

- 4.1. You agree to fulfil Your obligations under this agreement and as outlined in Section B of this agreement. The content of Section B may be reviewed annually, and any amendments advised to You in accordance with the renewal process outlined in Section E clause 2.2.
- 4.2. You will immediately inform CIMSPA of any sanction / warnings issued by any regulatory or professional body in relation to an endorsed degree(s), qualification(s) or education product(s). CIMSPA may suspend, issue sanctions or withdraw endorsement of one or more qualifications(s) and/or Your partnership status dependent on the severity of the sanction and ensuing investigation carried out by CIMSPA or the regulatory or professional body.
- 4.3. You will provide CIMSPA with three named points of contact for the following business areas and notify CIMSPA promptly of any changes to the contact details set out below:
  - 4.3.1. Partnership management
  - 4.3.2. Education/technical queries
  - 4.3.3. Complaints support
- 4.4. You will not represent any of Your degree(s), qualification(s) or education product(s) as CIMSPA endorsed until written confirmation is received from CIMSPA that endorsement has been granted.
- 4.5. You will cease using CIMSPA's endorsement of CIMSPA endorsed degree(s), qualification(s) or education product(s) with a minimum of three months' notice. In the event such notice is given, You may:
  - 4.5.1. Deliver and complete such formerly endorsed degree(s), qualification(s) or education product(s) where necessary to meet contractual obligations entered into on or before the expiry of the notice period.
  - 4.5.2. Allow learner(s) already working towards such formerly endorsed degree(s), qualification(s), or education product(s), prior to the notice date given, to complete their learning so that the learner is not disadvantaged.

## 5. Fees and Payment

- 5.1. The Fee is exclusive of VAT. You shall pay any applicable VAT to CIMSPA on receipt of a valid VAT invoice.
- 5.2. Where sums due to CIMSPA are not paid in full by You CIMSPA may, without limiting its other rights, charge interest on such sums at the rate of four (4) per cent per annum above the base

rate for the time being of the Bank of England from time to time, in force from the relevant due date until (and including) the date of actual payment in full, whether before or after judgement.

- 5.3. The Fees will be reviewed, and any amendments advised to You in accordance with the renewal process outlined in Section E clause 2.
- 5.4. The fee payable by You shall be specified in Section C fees and payment (the "Fee").
- 5.5. The Fee will be payable in advance and will not be refundable. CIMSPA will issue an invoice for the Fee which shall be payable within 30 days of the date of CIMSPA's invoice, to the bank account nominated by CIMSPA on the invoice.

## 6. Using the CIMSPA Logos

- 6.1. The CIMSPA Logo is the exclusive property of CIMSPA and is protected by applicable trademark laws. All rights, title, and interest in the CIMSPA Logo shall remain with CIMSPA.
- 6.2. CIMSPA will provide You with the CIMSPA Logo(s) on the Commencement Date for use as detailed in this agreement (including any usage guidelines issued by CIMSPA) for the Initial Term and any Renewal Term (unless the agreement is terminated earlier in accordance with clause 11).
- 6.3. CIMSPA Logo Usage Guidelines:
  - 6.3.1. The CIMSPA Logo must be used in its original form, including colours, proportions, and design elements, as provided by CIMSPA. Alterations or modifications to the CIMSPA Logo are strictly prohibited without CIMSPA's prior written approval.
  - 6.3.2. The CIMSPA Logo must be displayed in a clear and legible manner, ensuring that it remains identifiable and distinct from surrounding elements.
  - 6.3.3. The CIMSPA Logo should not be used in a way that may be misleading, defamatory, or derogatory towards CIMSPA, its members, partners, or affiliates.
  - 6.3.4. The CIMSPA Logo should not be used to imply endorsement, sponsorship, or approval of any product, service, or content unless such use is required in order to enable You to use the CIMSPA Logo as permitted by this agreement or CIMSPA has explicitly consented to such use.
  - 6.3.5. The CIMSPA Logo should not be used in a manner that violates any applicable laws, regulations, or ethical standards.
- 6.4. CIMSPA reserves the right to revoke the authorisation to use the CIMSPA Logo at any time, without prior notice, if You fail to comply with this agreement or misuse the CIMSPA Logo in any way. Upon termination, You shall immediately cease using the CIMSPA Logo and remove it from all materials, communications, or publications.
- 6.5. You are able to use the CIMSPA Logo(s) to acknowledge and promote Your relationship with CIMSPA.
- 6.6. You should not knowingly take or permit any action which may be detrimental in any way to the CIMSPA Logo(s), which may include, but is not limited to, damage to the reputation, goodwill, validity or value of the CIMSPA Logo(s).
- 6.7. You undertake that:
  - 6.7.1. You will use the CIMSPA Logo(s) only in accordance with any usage guidelines issued by CIMSPA;

- 6.7.2. You will not use the CIMSPA Logo(s) together or in close conjunction or combination with any other marks, names, words, logos, symbols or devices other than as permitted under the agreement without the prior written approval of CIMSPA;
  - 6.7.3. You will not seek to register any trade or service marks which are similar to, or substantially similar to, or so nearly resemble any of the CIMSPA Logo(s) as to be likely to cause deception in the mind of the public;
  - 6.7.4. You will not use any of the CIMSPA Logo(s) in a manner which causes material harm to the goodwill attached to the CIMSPA Logo(s);
  - 6.7.5. You will not apply for the registration of any of the CIMSPA Logo(s) Yourself and will neither interfere with in any manner, nor attempt to prohibit the use or registration of any of the CIMSPA Logo(s) or any name, device or design resembling them by CIMSPA.
- 6.8. CIMSPA will comply with any usage guidelines provided by You in relation to the usage of Your logo.

## 7. Indemnity

- 7.1. You shall indemnify and hold harmless CIMSPA against any claim, loss, damage, proceedings, settlement, costs, or expenses howsoever arising, directly or indirectly, as a result of any claims by a third party that CIMSPA's use of Your logo infringe(s) the rights of any third party.
- 7.2. The indemnity set out in 7.1 shall only apply if;
- 7.2.1. CIMSPA has notified You as soon as is reasonably possible of any claim, loss or damage.
  - 7.2.2. CIMSPA does not make any admission of liability or agree any settlement or compromise of the claim without prior written consent from You (such consent not to be unreasonably withheld or delayed).
  - 7.2.3. CIMSPA lets You have the conduct of or settle all negotiations and litigation arising from the claim at its sole discretion.
  - 7.2.4. CIMSPA shall take all reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the claim; and
  - 7.2.5. CIMSPA provides You with all reasonable assistance in relation to the claim (including the provision of prompt access to any relevant premises, officers, employees, contractors, or agents of CIMSPA).
- 7.3. CIMSPA shall indemnify and hold You harmless against any claim, loss, damage, proceedings, settlement, costs, or expenses howsoever arising, directly or indirectly, as a result of any claims by a third party that Your use of the CIMSPA Logo infringe(s) the rights of any third party.
- 7.4. The indemnity set out in 7.3 shall only apply if:
- 7.4.1. You have notified CIMSPA as soon as is reasonably possible of any claim, loss or damage.
  - 7.4.2. You do not make any admission of liability or agree any settlement or compromise of the claim, without the prior written consent of CIMSPA (such consent not to be unreasonably withheld or delayed).
  - 7.4.3. You let CIMSPA have the conduct of or settle all negotiations and litigation arising from the claim at its sole discretion.

- 7.4.4. You shall take all reasonable steps to minimise the losses that may be incurred by it or by any third party, as a result of the claim; and
- 7.4.5. You provide CIMSPA with all reasonable assistance in relation to the claim (including the provision of prompt access to any relevant premises, officers, employees, contractors or agents of Yours).

## 8. Limitation of Liability

- 8.1. The extent of the Parties' liability under or in connection with this agreement (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this Section E, clause 8.
- 8.2. Subject to clause 8.5 the total liability of either Party for Direct Losses howsoever arising under or in connection with this agreement shall not exceed the sum of the Fee payable by You to CIMSPA under this agreement.
- 8.3. Subject to clause 8.5, neither Party shall be liable to the other for any loss of revenue, profit, use of money, anticipated savings, goodwill, business, opportunity, reputation or any other indirect or consequential loss or damage (whether foreseen, foreseeable, known or otherwise) which may arise out of this agreement or any other contractual or non-contractual matters arising therefrom ("Consequential Losses").
- 8.4. The limitations and exclusions of liability set out in clauses 8.2 and 8.3 shall not apply in respect of any indemnities given by either Party under this agreement.
- 8.5. Notwithstanding any other provision of this agreement, the liability of the Parties shall not be limited in any way in respect of the following:
  - 8.5.1. Death or personal injury caused by negligence.
  - 8.5.2. Fraud or fraudulent misrepresentation.
  - 8.5.3. Any other losses which cannot be excluded or limited by applicable law.
  - 8.5.4. Any losses caused by wilful misconduct.

## 9. Confidentiality

- 9.1. Each Party shall treat as strictly confidential and use solely for the purposes contemplated by this agreement all information of a confidential nature, whether technical or commercial, obtained or received by it as a result of entering into or performing its obligations under this agreement and relating to the subject matter of this agreement ("Confidential Information") and shall not, except with the prior written consent of the Party from whom the Confidential Information was obtained publish or otherwise disclose to any person any Confidential Information except for the purposes contemplated by this agreement.
- 9.2. Each Party may disclose Confidential Information which would be otherwise subject to clause 9.1 but only to the extent it can demonstrate that:
  - 9.2.1. Such disclosure is required by law.
  - 9.2.2. The confidential information was lawfully in its possession prior to its disclosure by the other party (as evidenced by written records) and had not been obtained from the other Party; or
  - 9.2.3. The confidential information has come into the public domain other than through its fault or the fault of any of its servants or employees to whom the confidential information has been disclosed, provided that any such disclosure

shall not be made without prior written notice to the Party from whom the confidential information was obtained; or

- 9.2.4. Where CIMSPA exercises its right to pursuant to its Disciplinary or Sanctions Policy to publicise the outcome of any disciplinary process or sanction imposed on You.
- 9.3. A Party may disclose any Confidential Information to any of its employees, officers, representatives or advisers (Representatives) who need to know the relevant Confidential Information for the purposes of the performance of any obligations under this agreement, provided that such Party must ensure that each of its Representative, to whom Confidential Information is disclosed, is aware of its confidential nature and agrees to comply with this clause 9 as if it were a Party.
- 9.4. Each Party recognises that any breach or threatened breach of this clause 9 may cause irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages, the parties agree that the non-defaulting Party may be entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.
- 9.5. This clause 9 shall bind the Parties during the Term and for a period of three years following termination of this agreement.

## 10. Data Protection

- 10.1. The Parties will comply with any Data Protection Laws in force from time to time in connection with this agreement.
- 10.2. In the event that one Party processes personal data for or on behalf of the other Party the Parties will enter a separate data processing agreement before any such processing shall commence.
- 10.3. Upon termination of this Agreement in accordance with clause 11 You will, at CIMSPA's option, either forthwith return to CIMSPA all Personal Data and any copies thereof which You are Processing or has Processed on behalf of CIMSPA, and/or destroy the same promptly and in any case with fourteen (14) days of being requested to do so by CIMSPA and confirm such destruction in writing and You will immediately cease Processing Personal Data belonging to CIMSPA.

## 11. Termination

- 11.1. Without prejudice to its other rights under this agreement or at law, either Party ("Non-Defaulting Party") shall be entitled on giving written notice to the other ("Defaulting Party") to terminate this agreement where:
  - 11.1.1. The Defaulting Party is in material breach of this agreement and does not remedy the same (if capable of being remedied) within fourteen (14) days of receipt of notice in writing from the Non-Defaulting Party specifying the breach or failure and requiring the same to be remedied; or
  - 11.1.2. The Defaulting Party is unable to perform its obligations under this agreement by reason of a Force Majeure Event (as defined below) for a continuous period of thirty (30) days or more.

- 11.1.3. The Defaulting Party compounds or makes arrangements with its creditors or becomes insolvent or is unable to pay its debts or any order is made or resolution passed for its liquidation, winding-up or dissolution (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) or if a receiver or manager or administrative receiver or administrator or supervisor is appointed over any of its assets or if anything analogous to or having a substantially similar effect to any such events shall occur under the laws of any applicable jurisdiction.
- 11.2. Without prejudice to Clause 11.1, CIMSPA shall have the right to terminate this agreement on no less than fourteen (14) days prior written notice to You if any of the consideration due to CIMSPA under this agreement is in arrears.
- 11.3. Either Party may terminate this agreement by giving six months' notice to the other party in writing.
- 11.4. Without prejudice to its termination rights above, CIMSPA shall be entitled to suspend the services provided hereunder, including the rights granted with regard to the use of CIMSPA's Trademarked Logo(s) and/or CIMSPA Endorsement Logo in the event that You commit a material breach or commit persistent breaches of this agreement until such time as such breach(es) have been fully remedied to the satisfaction of CIMSPA acting reasonably.
- 11.5. Termination of this agreement by either Party and for any reason shall be without prejudice to any rights or obligations that have accrued to either Party as at the date of such termination and shall be without prejudice to those clauses the survival of which is necessary for the interpretation or enforcement of the agreement which shall continue to have effect following termination.
- 11.6. Upon expiry or termination of this agreement by agreement for any reason, You shall:
- 11.6.1. Subject to Clause 11.7 below cease any and all use of the CIMSPA Logo(s).
  - 11.6.2. Return any and all materials supplied to You by CIMSPA under this agreement including any and all copies made by You.
  - 11.6.3. Pay any and all outstanding sums under this agreement which, on termination, shall become due and payable within 30 days of the date of termination.
- 11.7. You may at Your sole discretion continue use of the CIMSPA Logo(s) in relation to the endorsed degree(s), qualification(s) or education product(s) following termination of this agreement, such use being limited at all times to:
- 11.7.1. Ensure delivery and completion of such formerly endorsed degree(s), qualification(s) or education product(s) where necessary to meet contractual obligations entered into on or before the expiry of the notice period;
  - 11.7.2. Allow learner(s) already working towards such formerly endorsed degree(s), qualification(s), or education product(s), prior to the notice date given, to complete their learning so as to not disadvantage the learner(s).
- 11.8. In the event of termination, CIMSPA will cease any and all use of Your trademarks for promotional purposes and will no longer promote You as a partner of CIMSPA.

## 12. Force Majeure

- 12.1 Neither Party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events,

circumstances or causes beyond its reasonable control. Such causes include, but are not limited to: acts of God; flood, drought, earthquake or other natural disaster; epidemic or pandemic; acts of terrorism or acts of war; nuclear, chemical or biological contamination; any law or any action taken by a government or public authority (such as failing to grant a necessary licence or consent); fire, explosion or accident; any industrial action or lockouts (other than in each case by the Party seeking to rely on this clause); and interruption or failure of utility service (a "Force Majeure Event"). In such circumstances, the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 30 days or more the Party that cannot perform its obligations owing to the Force Majeure Event may terminate this agreement by giving 30 days written notice to the other Party.

### **13. Warranties**

- 13.1. You warrant, represent and undertake that You (and any person associated with You and any employee, agent, permitted sub-contractor, representative or advisor) have not and will not directly or indirectly make any payment or transfer anything of value where any such payment or transfer could, under the laws of any jurisdiction, be considered to have the purpose or effect of public or commercial bribery or to constitute the acceptance of, or acquiescence in, corruption, extortion, kickbacks or other unlawful or improper means of obtaining business. You shall promptly give written notice to the other upon a breach, or suspected breach, of its obligations under this clause.
- 13.2. You warrant that You will conduct Your business in an ethical manner and in such a way as to uphold the good name and reputation of CIMSPA and without limitation to the foregoing:
- 13.2.1. You will comply with all laws regulating the safety and construction standards of Your workplace.
- 13.2.2. No forced, imprisoned, indentured or under-age workers are employed by You and all laws on under-age labour shall be complied with in all cases.
- 13.2.3. You will comply with laws regulating employment and working conditions, including minimum salary, overtime payment and allowances.
- 13.2.4. Employees' working hours comply with all applicable laws and standards.
- 13.2.5. You shall comply with the requirements of the modern slavery act 2015 (act) and use all reasonable endeavours to assist CIMSPA with its compliance of the act.

### **14. Notices**

- 14.1. Any notice given to a Party under or in connection with this agreement shall be in writing, addressed to:-
- 14.1.1 - for CIMSPA - the Partnership Manager at CIMSPA's registered address or via email, and
- 14.1.2 - for You - the Key Contact at its registered office address or its principal place of business and shall be delivered in writing, personally, or sent by first-class post, other next working day delivery service or commercial courier, or via email.

### **15. General**

- 15.1. Relationship of Parties - The relationship between CIMSPA and You is not exclusive and CIMSPA may enter into similar agreements with other organisations if deemed beneficial to CIMSPA's business purposes, objectives and the wider sport and physical activity sector.

- 15.2. Partnership - References to partner or partnerships within this agreement describe the relationship between CIMSPA and You but are not intended to establish a partnership in law. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other Party in any way.
- 15.3. No Waiver - No failure by either Party to enforce the performance of any provision in this agreement shall constitute a waiver of the right to subsequently enforce that provision or any other provision of this agreement. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.
- 15.4. Non-Assignment - Neither Party shall assign, transfer, sub-contract, or in any other manner make over to any third party the benefit and/or burden of this agreement without the prior written consent of the other, such consent not to be unreasonably withheld.
- 15.5. Entire Agreement - This agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except in writing and signed by the duly authorised representatives of the Parties.
- 15.6. Each Party acknowledges that, in entering into this agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 15.7. This agreement supersedes any previous agreement between the parties in relation to this subject matter
- 15.8. Severance - If any provision or part provision of this agreement is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimal extent necessary to make it valid, legal, and enforceable. If such modification is not possible, the relevant provision or part provision shall be deemed deleted. Any modification to or deletion of a provision or part provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 15.9. Third Parties - A person who is not a Party to these Conditions has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Conditions.

## **16. Law and Jurisdiction**

- 16.1. This agreement shall be construed in accordance with and governed in all aspects by English Law and each Party submits to the exclusive jurisdiction of the English courts.

16.2.