

EXECUTIVE COUNCIL

PUBLIC

Title: National Sports Council project – Approval to proceed to Construction stage

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Responsible Director: Director Development and Commercial Services

Report Author: Director and Deputy Director of Development and Commercial Services

Portfolio Holder: MLA Pollard

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For policy decision (including budgetary policy)
For policy update/information
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Requested by elected member of the Legislative Assembly

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Reason for Redactions or not Publishing:

Under Executive Council Standing Order 23(2), Executive Council must have regard to the categories of exempt information in Schedule 3 to the Committees (Public Access) Ordinance when determining if information should be withheld

The categories which are potentially relevant to this paper are:

10 - Information about relevant contracts and negotiations – including information about the amount of expenditure that FIG or a public body proposes to incur under a contract; and information about financial provision included in the estimates of revenue and expenditure or the budget of a public body in relation to contracts.

Previous papers: 182/ 21 Next steps for the new sports facility
179/20 Delivery approach for new multi-sports facility project
41/19 Multi-Purpose All-Weather Sports Facility
159/18 Additional Funding for the All-Weather Sports Facility
167/16 All Weather Sports Facility: Options Analysis
201/15 All Weather Sports Facility: update and Next Steps
91/14 All Weather Sports Ground

List of Documents: 25-22A: NSC – FIG Development Agreement relating to Sports Centre Project (dated 27th April 2021)
25-22B: Concept Design report (including outline specification and outline drawings)
25-22C: Cost Plan **REDACTED**
25-22D: Procurement Strategy
25-22E: Communications Management Policy
25-22F: NSC Project Risk Register
25-22G: Variations Tolerance Policy
25-22H: Site Report
25-22I: Governance Strategy

1. Recommendations

Honourable Members are recommended to:

- (a) Approve the recommended Option, that the NSC project continues to the construction phase and delivers the facilities as described in the NSC project Concept Design and associated documents.
- (b) In the event that it does not prove possible to include renewable heating and power options within the currently capped FIG contribution of £3 million, to delegate to the Director of Development & Commercial Services, in consultation with the Chief Executive (CE) and Financial Secretary (FS) to approve additional capital spend **REDACTED** for the purpose of allowing the incorporation of renewables within the new sports facilities.
- (c) Note the overall capex costs for the Access Road and services, which will be met from anticipated underspends in PWD capital infrastructure budgets
- (d) Note the overall anticipated operational costs to FIG that will be incurred as a result of approving that the project proceeds to the construction phase.
- (e) Note that the oversight and governance arrangements of the project will remain in accordance with those described in the FIG – NSC Development Agreement.

2. Additional Budgetary Implications

- 2.1 The £3 million capital needed for the delivery of the NSC project pitch and sports hall has already been approved by ExCo. This ExCo report is i) requesting authorisation for the NSC to proceed with spend of up to the agreed figure of £3 million to deliver the new facilities, as set out in the Development Agreement of April 2021; and ii) requesting delegated authority to approve additional capital expenditure **REDACTED** to allow for the incorporation of renewable heat and power solutions in the new facilities if it does not prove possible to include renewable heating and power within the £3m existing budget (Note: the inclusion of renewables in the design was not originally a requirement that was included in the FIG – NSC Development Agreement).

- 2.2 To ensure that ExCo have clear sight of the overall cost to FIG of proceeding to the construction stage of the NSC project, this paper describes the capital cost of the Access Road and service connections, and the additional operating costs for the new facilities.
- 2.3 The capital costs for the Access Road and service connections can be met from anticipated delayed spending in 21/22 and 22/23 PWD capital budgets, assuming that all requested carry forwards remain available.
- 2.4 The operational budget for operating and maintaining the sports pitch will be requested as part of 2022-23 budget setting process during February 2022, given that the NSC's programme now shows the pitch anticipated completion by November 2022. The operational costs for the sports hall will be requested as part of the 2023-24 budget setting process.

3. Executive Summary

- 3.1 Following Exco approval of the delivery approach for the NSC project - which involved capping the FIG contribution to the project at £3 million and returning to Exco at the end of the concept design stage to request further approval to proceed with construction – a Development Agreement between FIG and the NSC was negotiated and signed on the 27th April 2021.
- 3.2 In September 2021, ExCo paper 182/21 requested approval for the NSC to progress with additional ground investigation work at the site. The aim of this work was to reduce uncertainty about i) the ground conditions when the work to excavate the foundations for the pitch and the building commenced; and ii) the level of fill material that would need to be purchased and brought to site to prepare the ground for the pitch and building. This work has now been completed and so there is now increased certainty around the predicted groundworks costs.
- 3.3 The current position is that the NSC have now produced a revised set of project documentation which reflects the latest position about the costs, concept design, programme and project governance. This documentation is provided in the Annexes to this paper.
- 3.4 The project governance arrangements for the project included the establishment of a FIG – NSC Joint Steering Committee (JSC). This consists of the NSC Chair, Financial Secretary, Deputy Director PWD, Director DCS and Deputy Director DCS. The JSC has met on a number of occasions to discuss and review progress with the project work.
- 3.5 This paper describes: i) the facilities that the project plans to deliver; ii) the enabling works that would be carried out by FIG to provide access/ power/ water to the site; and iii) the additional operating costs that would be incurred by FIG as result of taking on the operation of the facilities. The facilities as described in this paper – and documented in the Cost Plan – are costed at £3 million. However, it is noted that this figure currently does not include an allowance for renewable heat and power solutions.

- 3.6 The paper presents a series of options for the next steps with the project and recommends proceeding to the construction phase of the project under Option 2. This includes a request to increase the overall FIG contribution **REDACTED** so as to allow for the incorporation of renewable heat and power solutions within the new facilities.
- 3.7 The risks and resource implications of the project are summarised in this report. The primary project risk is around the NSC's ability to deliver the new facilities within the currently capped ExCo approved budget amount of £3 million.
- 3.8 Overall, this project is not proposing to carry out any particular novel or high-risk activities. Therefore, it is suggested that the primary significant risks are due to cost overruns relating to increasing prices of construction materials.
- 3.9 A contingency of £210,000 has been included in the Cost Plan. This equates to 7.8% of the overall budget. Whilst this is quite a low percentage figure for a project at concept design stage, the FIG members of the JSC consider this to be reasonable given the nature of the work proposed and the quotes that the NSC have obtained from suppliers.
- 3.10 A joint FIG – NSC communications policy has been agreed and is one of the documents submitted with this ExCo report.

4. Background

Work to date

- 4.1 Exco Report 179/20 documented the culmination of five years' work on the development of plans for a multi sports facility and proposed an NSC led delivery approach for the project.
- 4.2 The background and history of the multi sports facility was documented in EXCO report 179/20 and that the *'paper also noted that the Islands Plan committed to 'improve sporting and leisure facilities to increase involvement and participation'*.
- 4.3 Following Exco approval of the delivery approach for the NSC project - which involved capping the FIG contribution to the project at £3 million and returning to Exco at the end of the concept design stage to request further approval to proceed with construction – a Development Agreement between FIG and the NSC was negotiated and signed on the 27th April 2021.
- 4.4 The ExCo approval was subject to the concept design work being reviewed by FIG officers and seeking further approval from ExCo prior to the £2.9M being committed to the construction phase of the project.
- 4.5 The project governance arrangements included the establishment of a FIG – NSC Joint Steering Committee (JSC). This consists of the NSC Chair, Financial Secretary, Deputy Director PWD, Director DCS and Deputy Director DCS. The JSC has met on a number of occasions to discuss and review progress with the project work.
- 4.6 In addition to the JSC, the NSC have their own internal Project Board which involves representation from the various sports that sit under the NSC umbrella.

- 4.7 The Development Agreement defined the process by which FIG would carry out a due diligence review of the NSC concept design work before reverting to Exco. The process allowed for the Exco gateway to take place when all aspects of the NSC Concept Design proposals were ready, and had undergone due diligence and approval by the FIG officers on the Joint Steering Committee (JSC). It also stipulated that the accompanying whole life costs - including operation and maintenance costs - would be included in the proposals to Exco, as well as the plans and costs for FIG to undertake the access road and deliver utilities to the site. This was so that FIG could make a decision with all major cost elements identified, and make a decision too on whether phasing of the construction of the two proposed facilities was the most prudent means of continuing, according to the considered level of cost certainty at end of Concept Design.
- 4.8 In September 2021, ExCo paper 182/21 requested approval for the NSC to progress with additional ground investigation work at the site. The aim of this work was to reduce uncertainty about i) the ground conditions when the work to excavate the foundations for the pitch and the building commenced; and ii) the level of fill material that would need to be purchased and brought to site to prepare the ground for the pitch and building. This work has now been completed and so there is now increased certainty around the predicted groundworks costs.
- 4.9 ExCo paper 182/21 also requested approval for spend of up to £500k by the NSC on the project be given – subject to certain FIG Officer agreement – so as to allow the ground investigation work and additional work on the Concept Design to be progressed.
REDACTED
- 4.10 The increased cost certainty from the groundworks already carried out by the NSC at the site - as a result of the spend that was approved by ExCo in response to 182/21 to improve understanding of the risks - has allowed aspects of the design that were previously considered undeliverable within the £3 million budget to be reintroduced.
REDACTED
- 4.11 The current position is that the NSC have now produced a revised set of project documentation which reflects the latest position about the costs, concept design, programme and project governance. This documentation is provided in the Annexes to this paper.
- 4.12 One of the actions following the ExCo discussion on 182/21 was for the NSC to work with their Technical Advisors (Arch Henderson) to investigate the options and costs for a renewable heating and electricity for the new building.
- 4.13 The issues around hybrid grid/ renewable electricity solutions are well known to PWD and this is something that the NSC – and their professional team – are currently investigating further with a view to being able to provide options and costs. Options relating to this are provided in Section 5.

The new sports facilities

- 4.14 The detail of what the NSC propose to deliver is presented in the concept design report and accompanying drawings. However, in summary, the NSC will deliver:

- An artificial pitch suitable for:
 - Football - 64m x 100m pitch area, with a runoff area at each side of 3m
 - Rugby 64m x 110m pitch area, with an additional run off area at the ends of 3m.
 - Floodlights
 - Fencing
- In terms of design life for the pitch - The foundations of the pitch are estimated to have a design life of 50 years, the shock pad (which is the layer between the foundation and the playing surface) has a design life of 15 years. The carpet (i.e. the playing surface) has an 8 year insured warranty, and an expected life of 15 years.
- The NSC currently estimate that the completion date for the pitch is November 2022.
- A sports hall.
 - This will be 50m x 50m x 7m (to the eaves) constructed from structural steel with a concrete slab floor, and clad with steel sandwich panels 100mm thick on the walls and 150mm thick on the roof. Just for comparative purposes, it is noted that the sports hall within the SLC building is 24m x 19m.
 - The sports hall is designed in such a way to allow two major sports to take place at any one time. Additionally, the building will include a viewing area, changing area, storage space and toilets.
 - The concept design report notes that 'One end of the Sports Hall will have bespoke gym style flooring, a point-elastic system conforming to EN 14904, providing protection to athletes and a good multi use playing surface, with court lines cut into the surface. It is anticipated that this area would provide playing area for netball, tennis, volleyball, cricket, and indoor bowls.
 - The other end will be set out as a skating rink, with batter boards to delimit the playing area, and a Stilmat playing surface designed specifically for in-line skating. This will accommodate both puck hockey on in-line roller blades, and ball hockey on indoor shoes. It is also eminently suitable for 5-a-side football and basketball. The area around the rink and up to the gym surface will be left as epoxy painted concrete.
 - On the side opposite the viewing area, between the two ends, there will be a 4-lane purpose built climbing wall. This might alternatively be located in its own room in the facilities run. This will be finalised during detailed design.
 - The options for an air extraction/exchange from the Sports Hall are currently being finalised by the NSC design team.
- The NSC currently estimate that the completion date for the sports hall is August 2023.

4.15 In terms of design life for the Sports Hall - The design life of the building is 50 years.

4.16 The Concept Design report also notes the items not currently included in the work deliverable for £3 million – This includes:

- an athletics track of any size or other athletics facilities (jumping pits, throwing areas)

- shooting or archery facilities
- artificial ice (or any other provision for an ice rink)
- any architectural designs to enhance the aesthetics of the building
- concrete or asphalt paths for pedestrians or bicycles (from the road to the hall)
- extended changing areas or showers
- any landscaping beyond remediation of disturbed areas

FIG led enabling works

4.17 In addition to construction works that will be led by the NSC, there is also a need for enabling works which FIG committed, as part of the Development Agreement, to fund. These include:

4.17.1 Running an electricity connection to the site.

4.17.2 Running a mains water connection to the site.

4.17.3 Running an all-weather access track from Bypass Road to the site (note – excludes any car park area to be provided).

4.18 It is noted that since ExCo paper 179/20, the requirements for power and water supply to the site are now better understood and so it has been possible to estimate the cost of providing suitably sized connections to the site.

4.19 During the discussions at the concept design phase of the project, the question arose of whether it would be preferable to run a surfaced (asphalt) track to the pitch/ sports hall as opposed to an all-weather access track. The NSC have highlighted that simply laying an all-weather track would result in more dust/ grit being taken in to the sports hall thereby reducing the life of the playing surfaces.

4.20 It is also noted that there are plans being formulated for further sports/ leisure related buildings and activities on the areas adjacent to the pitch and sports hall – and it is therefore reasonably foreseeable that there would be additional traffic (*i.e. aside from just that to the pitch and sports hall*) on the access route from Bypass Road over the years ahead.

4.21 The option for an access track that is costed below is for an asphalted access road and car park. However, it is noted that this cost to FIG could be reduced by simply supplying an all-weather track and car park as opposed to an asphalted track and car park.

Operating the new sports facilities after the construction phase

4.22 Based on the arrangements described in the Development Agreement, the new sports facilities (*i.e. the new sports centre building and the all-weather pitch*) will be handed over to FIG to operate at the end of the construction period.

4.23 The Development Agreement notes that in the future, there may be a different operating model covering both Stanley Leisure Centre and the new sports facilities at the NSC site – However, the NSC have advised that their current focus is on delivering the new facilities and so discussions about any future operating model will not be progressed until the construction phase of the current project has been completed.

4.24 Therefore, the project team – with support from the Stanley Leisure Centre Manager – have estimated the additional Operating Expenditure that FIG would incur as a result of

taking on the day to day operation of the new facilities. This equates to an annual additional net operating expenditure for the new facilities of £49k to cover staff, service contracts for ongoing operating tasks, consumables and heat/ power costs. It is noted that the figure of an additional £49k has been calculated after assessing the potential income that could be generated from the new facilities (based on the current level of hire charges used by SLC) minus the outgoings (which has been assessed based upon the experience gained from running the dryside facilities at SLC).

- 4.25 In addition to the annual net increase in Operating Expenditure noted above, it is recognised that there would be a need to develop a maintenance plan for the NSC facility – This will be completed over the life of the project once the design is completed and the maintenance requirements from the manufacturers of the component parts of the new facility are known. However, initial estimates of likely additional maintenance are presented below.

Work by the NSC Joint Steering Committee

- 4.26 As required by the Development Agreement, the FIG Officers have worked with the NSC to review the technical and financial robustness of the documentation produced by the NSC. As the result of this, the view of the FIG Officers on the JSC is that the documentation, predicted costs, contingency sum, project management and project governance arrangements are sufficiently robust for FIG Officers to be satisfied that the NSC proposal is reasonable for delivery of the facilities within the capped sum of £3 million. Note, the figure of £3 million excludes the FIG costs for the enabling works outlined above. Additionally, the work by the NSC design team on renewable options is still ongoing, and so it has not yet been possible for the FIG JSC Officers to scrutinise these costs.

5. Options and Reasons for Recommending Relevant Option

- 5.1 In light of the work to date on the National Sports Council project, the options at this point are:
- 5.2 **Do Minimum:** In this option ExCo decide not to proceed with further work to construct the new sports facilities and work would be required to reinstate the site to the condition prior to the exploratory groundworks commencing.
- 5.3 **Option 1:** Agree that the information presented by the NSC at concept design stage is sufficiently robust to give an acceptable level of confidence that the new facilities as described can be delivered within the £3 million capped contribution. In this option, additional facilities outside the £3 million cap would be delivered by additional funding raised by the NSC. In this option, the heating and lighting is delivered at the lowest Capex cost, which may not be renewables. The NSC will investigate the possibility of delivery of renewables within the budget as part of their detailed design.
- 5.4 **Option 2 –** As Option 1, apart from agreement that FIG will fund additional capital costs associated with installation of heating and lighting systems powered by renewables. Under this option, it is proposed that ExCo delegate approval for additional capital spend **REDACTED** for the purpose of allowing the incorporation of renewables within the new sports facilities. This would mean that the total amount of the FIG contribution to the NSC construction works on the pitch and sports hall would be

capped **REDACTED** – although, as noted above, the NSC detailed design work is still ongoing and it may prove possible to deliver a solution involving renewables for less **REDACTED**. Following the approach taken during the concept design phase of the project, the FIG members of the Joint Steering Committee would scrutinise the NSC design team proposals for the inclusion of renewables so as to ensure that FIG has assurance that the proposals for renewables offer good value for money.

- 5.5 **Option 3** – As Option 1, apart from agreement that it is an essential FIG requirement that the NSC include renewables for heating and lighting, but that the FIG contribution will remain capped at £3 million. Therefore, if the cost of the renewable option is greater than the options currently budgeted for by the NSC, then the NSC would need to either i) reduce the scope of the facilities that would be delivered so as to remain within the budget; or ii) fund raise to cover the additional cost of the renewables.
- 5.6 **Option 4:** Option 4 is as per option 1, 2 or 3 but with an alternative phasing approach in that Exco approve that whichever option is chosen from 1, 2 or 3, the NSC complete detailed design and final plans for both facilities, but then procure and complete one facility at a time. This would provide further certainty that the overall project can be kept within the capital sums available. If required, the NSC would need to reduce the scope of the second facility to meet the budget available.
- 5.7 **Recommended Option:** In light of i) the progress made to date on the project; ii) the documentation supplied by the NSC in accordance with the terms of the Development Agreement; iii) the scrutiny of the project by the NSC Joint Steering Committee; and iv) feedback from MLAs in relation to the NSC carrying out further exploration of the cost of renewable heat and power – and the alignment with The Falklands Islands Environment Strategy - The recommended option is Option 2.

6. Resource Implications

6.1 Financial Implications

Capital Expenditure

- 6.2 ExCo have already approved capital expenditure of £3 million for the NSC project. The only potential additional capital expenditure for the NSC to deliver in accordance with Option 2 could be an additional **REDACTED**. Although, it is noted that this amount may not be required once the NSC design team have completed their work to review all of the renewable heat and power solutions that would be suitable for this project.

FIG led enabling works

- 6.3 ExCo paper 182/21 noted that capital expenditure will be required to fund the enabling works identified above, but did not provide the detail on costs. The Director of PWD has advised that the capital needed to fund the enabling works for access road and services can be met from anticipated delayed spending in 21/22 and 22/23 PWD capital budgets, assuming that all requested carry forwards remain available.
- 6.4 Therefore, the capital cost to FIG of the enabling works are described below, but no additional capital expenditure is requested for the FIG led enabling works via this ExCo report.

- 6.5 The PWD Design Team have completed a preliminary design for the access road and parking suggested by NSC. The design incorporates road, drop-off layby, parking, footpaths, street lighting, surface water drainage etc. to the standards currently “in use” – i.e. similar to the Bennett’s Paddock roads.
- 6.6 The PWD Design Team have also examined the provision of water (*including fire hydrants*) and electricity.
- 6.7 Based on estimates from PWD, these costs will be:
REDACTED
- 6.8 As noted above, the costs for the access track to the new site could be reduced by approximately £250,000 if an asphalted track is not provided at this stage – However, it is noted that the recommendation of the JSC is that a surfaced track is provided to the NSC site.
- 6.9 **New Sports facilities**
REDACTED

Operating Expenditure

- 6.10 Delivering a new facility will mean additional Operating Expenditure for FIG. At present, it is assumed that the new facilities would be managed and operated in the same way as SLC. Through discussions with the SLC Manager, the estimating additional OpEx need as a result of FIG taking on the facilities delivered by the NSC project is £48,943.
- 6.11 This estimated figure is broken down as follows following:
- 6.11.1 Staff – There would be a need for an additional staff member to cover the opening hours of the NSC facility. Whilst it is noted that activities moving from SLC to the new NSC facility, the SLC Manager intends to use the additional hall space freed up by club bookings reducing to increase casual booking space for sports, additional exercise classes and parties. All of these activities would require the current level of staffing at SLC to be maintained. Estimated cost of an additional Sports Attendant role on the SLC Establishment - **£21,113**
An allowance of **£5,000** has also been allowed for additional casual staff to cover for events at the new facility.
Total Staff costs – £26,113
 - 6.11.2 Service Contracts – Covering cleaning for the building and grounds maintenance (including the 3G pitch). Estimated cost – **£48,000**
 - 6.11.3 Utilities costs – Estimated costs for electricity (lighting), kerosene (boiler), water and refuse collection - **£27,830**
 - 6.11.4 Repairs, equipment and minor maintenance **£5,000**
 - 6.11.5 Other operating costs **£2,000**
- 6.12 The annual operating costs listed above come to a total of **£108,943**
- 6.13 Following work with the SLC Manager to estimate the likely monthly income from court / pitch hire is assumed to be £5000. This has been estimated based on the sports

that will move from SLC to the new sports facility – and based on current SLC fees. The estimated annual income for the sports facilities is therefore **£60,000**.

- 6.14 Therefore, the additional annual operating expenditure (calculated as costs minus income) for FIG as a result of taking on operational responsibility for the new sports facility is **£48,943**.
- 6.15 It is noted that when sports club bookings move from SLC to the new NSC facilities, the income from the club bookings has been assumed to move from SLC. In practice, this will mean that SLC will be able to offer the sports hall space vacated by the sports clubs to other users to book (i.e. more space for casual bookings/ exercise classes) – However, it will also mean a drop in income for SLC as it is unreasonable to assume that all of the freed up hall space at SLC will be booked. Discussions with the SLC Manager suggest that it would be reasonable to assume that 50% of the SLC sports hall space vacated would be booked. Therefore, this will need to be factored in when the budget for SLC for future years is being considered.
- 6.16 ExCo approval for this increase in DCS SLC OpEx would be sought as part of the next annual budget submission.

Maintenance costs

- 6.17 One aspect of the work that will be developed over the course of the construction phase is the development of a detailed maintenance plan for both the pitch and the building. However, so as to give an indication of the levels of maintenance spend that could be required over the 50 year design life of the facilities, indicative costs are shown below:
- 6.18 Pitch – Maintenance costs assume that a replacement shock pad and playing surface would be required at year 15 and year 30. This is based on the pitch manufacturers guidance about the operational life of the shock pad and playing surface. At 2022 prices, the shock pad, playing surface, shipping and supervision of the installation would cost £245,000. Therefore, it would be reasonable to assume that if the pitch is renewed in accordance with the manufacturer's guidance, at least an additional £500,000 will be required over the 50 year design life.
- 6.19 Sports Hall maintenance – For cost estimating purposes, the Deputy Director PWD has advised that it would be reasonable to assume a figure of 3% of the Sports Hall capital cost would need to be spent annually on maintenance. **REDACTED** – Although in practice, maintenance funding for the Sports Hall would only be needed on a periodic basis. Therefore, funding requests for maintenance would be brought forward as and when required as part of the annual budget round. The Operations and Maintenance manual for the Sports Hall will be available towards the end of the project (*i.e. once the component parts of the new building are all known*) and it will then be possible to calculate and cost a detailed maintenance schedule – This information will then be used to inform the 2023 -2024 budget submission. Just for context, over the last 10 years the average annual spend on maintenance work – excluding maintenance of the external envelope of the building - from the operational budgets for SLC has been ~£22,850.
- 6.20 The operational budget for operating and maintaining the sports pitch will be requested as part of 2022-23 budget setting process during February 2022, given that the NSC's programme now shows the pitch anticipated completion by November 2022. The

operational costs for the sports hall will be requested as part of the 2023-24 budget setting process.

6.21 Human Resource Implications

6.22 The primary Human Resource implication of proceeding as per the recommended option is that it is that SLC would need to recruit an additional person to cover the work associated facility.

6.23 This would result in an increase of one Sports Attendant post on the SLC Establishment.

6.24 Other Resource Implications

6.25 The current proposed method of operating the new NSC facilities involves service contracts for cleaning, grounds maintenance. This would involve additional work for the Procurement Team within DCS to support the tendering and contract set up work.

6.26 Looking ahead, if discussions regarding the National Sports Council taking on the day-to-day operation of the new facilities do progress, then there would be a need for DCS/ Legal resource to work with on the development of suitable legal agreements to cover this. However, as noted above, this question will not be discussed further for now, as the NSC are currently focused on delivery of the new facilities.

7. Legal Implications

7.1 The legal work to draft and agree the FIG – NSC Development Agreement has already been completed and this covers the point up until handover of the new facilities to FIG.

7.2 In light of this, there is no significant additional Legal work envisaged at this stage of the project.

7.3 Looking ahead, there will be a need to set up service contracts to cover aspects of the operation of the new sports facilities. However, it is envisaged that these contracts will be similar to other service contracts for Stanley Leisure centre (e.g. grounds maintenance, cleaning) and so will require fairly limited input from Legal to draft.

8. Environmental & Sustainability Implications

8.1 The primary Environmental and Sustainability implications revolve around whether FIG does/ does not wish to invest in renewable heating and power solutions for the new NSC facilities.

9. Camp Implications

9.1 The new facilities would be available to residents from all across the Islands, although clearly the new facilities are likely to be more accessible to residents in Stanley than Camp residents.

10. Significant Risks

- 10.1 The primary risk associated with this project is financial – namely, that it will not prove possible to deliver the facilities as described in the attached Concept Design report within the ExCo approved figure of £3 million. It is noted that one way in which this risk could be effectively mitigated would be by taking the approach suggested in Option 4 – another method of managing this risk is to maintain close oversight of spend via the project governance arrangements that are currently in place.
- 10.2 One of the major areas of uncertainty in any construction project is encountering ‘unforeseen ground conditions’. As discussed above, early works carried out at the site have allowed greater certainty about the ground conditions to be achieved, and so the likelihood of this risk materialising is significantly reduced.
- 10.3 The other major cost items can be broadly broken down in to labour and materials.
- 10.4 The NSC Project Manager has invited quotes for the cost of delivering the materials for the building and 3G pitch to the Islands and these have been shared with the Joint Steering Committee for scrutiny.
- 10.5 Additionally, the NSC Project Manager has invited quotes from local suppliers for the groundworks, construction and M&E fit out works. Generally, FIG would look to benchmark rates for construction against other similar activities carried out for FIG. However, for this project, the rates that the NSC may be able to obtain – possibly due to support with the local community for provision of new sports facilities – may be different to those that FIG could obtain. In practice, this means that it is difficult to directly benchmark the rates – but having reviewed the information that the NSC used to create the Cost Plan, the members of the JSC feel that the NSC Project Manager has done everything reasonably possible to ensure that the rates offered for this project are competitive.
- 10.6 Overall, this project is not proposing to carry out any particular novel or high-risk activities – therefore, it is suggested that the primary significant risks are due to cost overruns relating increasing prices of construction materials.
- 10.7 A contingency of £210,000 has been included in the Cost Plan. This equates to 7.8% of the overall budget. Whilst this is quite a low percentage figure for project contingency at concept design stage. The FIG members of the JSC consider this to be reasonable given the nature of the work proposed and the quotes that the NSC have obtained from suppliers.
- 10.8 Whilst not considered a significant risk, it is noted that the NSC’s ability to deliver the new facilities is dependent upon them submitting and securing planning permission and building permit approval. The planning application for the pitch is currently programmed to be submitted in March 2022, whilst the application for the Sports Hall is currently programmed to be submitted in July 2022.

11. Consultation

- 11.1 The NSC have consulted with their membership as the project has developed.

11.2 There have previously been MLA briefings on progress with the NSC project, and a pre-Exco MLA briefing has been arranged.

12. Communication

12.1 A joint FIG – NSC communications policy has been agreed (and is one of the documents submitted with this ExCo report), and it is envisaged that a Public Service Announcement to advise on an ExCo decision to proceed with the construction phased would be drafted, agreed and circulated via the usual comms channels.

DATED 27 APRIL **2021**

(1) FALKLAND ISLANDS GOVERNMENT

and

(2) FALKLAND ISLANDS NATIONAL SPORTS COUNCIL

**DEVELOPMENT AGREEMENT
relating to
SPORTS CENTRE PROJECT**

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THIS AGREEMENT is made on 27 April 2021

BETWEEN

- (1) **FALKLAND ISLANDS GOVERNMENT** of The Secretariat, Stanley, Falkland Islands, FIQQ 1ZZ (FIG); and
- (2) **FALKLAND ISLANDS NATIONAL SPORTS COUNCIL**, a company incorporated and registered in the Falkland Islands with registered number 16320 and whose registered office is at 45 John Street, Stanley, Falkland Islands, FIQQ 1ZZ (NSC).

RECITALS

- (A) The Parties have agreed that NSC will procure and arrange the design, construction, completion and (subject as provided in this Agreement), operation and management of the Facilities (as defined in clause 1.1 below) in the Falkland Islands (the **Project**).
- (B) NSC is a not-for-profit organisation and will carry out the Project pursuant to its objects as stated in its memorandum of association and not for the benefit of its members, and otherwise upon the terms, and subject to the conditions, set out in this Agreement.
- (C) FIG will provide support to NSC in the conduct of the Project upon the terms, and subject to the conditions, set out in this Agreement.

AGREED TERMS

1 Interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following words have the meanings set opposite them:-

Access Road	shall be as defined in clause 7.2.1;
Approved Plans	means the layout, plans, elevations, sections and specifications describing the Facilities to be constructed on the Development Area as part of the Construction Programme, as approved by FIG and forming part of the Planning Permission;
Associate	in relation to each Party, means a subsidiary of the relevant Party (with not less than 51 per cent of its ordinary share capital being owned, directly or indirectly, by the relevant Party) and the respective Personnel of that Party and each such subsidiary;
Business Day	means a day (other than a Saturday, Sunday or public holiday in the Falkland Islands) on which Standard Chartered Bank in Stanley (or such other bank as the Parties may agree) is open for the conduct of general banking business in the Falkland Islands;
Commencement Date	means the date of this Agreement (or such other date as may be agreed by the Parties in writing);
Communications Management Policy	shall be as defined in clause 3.5;

Concept Design	means the concept design for the Facilities to be developed and finalised by NSC in accordance with clause 3.1 and agreed by ExCo pursuant to clause 3.11;
Concept Design Stage	means the period commencing on the Commencement Date and expiring on the first anniversary thereof (or such other date as the Parties may agree in writing) during which the Concept Design shall have been developed and finalised by NSC in accordance with clause 3.1 and agreed by ExCo pursuant to clause 3.11;
Confidential Information	means all information or data (whether oral, visual or recorded in writing, in any other medium or by any other method) obtained by or disclosed to one Party from or by the other Party pursuant to or in connection with this Agreement (including, without limitation, any information or document designated as restricted by either Party and/or any information relating to a Party's operations, processes, services, materials, data, plans, ideas, intentions, proposals, market opportunities, business affairs, terms of business, research, know-how, design rights, trade secrets or other IPR, software, finances, members, customers, Associates, Personnel or other employees, agents, consultants and/or contractors);
Construction Contracts	means the contracts for the construction of the Facilities and the carrying out of the Construction Programme to be entered into by NSC with the Contractors pursuant to the procurement and appointment process referred to in clause 4, including the Principal Construction Contract and such other or ancillary contracts entered into by NSC for the purposes of the Construction Programme and the Project as FIG shall specify in writing from time to time; and Construction Contract means any or all of them (as the context may require or permit);
Construction Costs	shall be as defined in clause 13.1;
Construction Programme	means the programme of all the works required to be carried out for the construction and completion of the Facilities (including the Concept Design Stage) pursuant to this Agreement and the Construction Contracts, and for any purposes reasonably ancillary thereto, such construction programme to be developed and finalised by NSC in accordance with clause 3.1 and agreed by ExCo pursuant to clause 3.11;
Contractor Personnel	means the Personnel engaged by any Contractor as necessary or appropriate to carry out and complete the Construction Programme;

Contractors	means the building and other contractors (including, without limitation, the Main Contractor) appointed by NSC under the respective Construction Contracts pursuant to clause 4 to carry out the Construction Programme; and Contractor means any or all of them (as the context may require or permit);
Costs Plan	shall be as defined in clause 3.2;
Designs	means the detailed designs and drawings for the Facilities to be developed and finalised by NSC, and agreed by the JSC, in accordance with clause 5.3;
Development Area	shall be as defined in clause 3.8.1;
Dispute	shall be as defined in clause 31.1;
Dispute Resolution Procedure	means the procedure for resolving disputes between the Parties set out in clause 31;
ExCo	means the Executive Council of the Falkland Islands;
Facilities	means sports facilities comprising a multi-sports hall and all-weather pitch (or either of them if so agreed by FIG in writing) and/or such other facilities as may be proposed by NSC pursuant to clause 3.11.1 and approved by or on behalf of FIG pursuant to clause 3.11, or as may otherwise result from, and comply with, any variations to the NSC Proposals made pursuant to clause 3.13, or any variations to the Project Requirements made pursuant to clause 5.6 and the Variations Tolerance Policy;
FIG Contract Manager	shall be as defined in clause 14.2;
Final Completion	in respect of a particular Facility, means the date on which the construction of that Facility is deemed in accordance with clause 5.11.2(a) to have been finally and fully completed and such Facility is ready for occupation and use by FIG;
Force Majeure Event	shall be as defined in clause 26.1 (subject as provided in clause 26.2);
Further Period	shall be as defined in clause 24.2;
Highway Works	shall be as defined in clause 5.7.1;
Initial Period	shall be as defined in clause 24.1;

IPR	means all patents, rights to inventions (whether patentable or not), utility models, copyright, moral rights and related rights, trademarks, service marks, rights in designs and design rights (registered or unregistered), trade, business and domain names, rights in computer software and in websites, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, database rights, topography rights, rights in confidential information (including Confidential Information, know-how and trade secrets), rights under licences and consents in relation to any of the foregoing, all applications for, and renewals or extensions of, such rights and any other intellectual property rights (whether registered or unregistered), and all similar or equivalent rights or forms of protection in any part of the world;
JSC	means the joint steering committee to be established and operated in accordance with clause 14.1 and Schedule 3;
JSC Members	shall be as defined in paragraph 4 of Schedule 3; and JSC Member shall mean each or any of them as the context may require or permit;
Legal Requirements	means all applicable laws, statutes, rules, regulations, secondary legislation, bylaws, common law, directives, any judgements, decisions or orders of any court or tribunal of competent jurisdiction, and any regulatory requirements, codes of practice or guidance issued by any regulatory body of competent jurisdiction, each having the force of law for the time being in the Falkland Islands;
Main Contractor	means the primary building contractor appointed by NSC under the Principal Construction Contract pursuant to clause 4 to carry out the main part of the construction works forming part of the Construction Programme;
Manager	means either or both of the FIG Contract Manager and/or the NSC Project Manager (as the context may require or permit);
Maximum Amount	means the aggregate sum of £3,000,000.00 (three million pounds) or such other sum as FIG may agree in writing;
NPC	shall be as defined in clause 5.11.1;
NSC Officers	shall be as defined in paragraph 5 of Schedule 3; and NSC Officer shall mean each or any of them as the context may require or permit;
NSC Project Manager	shall be as defined in clause 14.3;
NSC Proposals	shall be as defined in clause 3.11.1;

Outline Specification	means the outline performance specification for the Facilities to be developed and finalised by NSC in accordance with clause 3.1 and agreed by ExCo pursuant to clause 3.11;
Parties	means the parties to this Agreement; and Party shall mean either or both of them as the context may require or permit;
Personal Data	means data relating to a living individual who is or can be identified either from that data alone or from that data in conjunction with other information that is in, or is likely to come into, the possession of another person;
Personnel	means those employees, officers, agents, consultants, contractors, sub-contractors (including, in the case of NSC, the Contractors), or advisers engaged by a Party or other relevant person in the implementation of the Project (including, without limitation, in the conduct and completion of the Construction Programme) or, as appropriate, the discharge of its obligations under this Agreement;
Plan	means the plan of the Site, as set out in the Appendix to this Agreement;
Planning Permission	means the planning permission(s) to be obtained by NSC for the Construction Programme, and any extensions or renewals thereof, and such further planning permissions and all building permits as may be granted or required in respect of the Construction Programme from time to time;
Practical Completion	shall be as defined in clause 5.11.1;
Principal Construction Contract	means the principal construction contract for the construction of the main part of the Facilities to be entered into by NSC with the Main Contractor pursuant to the procurement and appointment process referred to in clause 4;
Procurement Principles	shall be as defined in clause 3.4;
Procurement Strategy	shall be as defined in clause 3.4;
Project	shall be as defined in recital (A);

Project Plan	means the project plan for the completion of each stage of the Project (which sets out the date for the completion of the Concept Design Stage of the Project, and the work streams to be completed during that Stage, and the timetable and work streams for the completion of the remainder of the Project), as set out in Schedule 2, subject as amended, supplemented and updated (as agreed in writing by the Parties) from time to time during the Term;
Project Requirements	means all the requirements relating to the Project, as set out in the Project Plan, Procurement Strategy, Costs Plan, Concept Design, Outline Specification, Site Plan, Site Report, Approved Plans, Planning Permission, Construction Programme, Construction Contracts, Communications Management Policy, Risk Management Policy, Variations Tolerance Policy and (following and subject to their approval by the JSC pursuant to paragraph 1.2 of Schedule 3) the Designs and the Specification, and all applicable Falkland Islands design guidelines and specifications (or any of them as the context may require or permit);
Publicity Materials	shall be as defined in clause 17.2;
Quarter	means each successive three-month period within the Term (or any part of such period), the first such three-month period commencing on the commencement date under the Principal Construction Contract and the final such three-month period terminating on the date of termination or expiry of this Agreement;
Rectification Period	means the period (not exceeding six months after the date of Practical Completion of the relevant Facilities, as stated in the relevant NPC) for the making good of defects, shrinkages, faults and deficiencies in respect of each of the Facilities under the Principal Construction Contract;
Review	means a review of the Project, the Construction Programme and the operation of this Agreement and other matters carried out in accordance with clause 12;
Risk Management Policy	shall be as defined in clause 3.6;
Site	means all that area of land described in Schedule 1 or such other site as the Parties may agree in writing;
Site Plan	shall be as defined in clause 3.8.1;
Site Report	shall be as defined in clause 3.8.2;

Specification	means the detailed design and performance specification for the Facilities to be developed and finalised by NSC, and agreed by the JSC, in accordance with clause 5.3;
Term	means the Initial Period and any Further Period (as appropriate);
Variations Tolerance Policy	shall be as defined in clause 3.7; and
VAT	means value added or any similar purchase tax (by whatever name known).

1.2 In this Agreement, unless the context or clause 1.1 otherwise requires:-

- 1.2.1 clause, paragraph, schedule and appendix headings are included for convenience only and shall not affect the construction of this Agreement;
- 1.2.2 references to clauses, recitals, Schedules and the Appendix are to the clauses of, and recitals, schedules and the appendix to, this Agreement; the recitals, Schedules and Appendix form part of this Agreement and shall have effect as if set out in full in the body of this Agreement; any reference to this Agreement includes the recitals, Schedules and Appendix; and reference in a Schedule to a paragraph is to a paragraph of that Schedule;
- 1.2.3 words denoting the singular shall include the plural and vice versa; and words denoting one gender shall include all genders;
- 1.2.4 references to any statute, statutory provision or other Legal Requirement shall be deemed to include any subordinate legislation for the time being in force under it and any statute, statutory provision or other Legal Requirement which amends, extends, consolidates or replaces the same from time to time, whether before or after the Commencement Date (except to the extent that the liability of either Party under this Agreement would be increased or extended as a result);
- 1.2.5 references to persons or undertakings shall include individuals, bodies corporate (wherever incorporated), partnerships and other unincorporated bodies;
- 1.2.6 references to this Agreement, a Schedule, the Appendix or any other document are to this Agreement or that document as amended from time to time;
- 1.2.7 a reference to **writing** or **written** includes electronic mail;
- 1.2.8 where the words **includes**, **including** or **in particular** are used, they are deemed to have the words **without limitation** following them. Where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them; and
- 1.2.9 any obligation upon a person not to do something includes an obligation not to agree, allow, permit or acquiesce to that thing being done.

1.3 For the avoidance of doubt, where a provision of this Agreement provides for NSC to perform a function or discharge an obligation **at its own cost**, **at its own expense** or similar, this means that such cost or expense shall form part of the Project's costs. However, this

does not preclude NSC from utilising for the purposes of the Project and Construction Programme any funds made available by FIG for the Construction Programme pursuant to clause 13 (subject as provided therein) nor any funds provided to NSC for this purpose by any third parties from time to time.

- 1.4 This Agreement shall not constitute any form of planning permission and/or building permit under the Planning Ordinance 1991.

2 Project and Common Duties of Parties

- 2.1 With effect from the Commencement Date, the Parties hereby agree to undertake and give effect to the Project under, and in accordance with, the terms and conditions of this Agreement.

- 2.2 In performing its obligations and providing its services under this Agreement, each Party hereby agrees and undertakes at all times to:-

- 2.2.1 act promptly, properly with reasonable skill, care and diligence, and in a proper, lawful, efficient, professional and business-like manner; and to perform its obligations and to provide its services in such a manner as shall not bring the other Party into disrepute;

- 2.2.2 comply with and perform such proper and reasonable requirements, directions and instructions as the other Party, acting reasonably, may notify in writing from time to time which are consistent with this Agreement; and liaise and collaborate with the other Party and its respective Manager in order to maximise the effectiveness of the Project;

- 2.2.3 co-operate and liaise with any regulatory authority or body of competent jurisdiction with respect to the Project and its implementation; and

- 2.2.4 ensure that it conforms, and that all its Personnel comply, with all Legal Requirements and all Project Requirements.

3 Concept Design Stage – Early Project Review

- 3.1 NSC will be responsible for the design of the Facilities. In particular but without limitation, NSC shall, during (and prior to the end of) the Concept Design Stage and at its own cost:-

- 3.1.1 arrange the development and finalisation of the Concept Design and the Outline Specification for the Facilities, and of the Construction Programme; and

- 3.1.2 procure (in accordance with the Procurement Principles), provide and manage a design team which shall comprise an RICS-accredited quantity surveyor and/or such other professional advisers and Personnel as shall be necessary for the purposes of clause 3.1.1 and as FIG may approve in writing provided that the aggregate fees payable to all the members of such design team in respect of the work undertaken as part of the Concept Design Stage shall be subject to the limit in clause 13.5.2.

- 3.2 During (and prior to the end of) the Concept Design Stage, NSC shall, at its own cost, develop and finalise an initial payment schedule and cost plan (as agreed by ExCo pursuant to clause 3.11, the **Costs Plan**) for the discharge of the Construction Costs (which shall make such provision for contingencies in relation to the Project as the Parties may agree in writing).

- 3.3 Without limitation to clause 3.2, NSC shall, within three months after the Commencement Date, provide to FIG for its review and approval a schedule detailing the costs (as agreed with the relevant counterparty or, if this is not reasonably practicable, an estimate based on all then available relevant information) of undertaking and completing the Concept Design Stage.
- 3.4 During (and prior to the end of) the Concept Design Stage, NSC shall, at its own cost, develop and finalise a paper setting out in reasonable detail its procurement strategy for the Project (as agreed by ExCo pursuant to clause 3.11, the **Procurement Strategy**). The purpose of the Procurement Strategy shall be to ensure that all procurement exercises undertaken with respect to the Project shall be conducted in a manner which is fair, open and transparent, and designed to maximise value for money (together the **Procurement Principles**).
- 3.5 During (and prior to the end of) the Concept Design Stage, NSC shall, at its own cost, develop and finalise a paper setting out in reasonable detail its policy for the management of communications with other parties and the public in respect of the Project (as agreed by ExCo pursuant to clause 3.11, the **Communication Management Policy**).
- 3.6 During (and prior to the end of) the Concept Design Stage, NSC shall, at its own cost, develop and finalise a paper setting out in reasonable detail its risk management policy for the Project (as agreed by ExCo pursuant to clause 3.11, the **Risk Management Policy**). The purpose of the Risk Management Policy shall be to identify the principal risks relating to the Project and the measures to be taken to mitigate or address them.
- 3.7 During (and prior to the end of) the Concept Design Stage, NSC shall, at its own cost, develop and finalise a paper setting out in reasonable detail its proposed policy for making variations to the Project Requirements in accordance with clause 5.6 (as agreed by ExCo pursuant to clause 3.11, the **Variations Tolerance Policy**). The purpose of the Variations Tolerance Policy shall be to determine and identify, for the purposes of clause 5.6, those variations:-
- 3.7.1 which may be adopted by NSC subject to prior notice to FIG only;
 - 3.7.2 the adoption of which should be subject to prior consultation with FIG; and/or
 - 3.7.3 the adoption of which is subject to the prior written consent of the FIG Contract Manager, the JSC or ExCo (as specified in the Variations Tolerance Policy).
- 3.8 During (and prior to the end of) the Concept Design Stage, NSC shall, at its own cost:-
- 3.8.1 investigate the existing state and condition of the Site and develop and finalise a site plan (as agreed by ExCo pursuant to clause 3.11, the **Site Plan**). The purpose of the Site Plan is to set out and describe that part of the Site (as agreed by ExCo pursuant to clause 3.11, the **Development Area**) which is to be used for the Construction Programme and at which the Facilities and all related works (including the Highway Works, the Access Road, and the services referred to in clauses 5.7.2 and 7.2.2) are to be located; and
 - 3.8.2 report in writing (as agreed by ExCo pursuant to clause 3.11, the **Site Report**) whether the Development Area is suitable and fit for the construction of the Facilities in accordance with the Project Requirements and applicable Legal Requirements; and if this is not the case, specify in the Site Report the steps required to make the Development Area suitable and fit as aforesaid (including, as appropriate, its proposals for reinforcing the foundations of the proposed Facilities).

- 3.9 Prior to the end of the Concept Design Stage, NSC shall provide to the FIG Contract Manager copies of the draft Concept Design, the Outline Specification, the Site Plan, the Site Report the Construction Programme, the Costs Plan, the Procurement Strategy, the Communications Management Policy, the Risk Management Policy and the Variations Tolerance Policy. Within fifteen Business Days of its receipt of the same, the FIG Contract Manager shall either approve, or request amendment of, the same. If the FIG Contract Manager requests any such amendment, NSC shall, within fifteen Business Days of its receipt of any request for amendment, resubmit such document, duly amended, to the FIG Contract Manager for approval. This procedure shall be repeated until all the proposed documents shall have been approved by the FIG Contract Manager (at all times acting reasonably), prior to the end of the Concept Design Stage. Any failure to approve any such draft documents may be referred to the Dispute Resolution Procedure.
- 3.10 Prior to the end of the Concept Design Stage and following their approval by the FIG Contract Manager pursuant to clause 3.9, NSC shall provide to the JSC copies of the draft Concept Design, the Outline Specification, the Site Plan, the Site Report, the Construction Programme, the Costs Plan, the Procurement Strategy, the Communications Management Policy, the Risk Management Policy and the Variations Tolerance Policy for its approval. Following and subject to such approval by the JSC pursuant to paragraph 1.1 of Schedule 3, the same shall be submitted to FIG as part of the NSC Proposals in accordance with clause 3.11.1.
- 3.11 Unless otherwise agreed in writing by the Parties, ExCo shall conduct a review of, and if it thinks fit in its absolute discretion, approve, the Project, the Construction Programme and the operation of this Agreement at or following the end of the Concept Design Stage (or within twenty Business Days thereafter, as certified in writing by FIG). For this purpose:-
- 3.11.1 NSC shall submit to FIG the draft Concept Design, Outline Specification, Site Plan, Site Report, Costs Plan, Procurement Strategy, Communications Management Policy, Risk Management Policy and Variations Tolerance Policy, full details of the proposed Construction Programme and of any proposed changes to the Facilities consequent upon the adoption of the proposed Concept Design, and to the Project Plan, and also its proposals for the future management of the Project (including details of its proposed project management board and team) (together, the **NSC Proposals**) for the approval of ExCo (such approval to be a precondition to the further implementation and completion of the Project).
- 3.11.2 Without limitation to ExCo's discretion with respect to such approval, that approval shall be subject to ExCo's satisfaction in all respects:-
- (a) with the outcome of all and any financial, commercial, legal and other due diligence investigations and enquiries FIG may make with respect to the NSC Proposals;
 - (b) with the Concept Design and the Outline Specification, the Construction Programme, the Costs Plan, the Procurement Strategy, the Communications Management Policy, the Risk Management Policy and the Variations Tolerance Policy;
 - (c) with the proposed Development Area as set out in the Site Plan;
 - (d) with the size, state and condition of the Development Area as set out in the Site Report;

- (e) with any changes to the Facilities and the Project Plan proposed by NSC as part of the NSC Proposals;
 - (f) with NSC's proposals for the future management of the Project;
 - (g) that the Project will be delivered in accordance with the NSC Proposals; and
 - (h) that the Costs Plan makes adequate provision for the discharge of the Construction Costs (including all reasonably anticipated contingency costs).
- 3.12 In the event that ExCo approves the NSC Proposals and the Project for the purposes of clause 3.11, NSC will be responsible for the construction of the Facilities, and the delivery and completion of the Project, in accordance with, and subject to, the NSC Proposals and this Agreement up to Final Completion of all the Facilities; and in particular but without limitation, NSC shall be responsible for:-
 - 3.12.1 procuring the appointment of the Contractors in accordance with clause 4;
 - 3.12.2 arranging the preparation and approval of the Approved Plans, and securing the Planning Permission (including, without limitation, any building permits), necessary for the delivery and completion of the Project; and
 - 3.12.3 the management of the Construction Programme, and discharging its obligations, in accordance with clauses 4 – 6 and 8.
- 3.13 Notwithstanding the approval of ExCo pursuant to clause 3.11 or any other provision of this Agreement and without limitation to clause 5.6, any of the Concept Design, the Outline Specification, the Development Area as set out in the Site Plan, the Site Report, the Construction Programme, the Costs Plan, the Procurement Strategy, the Communications Management Policy, the Risk Management Policy, the Variations Tolerance Policy and the Project Plan may, subject to the agreement in writing of both Parties (and, where necessary, the relevant Contractor), be amended, refined and updated as necessary during the course of the Construction Programme.
- 3.14 For the avoidance of doubt, the approval of ExCo pursuant to clause 3.11 shall not affect, reduce or obviate the responsibilities of NSC with respect to the NSC Proposals or their implementation, for which NSC shall remain fully liable under, and in accordance with, the terms of this Agreement.
- 3.15 In the event that ExCo does not approve the NSC Proposals and the Project for the purposes of clause 3.11 (including, as appropriate, following further consultations with NSC), either Party shall be entitled to terminate the Agreement in accordance with clause 24.3.7.

4 Procurement of Contractors

- 4.1 NSC will be responsible for the procurement of all goods and services required in order to implement and complete the Project and the Construction Programme; and shall ensure that all such procurement exercises undertaken with respect to the Project and the Construction Programme shall be conducted in accordance with the Procurement Strategy (or, prior to the approval and adoption thereof as part of the NSC Proposals pursuant to clause 3, in accordance with the Procurement Principles and subject to FIG's prior approval in writing).
- 4.2 Without limitation to clause 4.1 but subject to clause 4.3, NSC shall procure the appointment of the Contractors and of all professional advisers and Personnel (over and above those

referred to in clause 3.1.2) necessary to carry out the Construction Programme, in accordance with the terms of the Procurement Strategy (or, prior to the approval and adoption thereof as part of the NSC Proposals pursuant to clause 3, in accordance with the Procurement Principles and subject to FIG's prior approval in writing).

- 4.3 NSC shall appoint such Contractors as FIG shall approve in writing (such approval not to be unreasonably withheld or delayed) and upon such terms as NSC shall think fit (such terms to be set out in the respective Construction Contracts and related documents to be entered into between NSC and each Contractor) provided that:-

4.3.1 such terms shall be consistent with NSC's obligations under this Agreement; and

4.3.2 if so required by FIG, NSC shall procure that any such Contractor shall, simultaneously with the execution of its Construction Contract and as a precondition thereto, provide collateral warranties in favour of FIG and such other party, and in such format and upon such terms, as FIG shall reasonably specify.

With the exception of any such collateral warranties and except as expressly provided in this Agreement, FIG shall not be party to, or assume any direct rights or obligations to NSC and/or any of the Contractors under, the Construction Contracts or related documents, or assume any responsibility for the terms of any such Construction Contracts or the exercise of the rights, or performance or discharge of the obligations or liabilities, of NSC to or in respect of the Contractors thereunder.

- 4.4 Without limitation and subject to clause 4.3, NSC may consult FIG with respect to the terms of the appointment of the Contractors provided that the consent of FIG thereto shall not be a precondition to the obligations (or any of them) of NSC or the respective Contractors under the Construction Contracts, or of NSC under this Agreement and that FIG shall not assume any responsibility for such terms.

- 4.5 To the extent consistent with the remainder of this clause and in particular the Procurement Strategy and the Procurement Principles, NSC shall use its reasonable endeavours to procure professional and other services from providers based in the Falkland Islands, where reasonably practicable.

5 Management of Construction Programme

- 5.1 Subject as provided in this clause, NSC will be responsible for the design, construction and completion of the Facilities up to their Final Completion and for the conduct of the Construction Programme, in each case in accordance with this Agreement and the Project Requirements.

- 5.2 NSC shall manage the Construction Programme in accordance with the Project Plan (subject as provided in clauses 3.13 and 5.6), and shall arrange for Final Completion of the Facilities in accordance with the Project Plan and this Agreement.

- 5.3 NSC shall:-

5.3.1 within nine months after the end of the Concept Design Stage and prior to the commencement of the construction of any Facilities pursuant to the Construction Programme, submit to the JSC copies of the draft Designs and Specification for its approval pursuant to paragraph 1.2 of Schedule 3; and

- 5.3.2 within fifteen Business Days of its receipt of any requests from the JSC for amendments thereto pursuant to the said paragraph 1.2, resubmit such Designs and Specification, duly amended, to the JSC for its approval.

This procedure shall be repeated until all the proposed Designs and Specification shall have been approved by the JSC, such approval to be a precondition to the commencement of the construction of any Facilities. Any failure by the JSC to approve any such draft Designs and Specifications may be referred to the Dispute Resolution Procedure.

- 5.4 Without limitation to clause 3.8, prior to the commencement of the construction of any Facilities pursuant to the Construction Programme, NSC shall, pursuant to paragraph 1.3 of Schedule 3:-

- 5.4.1 report to the JSC on the existing state and condition of the Development Area; and
- 5.4.2 provide to the JSC copies of its designs and plans for all the foundations of the Facilities; and
- 5.4.3 confirm to the JSC that the Development Area and proposed foundations are suitable and fit for the construction of the Facilities in accordance with the Project Requirements and applicable Legal Requirements; or
- 5.4.4 if NSC is unable to provide the confirmation referred to in clause 5.4.3, report to the JSC on the additional remedial steps required to make the Development Area suitable and fit as aforesaid.

In the event that, pursuant to paragraph 1.3 of Schedule 3, the JSC requests any amendments to the proposed foundations or to the remedial steps referred to in clause 5.4.4, NSC shall, within fifteen Business Days of its receipt of any request for amendment, resubmit its designs and plans for the foundations of the Facilities and details of any additional remedial steps, duly amended, to the JSC for its approval. This procedure shall be repeated until all the proposed designs and plans for the foundations and details of any additional remedial steps shall have been approved by the JSC, such approval to be a precondition to the commencement of the construction of any Facilities. Any failure by the JSC to approve any such draft designs and plans may be referred to the Dispute Resolution Procedure

- 5.5 Subject as provided in this clause, NSC shall arrange for the Contractors (and each of them) to construct and complete the Facilities on FIG's behalf in:-

- 5.5.1 a thoroughly sound and workmanlike manner;
- 5.5.2 conformity in every material respect with the Project Requirements and the standards set out therein with respect to the design, installation, engineering and construction practices, materials and workmanship employed; and
- 5.5.3 accordance with and subject to all planning, building and other applicable Legal Requirements.

- 5.6 Unless otherwise agreed in writing by the Parties, the Facilities shall be constructed in accordance with the standards for construction set out in the Project Requirements. In the event that NSC or any Contractor proposes any variation to the Project Requirements, NSC shall notify FIG of any such proposal as soon as practicable and, in any event, not less than fifteen Business Days prior to the adoption and implementation of any such variation. NSC

may adopt such variations subject to prior notice to FIG only, or subject to prior consultation with FIG, or subject to the prior written consent of the FIG Contract Manager, the JSC or ExCo, in each case as set out in, subject to, and in accordance with, the Variations Tolerance Policy.

5.7 As part of the Construction Programme and on or before Final Completion, NSC shall:-

5.7.1 be responsible for, and arrange as part of the Construction Programme, the design, supply and construction at the Development Area of all roads, pavements, car parks, hard-standing areas and signs required to service the Facilities (with the exception of the Access Road, the construction of which shall be arranged by FIG in accordance with clause 7.2.1) (together, the **Highway Works**); and for such purpose, **construction** (and **construct** and any other derivative thereof) means construction to an adoptable standard to the point at which the road or other facility may be used in all weathers without significant deterioration but, for the avoidance of doubt, does not mean surfacing with concrete, tarmac or similar materials; and NSC shall:-

- (a) provide a properly designed access for any such roads to and from the Access Road;
- (b) pay all costs of the Highway Works as part of the Construction Programme;
- (c) obtain prior approval from FIG (such approval not to be unreasonably withheld or delayed) for the design and location of the Highway Works; and
- (d) promptly correct (or procure that the relevant Contractor shall so correct), all defects, damages and deficiencies in the Highway Works (whether related to materials, workmanship, operations, vandalism or otherwise) as part of the Construction Programme; and if, in the opinion of FIG, the Highway Works are not constructed or maintained properly or in a timely manner, NSC shall arrange for the relevant Contractor to undertake the necessary maintenance work as part of the Construction Programme; and

5.7.2 be responsible for, and arrange as part of the Construction Programme, the installation at the Development Area of all sewage pipes and infrastructure, cabling, service channels and infrastructure for telecommunications and other media, gas supply and any other services or utilities at the Development Area (with the exception of a potable/drinking water supply and connection, and electricity supply and connection, at the Development Area, each of which shall be arranged by FIG in accordance with clause 7.2.2), and of all the pipes, sewers, drains, mains, ducts, conduits, gutters, watercourses, cables, wires, channels, flues and all other conducting media, services and connections (including any fixings, louvres, cowls and any other ancillary apparatus) which are required for such purpose.

5.8 NSC shall, for the purposes of the Construction Programme, at its own expense and without further charge to FIG (subject as provided in clause 1.3):-

- 5.8.1 appoint a contract engineer and/or a clerk of works to monitor and assure delivery of the Construction Programme in accordance with the terms of this Agreement and the Construction Contracts;
- 5.8.2 provide such Personnel, equipment and other resources as shall be reasonably required to enable and arrange for each Contractor and its Personnel to perform its obligations under its Construction Contract (subject as provided therein);

- 5.8.3 obtain, maintain and comply with the Planning Permission and any necessary further planning permissions and consents of any competent authority, and comply with all planning controls, under the Planning Ordinance 1991;
- 5.8.4 serve all such notices for the Construction Programme as are necessary under the Planning Ordinance 1991;
- 5.8.5 carry out all works upon or in respect of the Development Area or its use as necessary to comply with the Planning Ordinance 1991 or any other Legal Requirements applicable to the Development Area;
- 5.8.6 not do in or near the Development Area any act or thing by reason of which FIG may, under any Legal Requirements, incur, have imposed upon it, or become liable to pay, any penalty, damages, compensation, costs, charges or expenses;
- 5.8.7 take (or use its best endeavours to procure that each Contractor shall take) all reasonable precautions to avoid danger or inconvenience to, or interference with, the public or owners or occupiers of any property adjoining the Development Area;
- 5.8.8 not (and use its best endeavours to procure that each Contractor shall not) discharge, nor permit or allow to be discharged or to escape, any liquid, waste or other material whatsoever outside the boundaries of the Development Area other than:-
- (a) foul water into any available foul drainage drains, sewers and pipes; and
 - (b) surface water into any available surface water drains, sewers and pipes,
- and if any such discharge or escape shall occur, NSC shall use its best endeavours to ensure that the Contractor concerned shall cease any such discharge or stop any such escape, within forty-eight hours of receipt of a written notice given on behalf of FIG (or of NSC otherwise becoming aware of the same, if earlier) and that such Contractor shall immediately make good any damage, destruction or blockage which may have occurred outside the Development Area;
- 5.8.9 permit FIG, the FIG Contract Manager and any other of FIG's duly authorised Personnel, during normal business hours and on reasonable notice, to enter upon the Development Area in order to:-
- (a) view the state of progress of the Construction Programme;
 - (b) test and inspect the materials and workmanship being used in the construction of the Facilities;
 - (c) ascertain generally that the terms, conditions and stipulations of this Agreement (and the documents referred to herein, including (without limitation), the Construction Programme) shall have been and are being complied with; and
 - (d) ensure that the Construction Programme complies with the Project Requirements, and all planning, building and other applicable Legal Requirements; and

- 5.8.10 procure that the relevant Contractor shall reinstate any property destroyed or damaged by the implementation of the Construction Programme (whether forming part of the Development Area or the remainder of the Site) and comply with the reasonable requirements of the FIG Contract Manager (or his or her appointed representative) as to the protection of roads, footpaths, kerbs, sewers, drains and services (whether in the Development Area or other parts of the Site).
- 5.9 NSC shall (and shall use its best endeavours to procure that each Contractor shall):-
- 5.9.1 not store or allow to be stored on the Development Area (or bring or allow to be brought onto the Development Area) anything of an especially combustible, inflammable or explosive nature unless necessary for the Construction Programme and stored securely in accordance with applicable Legal Requirements;
- 5.9.2 comply with all the requirements and recommendations of the fire authorities relating to the Development Area, and keep the Development Area supplied with such fire-fighting equipment as the fire authorities require, and maintain that equipment in efficient working order; and
- 5.9.3 use reasonable endeavours to provide adequate access to the Development Area for emergency services at all times, during and after construction.
- 5.10 Unless otherwise agreed by the Parties, the Construction Programme shall include the installation of all fixtures for the Facilities (including appropriate flooring but not, for the avoidance of doubt, the seating, equipment and furniture for the Facilities as referred to in clause 6.2.1) of a type, quality and quantity reasonably necessary and sufficient for the proper operation of the Facilities as public sports facilities, as set out in the Outline Specification (or, following and subject to its approval by the JSC pursuant to paragraph 1.2 of Schedule 3, the Specification) or otherwise approved and confirmed by FIG in writing. Ownership of such fixtures shall vest in the Party which owns the Facilities from time to time pursuant to clause 6.
- 5.11 NSC shall hand over to FIG each of the Facilities in accordance with the following provisions:-
- 5.11.1 Promptly upon the date of practical completion of each Facility (**Practical Completion**), NSC shall serve notice of practical completion (**NPC**) on FIG in respect of each Facility (such notice to confirm that such Facility has been constructed and is ready for occupation and use and to include such documentary evidence that all snagging has been remedied as FIG shall reasonably request).
- 5.11.2 Within 14 days of receiving the NPC, FIG shall inspect the Facility which is the subject of the NPC at a time agreed with NSC, acting reasonably. Following such inspection, FIG shall promptly notify NSC whether it is satisfied with the construction of the Facility concerned and:-
- (a) if FIG is so satisfied and notifies NSC to such effect, Final Completion shall be deemed to have occurred with respect to such Facility fourteen days after the date of such notice and FIG shall then be entitled to take possession of such Facility; or
- (b) if FIG is not so satisfied, FIG shall promptly notify NSC of the defects, shrinkages, faults and deficiencies in the relevant Facility which shall be remedied in accordance with clause 5.11.3.

- 5.11.3 NSC shall, during the Rectification Period, be solely and exclusively responsible for arranging for the relevant Contractor to remedy any defects, shrinkages, faults and deficiencies in the relevant Facility notified by FIG in accordance with clause 5.11.2(b), and shall use reasonable endeavours to ensure that such Contractor takes proper account of the FIG's notification (and any representations contained therein) and carries out such remedial actions within a reasonable time.
- 5.11.4 Following the remedy of such defects, shrinkages, faults and deficiencies, NSC shall re-issue the NPC to FIG and the Parties shall repeat the steps in clauses 5.11.1 – 5.11.3 and shall do so as often as is required until all such defects, shrinkages, faults and deficiencies have been remedied to the reasonable satisfaction of FIG (subject to the Rectification Period remaining current), at which point clause 5.11.2(a) shall apply. NSC shall use its best endeavours to ensure that all such defects, shrinkages, faults and deficiencies have been remedied as aforesaid prior to the expiry of the Rectification Period.
- 5.12 Without limitation to clauses 24, 26 or 27 but subject to clause 5.13, if NSC does not arrange the Final Completion of all or any of the Facilities, or the completion of the Construction Programme in accordance with the Project Plan, FIG shall be entitled to serve notice in writing on NSC, requiring it to complete the Construction Programme to FIG's satisfaction within sixty days; and if NSC fails to complete the Construction Programme within sixty days of service of such notice, FIG shall be entitled, without further notice to NSC, to exercise its rights under clause 24.3 or 27.
- 5.13 Without limitation and subject to clauses 26 or 27, if NSC is prevented from completing the Construction Programme in accordance with clause 5.12 by reason of the adverse effects of:-
- 5.13.1 any Force Majeure Event; or
- 5.13.2 any variations made to the NSC Proposals pursuant to clause 3.13, or any variations made to the Project Requirements pursuant to clause 5.6 which, in either case, would have had a material adverse effect on the Project Plan and which effect is not otherwise addressed as part of any agreement made between the Parties pursuant to either of those clauses respectively,
- but not, for the avoidance of doubt, any other cause, FIG shall permit a fair and reasonable extension to the date for completion of the Construction Programme under the Project Plan, and if NSC completes the Construction Programme within the extended time-period, NSC shall not be deemed to be in breach of this Agreement and the rights set out in clause 5.12 shall not arise.
- 6 Ownership of the Development Area, and Maintenance, Insurance and Operation of Facilities**
- 6.1 Subject to clause 6.3 or as otherwise agreed by the Parties in writing, FIG shall make the Development Area available to NSC for the development of the Facilities and shall retain ownership of the Development Area. For the avoidance of doubt (but subject to clause 7.3 and/or as otherwise agreed by the Parties in writing), neither NSC, its Contractors nor any of its or their Personnel shall acquire any rights, powers or entitlements in respect of that part of the Site not comprising the Development Area.

- 6.2 Subject to clause 6.3 or as otherwise agreed by the Parties in writing, upon the Final Completion of all the Facilities and their handover to FIG in accordance with clause 5.11.2(a) (and except as otherwise provided in this Agreement), FIG shall acquire full ownership of the Facilities. For the remainder of the period of its ownership of the Facilities (subject to clause 6.3), FIG shall be responsible for their on-going care, maintenance, repair, cleaning, insurance, operation and management and neither NSC nor the Contractors shall retain or assume any responsibility in this regard. In particular but without limitation (but subject as aforesaid), FIG shall, for and in respect of the Facilities:-
- 6.2.1 procure and purchase seating, equipment and furniture of a type, quality and quantity reasonably necessary and sufficient for the proper operation of the Facilities as public sports facilities;
 - 6.2.2 set the prices, opening times and user policy (including any membership schemes) for use of the Facilities;
 - 6.2.3 procure all necessary maintenance and cleaning;
 - 6.2.4 arrange all necessary staffing; and
 - 6.2.5 subject as provided in clause 5.7.2, arrange the supply of all necessary utilities and other services.
- 6.3 Notwithstanding the provisions of clauses 6.1 and 6.2, the Parties shall keep the management, operation and ownership of the Facilities under Review in accordance with clause 12.2, with the aim ultimately that when NSC has developed the necessary and sufficient corporate capability, capacity and resources for such purpose, FIG may:-
- 6.3.1 delegate to NSC some or all of its responsibilities for the management, operation and maintenance of the Facilities (as referred to in clause 6.2);
 - 6.3.2 transfer to NSC some or all of such responsibilities; and/or
 - 6.3.3 transfer to NSC ownership of the Development Area and the Facilities (or any of them),
- in each case, on such terms as may be agreed in writing by the Parties at any time.
- 6.4 During any period when the ownership, management or operation of the Facilities has been delegated or transferred to NSC pursuant to clause 6.3, FIG shall consult NSC on any proposed substantial development of any part of the Site (other than the Development Area) or of any other areas adjoining the Development Area (which adjoining areas, together with the Site as specified in the Plan, form part of an area designated in the current Stanley Town Plan (2015-2030) for use as Community Facilities (defined in the Falkland Islands Development Plan (August 2015) to include "*such uses as schools, care home, hospitals, sports centres, libraries, museums and places of worship*") and Open Space (defined therein to include "*green spaces such as play areas, cemeteries, amenity space landscape buffers, market gardens and .. space for foot-paths and cycle paths*")), which may impact to a material adverse extent on the operation and use of the Facilities.
- 6.5 Where relevant, the Parties shall use their respective reasonable endeavours to ensure that the operations (and, in particular but without limitation, bookings) of the Facilities are managed in line, and co-ordinated, with those of the Stanley Leisure Centre to the extent reasonably practicable.

7 Further Undertakings by FIG

7.1 During the Term, FIG shall, at its own expense and without further charge to NSC (but subject as provided in clause 18.1.5 and without prejudice to clause 3.1) make available to NSC its initial design work for the Facilities, if any.

7.2 Subject to the formal approval of ExCo pursuant to clause 3.11 and to the Project progressing in accordance with the Project Plan to FIG's satisfaction, FIG shall, in support of the Project:-

7.2.1 be responsible for, and arrange (at FIG's own cost), the design, supply and construction at the Development Area of an access road (**Access Road**) between that part of the Development Area on which the Facilities are to be constructed and Bypass Road (or such other public road as shall be agreed in writing by the Parties), providing a properly designed access to and from the Development Area onto such road provided that:-

(a) for this purpose, **construction** (and **construct** and any other derivative thereof) means construction to an adoptable standard to the point at which the road may be used in all weathers without significant deterioration but, for the avoidance of doubt, does not mean surfacing with concrete, tarmac or similar materials; and

(b) such construction shall not include any other roads, pavements, car parks, hard-standing areas or signs required to service the Facilities (whose construction shall be arranged by NSC as part of the Construction Programme in accordance with clause 5.7.1); and

7.2.2 be responsible for, and arrange (at FIG's own cost), the installation at the Development Area of a potable/drinking water supply and connection, and electricity supply and connection, and of all the pipes, mains, ducts, conduits, gutters, watercourses, cables, wires, channels, flues and all other conducting media, services and connections (including any fixings, louvres, cowls and any other ancillary apparatus) which are required for such purpose provided that NSC shall be responsible for, and arrange as part of the Construction Programme and in accordance with clause 5.7.2 the installation of all sewage pipes and infrastructure, cabling, service channels and infrastructure for telecommunications and other media, gas supply and any other services or utilities at the Development Area,

provided that if ExCo does not approve the NSC Proposals and the Project pursuant to clause 3.11 and either Party terminates this Agreement in accordance with clause 3.15, FIG shall cease to be responsible for the construction of the Access Road referred to in clause 7.2.1 and the installation at the Development Area of the services referred to in clause 7.2.2.

7.3 Subject to the formal approval of ExCo pursuant to clause 3.11 and to the Project progressing in accordance with the Project Plan to FIG's satisfaction and without limitation to clause 6.1, FIG will provide the Contractors and all Contractor Personnel engaged in carrying out the Construction Programme on or near the Development Area with such access to the Development Area and/or to adjacent properties, utility services, roads, kerbs, footpaths or otherwise as shall be necessary for any or all of them to carry out and complete the Construction Programme.

8 Further Undertakings by NSC

- 8.1** During the Term (but subject as provided in clauses 8.1.5 and 8.1.6 below), NSC shall, at its own expense and without further charge to FIG (subject as provided in clause 1.3) or to the Contractors or any Contractor Personnel:-
- 8.1.1 provide accommodation (including meals) in premises suitable and adequate for the purpose in the Falkland Islands for the Contractor Personnel not otherwise resident in the Falkland Islands but required to relocate there temporarily to carry out and complete the construction of the Facilities, such accommodation to be made available to such Contractor Personnel for the duration of any stay in the Falkland Islands necessary to carry out and complete such construction and the Construction Programme;
 - 8.1.2 arrange (or procure that the relevant Contractor arranges) the transportation to the Falkland Islands of all non-resident Contractor Personnel (as referred to in clause 8.1.1) required to carry out and complete the construction of the Facilities, and for them to satisfy all immigration and other requirements applicable to them (including, without limitation, obtaining all work permits necessary) for such purpose;
 - 8.1.3 arrange as necessary the transportation (via the shipping services of South American Atlantic Service Limited or such other provider as FIG may approve in writing) of construction materials and other loose cargo required for the Construction Programme from their country of origin to the Falkland Islands, and then to the relevant Contractor at the Development Area;
 - 8.1.4 arrange the transportation of all non-resident Contractor Personnel referred to in clause 8.1.1 to and from the Development Area and any other locations at which the construction of any Facilities is to be prepared or carried out;
 - 8.1.5 until the Final Completion of all the Facilities and their handover to FIG in accordance with clause 5.11.2(a), and subject to clause 7.2.2, provide electricity, gas and a water supply at the Development Area as required by the relevant Contractor for the construction of the Facilities; and pay to the suppliers, and to indemnify FIG and the Contractor concerned against, all charges for electricity, water, gas and all or any other services consumed or used at or in relation to the Development Area (including meter rents and refuse collection); and
 - 8.1.6 until the Final Completion of all the Facilities and their handover to FIG in accordance with clause 5.11.2(a), instal, maintain, keep in good repair and replace (if damaged) the fences or other boundaries of the Development Area and the hard-standing areas on the Development Area (if any).
- 8.2** NSC shall insure (or use its best endeavours to procure that the relevant Contractors respectively shall insure) the construction materials and other loose cargo relating to the Facilities against risk of loss and damage by fire, loss at sea and such other risks as the Parties may agree in writing, and in each case for their full reinstatement value, during the period from their initial production until Final Completion of all the Facilities (including, without limitation, the period until their delivery to NSC's shipping agent at the port of embarkation in their country of origin, their shipment to the Falkland Islands, their transportation and delivery to the relevant Contractor at the Development Area in accordance with clause 8.1.3 and while stored at the Development Area during construction

of the Facilities). On and from Final Completion of all the Facilities, FIG shall be solely responsible for the insurance of the Facilities in accordance with clause 6.2.

- 8.3 Pending Final Completion of all the Facilities, NSC shall remain liable to pay and discharge all rates, fees, charges and other outgoings in respect of the Facilities, whether charged upon the Development Area, the Construction Programme or the owner or occupier of any of the Facilities.
- 8.4 During the Term, NSC shall not use the Development Area for any purpose other than for the carrying out of the Construction Programme and shall not occupy any Facility or other building erected on the Development Area (or any part of it) until Final Completion of such Facility or building and then not without FIG's prior written consent.

9 Personnel

9.1 Each Party shall:-

- 9.1.1 engage such Personnel as are reasonably necessary for the discharge of its obligations under this Agreement;
 - 9.1.2 ensure that such Personnel has the skills, expertise, training, qualifications and experience required to perform its obligations under this Agreement in accordance with best practice;
 - 9.1.3 provide to all of its Personnel involved in the conduct and completion of the Construction Programme such training, advice and support as they may reasonably require for the due and proper discharge of its obligations under this Agreement;
 - 9.1.4 maintain an up-to-date and comprehensive list of its Personnel and make this available to other Party promptly upon request;
 - 9.1.5 take all reasonable steps to safeguard the safety of its Personnel and all other persons who may be affected by their actions or omissions; and indemnify and keep indemnified the other Party and its Personnel from all and any liabilities, obligations, costs and expenses whatsoever arising from any loss, damage or injury caused by it or its Personnel in this regard.
- 9.2 Subject as provided in clause 9.3, each Party shall use all reasonable endeavours to ensure continuity of its Personnel.
 - 9.3 FIG (acting reasonably and in good faith) may require that the involvement in the Project and/or the Construction Programme of any Personnel of NSC or any Contractor Personnel is terminated in circumstances when it considers that the continuing involvement of any such Personnel might bring FIG or the Project into disrepute. When exercising its rights under this clause, FIG shall provide notice to NSC of such requirement which shall take effect on the giving of the notice or as otherwise provided in such notice, and NSC shall promptly supply or procure a replacement who is reasonably acceptable to FIG.
 - 9.4 Each Party agrees and acknowledges that its Personnel are, and shall remain, its own employees, officers, agents, consultants, contractors, sub-contractors or advisers (as the case may be) and shall have no direct contractual relationship with the other Party; and that it shall be responsible for their remuneration and other benefits (financial or otherwise) to which they are entitled and shall account for all and any income or other tax and statutory

contributions payable in respect of its Personnel to the relevant tax authorities. Each Party hereby indemnifies the other Party in respect of any income or other tax or statutory contributions which is or may become payable by the other Party in respect of any of the indemnifying Party's Personnel and against any claim brought against the other Party by the indemnifying Party's Personnel and/or the relevant tax authorities (including, without limitation, any claim alleging or asserting that any Personnel is an employee of the other Party).

- 9.5 Neither Party shall, without the prior written consent of the other Party, at any time during the Term or within six months following the expiry or termination for any reason whatsoever of this Agreement, solicit, endeavour to entice away, or discourage from being employed or engaged, any person who is, or will at any time during the Term of this Agreement be employed or engaged by the other Party in any capacity provided that nothing in this clause shall prevent either Party from issuing or publishing general job offers and advertisements which do not target the other Party's employees, agents, consultants or contractors.

10 Premises, Equipment and Support

- 10.1 Subject to clause 10.2, NSC shall (and/or use its best endeavours to procure that the relevant Contractor shall) provide or procure all equipment, plant, tools, materials and other effects which are required for the performance and completion of the Construction Programme.
- 10.2 FIG shall provide all equipment, plant, tools, materials and other effects which are required by FIG's Personnel for the discharge of FIG's obligations under this Agreement.
- 10.3 If either Party discharges any of its obligations, or provides any of its services, under this Agreement at or from its premises or the premises of a third party (including, without limitation, the Development Area or any other parts of the Site):-
- 10.3.1 the other Party may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant obligations are discharged, or services are provided, at or from the relevant premises; and
- 10.3.2 without limitation to clauses 10.4 and 23.2.3, the Party using such premises shall be responsible for maintaining the safety and security of such premises in accordance with its standard security requirements and in compliance with all further security requirements agreed by the Parties in writing from time to time.
- 10.4 While on the Development Area or at any other of FIG's premises, NSC shall, and shall use its best endeavours to procure that all of its Personnel and the Contractor Personnel shall, comply with FIG's security and health and safety requirements, as notified by FIG to NSC from time to time.
- 10.5 Without limitation to clauses 5.10 and 6.2.1, any equipment supplied or made available by either Party for the purposes of this Agreement shall remain the property of that Party. Neither Party shall acquire any interest in the equipment of the other Party and each Party shall use (or permit the relevant Contractor to use, as appropriate) such equipment of the other Party only for the purpose of this Agreement. Without limitation to clause 25.1.4, promptly on the expiry or termination of the Agreement, each Party shall return any equipment of the other Party in its possession or under its control to the other Party or in accordance with its instructions.

10.6 Each Party shall be responsible for the condition, testing, security and safekeeping of, and shall carry out routine operational checks in respect of, any of its equipment used for the purposes of this Agreement provided that, when in possession of any equipment belonging to the other Party, each Party shall:-

10.6.1 be responsible for the condition, security, safekeeping, testing and cleaning of such equipment; and

10.6.2 reimburse the other Party for any loss or damage to the latter Party's equipment (other than resulting from fair wear and tear) caused by the Party in possession or its Personnel.

Any equipment belonging to one Party shall be deemed to be in a good condition when first received by the other Party or its Personnel pursuant to this Agreement unless the recipient Party has given notice otherwise in writing within five Business Days of its receipt.

11 Records and Reports

11.1 NSC shall maintain full, true and accurate records of the Project and the Construction Programme during the Term. FIG will be entitled to access to these records (upon reasonable request and reasonable (in any event not less than two Business Days') prior notice, and by sending not more than two of its representatives to NSC's premises for such purpose) and its representatives shall be entitled to take copies of, or extracts from, any such records. NSC will give FIG all reasonable assistance to enable FIG to access, understand and interpret these records. Promptly upon the expiry or earlier termination of this Agreement, NSC shall provide all such records to FIG in accordance with clause 25.1.4.

11.2 NSC shall use its best endeavours to procure that each Contractor shall:-

11.2.1 maintain during the Term full, true and accurate financial records and books of account in respect of all financial transactions relating to the Construction Programme and of the services rendered by such Contractor under its Construction Contract (including, without limitation, all such financial information in relation thereto as either Party may reasonably request);

11.2.2 provide to the JSC and each Party copies of such of that Contractor's financial records and information relating to the Contractors' services under its Construction Contract as any of them shall reasonably request, such copies to be provided by electronic means promptly upon request; or (upon reasonable (in any event not less than two Business Days') prior notice, and by sending not more than two of its representatives to the relevant Contractor's premises for such purpose) provide the JSC and each Party with access to such records and information; and

11.2.3 give the JSC and each Party all reasonable assistance to enable them to access, understand and interpret these financial records.

11.3 Without limitation to the Parties' remaining rights and obligations under this Agreement:-

11.3.1 NSC shall supply FIG with such advice, guidance, information, support and documentation relating to the Facilities and the Construction Programme as FIG may reasonably request from time to time; and

11.3.2 FIG shall be entitled to audit NSC's compliance with this Agreement on giving not less than ten Business Days' prior written notice to NSC. At FIG's option, this audit may cover documents only or may include an on-site audit, subject to FIG notifying NSC of the identity of any on-site auditors and those auditors not exceeding four in number at any one time.

11.4 NSC shall provide (or procure that its Personnel shall provide, and shall use its best endeavours to procure that the relevant Contractor (as necessary) shall provide or assist the preparation of) a report every two months to the JSC (in accordance with paragraph 1.4 of Schedule 3) with respect to, and to review, the progress of the Project as against the Project Plan and Construction Contracts, any risks or issues arising from the Project as against the Risk Management Plan and the actions proposed to address the same, and any other matters relating to the Project raised by FIG or requested by the JSC.

11.5 NSC shall use its best endeavours to implement any recommendations made by the JSC to NSC in accordance with paragraph 1.4 of Schedule 3.

11.6 In accordance with paragraph 1.5 of Schedule 3, NSC shall provide to the JSC (for review at each JSC meeting) a report on the financial arrangements for the Project and the Construction Programme, expenditure incurred against the Costs Plan, the Construction Costs payable, the Construction Costs verified and approved by FIG pursuant to clause 13.4, and the general cost management in respect of the Project.

12 Reviews

12.1 Unless otherwise agreed in writing by the Parties, the Parties shall conduct a review (a **Review**) of the Project, the Construction Programme and the operation of this Agreement on each anniversary of the Commencement Date (or within twenty Business Days thereafter, as certified in writing by FIG). Each such Review shall be conducted for the purpose of ascertaining and assessing the general performance of the Project, the progress of the Construction Programme and whether any changes are required to the terms of this Agreement. Without limitation to the foregoing and unless otherwise agreed in writing by the Parties, the Parties shall consider, assess and discuss any changes in Legal Requirements or the Project Requirements affecting the Project or any other matters of concern to either Party and any changes to the terms of the Agreement needed to reflect the same.

12.2 Without limitation to clauses 3.11 or 12.1 and at such time as either Party may reasonably request (provided that not more than one such Review shall be conducted in any 12-month period during the Term), the Parties shall conduct a further Review of the management, operation and ownership of the Facilities and of NSC's then corporate capability, capacity and resources for the purposes of clause 6.3.

12.3 In conducting any such Review, each Party shall act reasonably and in good faith; and shall use all reasonable endeavours to agree the scope, conduct and timetable of and for such Review and to finalise and agree any conclusions reached and actions proposed to be taken, by the Parties pursuant to, and in consequence of, such Review. For the avoidance of doubt, any such conclusions and actions shall be subject to the written agreement of both Parties and neither Party commits itself to making any changes to the Agreement as a consequence thereof.

12.4 As soon as reasonably practicable (and in any event, within sixty days) following each such Review, the Parties shall co-operate in the production of a report to summarise the

outcomes of such Review, any remedial measures required to be taken with respect to the Project and/or this Agreement, and the next steps for its implementation, as appropriate.

- 12.5 Without limitation to the remainder of this clause, each Party shall promptly notify the other Party of any problems arising in connection with the operation of this Agreement.

13 Payment Arrangements

- 13.1 The aggregate costs of the Construction Programme due and payable to the respective Contractors (**Construction Costs**) shall be set out in the Construction Contracts.

- 13.2 NSC shall be responsible to FIG and to the Contractors for managing the Construction Costs in accordance with the Costs Plan (subject as provided in clauses 3.13 and 5.6) and for discharging the Construction Costs in accordance with the respective Construction Contracts. FIG shall have no responsibility in this regard.

- 13.3 In consideration of the provision by NSC of its services, and the discharge of its obligations, under this Agreement and subject to clauses 13.4 and 13.5, FIG shall provide funds for the Construction Programme at such times, in such instalments and on such terms as are set out in the Costs Plan. FIG shall not be obliged to provide any funds in addition to the Maximum Amount, and any such additional funds as may be required for the Project may be provided or procured by NSC from such third parties and on such terms as FIG may approve in its discretion. For the avoidance of doubt, all funds provided by FIG pursuant to this clause 13.3 shall be used by NSC solely for the purpose of discharging the Construction Costs in accordance with the Construction Contracts and Costs Plan and not for any other purpose provided that, in the event that the mediator referred to in clause 31.4 determines that the costs of a mediation undertaken pursuant to that clause shall be borne by FIG, NSC shall be entitled to treat any other costs, fees or expenses duly and reasonably incurred by NSC or its Personnel in connection with that mediation as part of the Construction Costs.

- 13.4 Prior to any funds provided by FIG pursuant to clause 13.3 being used to discharge any Construction Costs, NSC shall submit to FIG a statement of the relevant Construction Costs which are due and payable, together with a description and copies of invoices and other appropriate evidence thereof and such further information in respect thereof as FIG may reasonably request, for verification and approval by FIG's Deputy Director of Public Works and Financial Secretary (or such other officers as FIG shall nominate in writing); such verification and approval shall not be unreasonably withheld or delayed and shall be a precondition to the discharge of any such Construction Costs by means of any such funds provided by FIG. This clause is without prejudice to clause 27.1.4.

- 13.5 Without limitation to any other provision of this Agreement, FIG's liability to NSC in respect of the Construction Costs is subject to the following limitations:-

13.5.1 FIG's total liability in respect of all such Construction Costs during the Term shall not exceed the Maximum Amount;

13.5.2 the aggregate fees payable to all the members of the design team employed during the Concept Design Stage (as referred to in clause 3.1.2) shall not exceed the sum of £100,000 (or such other amount as shall be agreed by the Parties in writing); and

13.5.3 without limitation to clause 13.5.2, the fees payable to surveyors and other professional advisers otherwise engaged in the Construction Programme shall be

payable in accordance with, and subject as provided in, the Costs Plan (subject to clauses 3.13 and 5.6).

- 13.6 FIG shall pay the amount set out in an invoice or statement provided by NSC under, and in accordance with, this clause within 30 days of the date of its receipt of such invoice or statement, such payment to be made by telegraphic transfer (or such other means as the Parties may from time to time agree) in Falkland Islands pounds and in immediately available, cleared funds to such bank account as NSC shall notify to FIG for the purpose.
- 13.7 In the event that any payment under this Agreement is due on a day which is not a Business Day, it shall be made on the Business Day immediately following such day.
- 13.8 Each Party may, on notice to the other Party, set off any of its liability to the other Party against any liability of the other Party to it, whether either liability is present or future, liquidated or unliquidated, or arises under this Agreement or otherwise. If the liabilities to be set off are expressed in different currencies, such Party may convert either liability for the purpose of set-off at the then prevailing spot selling rate of exchange of Standard Chartered Bank (Stanley Branch) (or such other bank as the Parties may from time to time agree in writing) for one such currency against the other currency. Any exercise by either Party of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.
- 13.9 Except to the extent that this Agreement otherwise provides and subject to clause 1.3, each Party shall bear its own costs and expenses (including, without limitation, legal fees and any costs, fees or expenses incurred by such Party in connection with any proceedings under clause 31, subject as provided in clauses 13.3 and 31.4) incurred in relation to the Project and the Construction Programme, and the negotiation, execution, operation and enforcement of this Agreement and of each document referred to in it.
- 13.10 The Parties believe that no liability to pay VAT arises in respect of any payment under this Agreement. If any VAT does become payable in respect of any such payment, it shall be in addition to such payment and shall be paid or reimbursed by NSC at the prevailing rates on the due date for payment or on receipt of the relevant invoice from FIG (as the case may be).

14 Project Governance

- 14.1 The Project shall be supervised and overseen by the JSC which shall be established and operated in accordance with, and shall exercise the powers set out in, Schedule 3.
- 14.2 FIG shall appoint a contract manager (the **FIG Contract Manager**) to be responsible for, and lead on, FIG's participation in the Project, FIG's performance of its obligations under this Agreement and FIG's assessment of the Construction Programme, and to liaise with, and provide a point of contact for, the NSC Project Manager in this regard. The first FIG Contract Manager shall be FIG's programme manager. FIG shall notify NSC of the name of each replacement FIG Contract Manager on or before his or her appointment provided that FIG shall use its reasonable endeavours to ensure the continuity of appointment of its FIG Contract Manager.
- 14.3 NSC shall appoint a project manager (the **NSC Project Manager**) to manage the Construction Programme, NSC's participation in the Project and NSC's performance of its obligations under this Agreement on a day-to-day basis and to be responsible for, and lead on, the same, and to liaise with, and provide a point of contact for, the FIG Contract Manager in this regard. The NSC Project Manager shall have the authority to act on NSC's behalf and bind it

contractually in respect of all matters relating to this Agreement. The first NSC Project Manager shall be Michael Summers, the current Chair of the NSC. NSC shall notify FIG of the name of each replacement NSC Project Manager on or before his or her appointment provided that NSC shall use its reasonable endeavours to ensure the continuity of appointment of its NSC Project Manager.

15 Confidentiality

- 15.1 Subject to clauses 15.2 and 15.3, each Party will keep confidential, and neither Party will disclose, any and all Confidential Information of the other Party which is disclosed to or obtained by it under, as a result of or in connection with this Agreement, and will not use such Confidential Information except for the purposes of the implementation of the Project and performing its obligations under this Agreement or any Project Requirements or Legal Requirements.
- 15.2 Each Party may disclose Confidential Information with the other Party's prior written consent or to those of its Personnel and Associates who need to know the same for the purposes of the implementation of the Project or this Agreement or the discharge of any of its obligations under this Agreement or any Project Requirements or Legal Requirements, provided that such Party must ensure that any such Personnel and Associates are aware of the confidential nature of the Confidential Information and comply with the provisions of this clause as if named as party hereto, and shall be responsible for any failure on their part to do so.
- 15.3 The obligations of confidentiality under this clause do not apply to any information or material which the recipient Party can prove that, at the time of its disclosure:-
- 15.3.1 was already known to it or in its possession before it received it from the disclosing Party;
 - 15.3.2 was disclosed to it lawfully and without restriction as to its disclosure by a third party who did not obtain it (whether directly or indirectly) from the disclosing Party and did not breach any confidentiality obligations by making such disclosure to it;
 - 15.3.3 was in the public domain at the time of receiving it or has subsequently entered the public domain other than because of a breach of this clause or of any obligation of confidentiality owed by the recipient Party or by any of its employees or agents to the disclosing Party; or
 - 15.3.4 is required to be disclosed by applicable Legal Requirements but only to the extent of such required disclosure and the Party so required shall notify the other Party promptly of any such requirement (to the extent reasonably practicable and lawful to do so).
- 15.4 Notwithstanding this clause, FIG shall be entitled to disclose Confidential Information which it receives from NSC to:-
- 15.4.1 the Attorney General for the Falkland Islands when FIG has reasonable grounds to believe that any person referred to in such Confidential Information is involved in activity that may constitute a criminal offence under the Crimes Ordinance 2014;

- 15.4.2 members of ExCo and the Legislative Assembly and officers and employees of FIG as appropriate in order for FIG to discharge its functions and obligations as a public authority or otherwise under any Legal Requirements;
 - 15.4.3 any department or directorate of FIG, any successor body to the same or any company to which FIG transfers or proposes to transfer all or any part of its activities, and to any of their respective employees, agents, consultants, contractors and professional advisers; or
 - 15.4.4 the extent that FIG (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions.
- 15.5 If either Party loses any document, material or other source of information containing any Confidential Information of the other Party, it shall immediately notify the other Party of the loss and all the circumstances relating thereto.
- 15.6 This clause shall apply during the Term and shall survive its termination for any reason without limit in time.

16 Intellectual Property

- 16.1 All IPR owned by each Party at, or created or developed by or for such Party prior to, the Commencement Date or thereafter independently of this Agreement shall remain at all times the exclusive property of that Party; and the other Party shall not use or exploit any such IPR for its own benefit except as expressly permitted by the owner of such IPR or as provided in this Agreement.
- 16.2 All IPR conceived, created or developed during the Term by either Party or its Personnel (either alone or jointly with the other Party) pursuant to or in connection with this Agreement, shall be and remain at all times the exclusive property of FIG who may, at its own expense, register, maintain and renew any protection for that IPR (including filing and prosecuting patent applications).
- 16.3 NSC:-
- 16.3.1 hereby assigns (by way of assignment of present and future rights) to FIG any and all IPR referred to in clause 16.2;
 - 16.3.2 hereby waives absolutely, and shall procure the waiver of, all moral rights of NSC and its Personnel and any other IPR (whether arising under the Copyright Act 1956 (as it applies in the Falkland Islands) or otherwise) in or in respect of any and all IPR referred to in clause 16.2;
 - 16.3.3 hereby undertakes not to exploit FIG's IPR other than in accordance with the express terms and conditions of this Agreement; and
 - 16.3.4 shall provide such assistance and co-operation as FIG may reasonably request for the purposes of clause 16.2.
- 16.4 FIG hereby grants to NSC a perpetual, irrevocable, non-exclusive, royalty-free and non-transferable licence to use such of FIG's IPR referred to in clause 16.2 as may be necessary, and solely to the extent required, to enjoy the benefit of, and to exercise its rights, and to perform its obligations pursuant to, this Agreement or as otherwise agreed in writing

between the Parties from time to time. This licence shall survive termination of this Agreement for any reason whatsoever.

- 16.5 Each Party hereby grants to the other Party a non-exclusive, royalty-free and non-transferable licence for the Term to use such of its IPR referred to in clause 16.1 as may be necessary, and solely to the extent required, to exercise its rights, and to perform its obligations, pursuant to this Agreement or as otherwise agreed in writing between the Parties from time to time. On the termination or expiry of this Agreement, such licence shall terminate and the licensee shall have no continuing rights in respect of any of licensor's IPR (but this provision shall otherwise survive termination of this Agreement).
- 16.6 Each Party will notify the other Party of any improper use of the other Party's IPR promptly upon becoming of the same.

17 Marketing and Publicity

- 17.1 Neither Party shall issue or make any public announcement, or disclose any information, regarding this Agreement or its existence, nature or provisions except in accordance with the Communications Management Policy or unless, prior to such public announcement or disclosure, it furnishes the other Party with a copy of such announcement or information and obtains the other Party's approval to its terms provided that:-
- 17.1.1 neither Party shall be prohibited from issuing or making any such public announcement or disclosing such information if so required by applicable Legal Requirements; and
- 17.1.2 it is the Parties' intention to keep the general public informed as appropriate of the progress and status of the Project from time to time.
- 17.2 Without limitation to clause 17.1, neither Party shall use or display the name, brand, logo or other IPR of the other Party (nor the names of such other Party's Personnel or Associates), nor refer to the other Party or make any reference from which such other Party may reasonably be identified in any publicity or marketing material, advertisement, brochure, prospectus, press release or other disclosure relating to this Agreement or its subject matter (**Publicity Materials**), in each case except:-
- 17.2.1 as expressly permitted in the Communications Management Policy;
- 17.2.2 with the prior written consent of that Party (such consent not to be unreasonably withheld or delayed); or
- 17.2.3 as provided in clause 15.
- 17.3 Subject to clause 17.2, each Party shall:-
- 17.3.1 ensure that all references to the other Party in any of its Publicity Materials are complete, accurate and up-to-date and do not misrepresent the relationship between the Parties; and
- 17.3.2 use its best endeavours to ensure that the issue of its Publicity Materials shall be co-ordinated with the issue of Publicity Materials by the other Party.

17.4 Each Party is entitled to audit references to itself in any Publicity Materials produced by or for the other Party and to require the other Party to retract, amend or correct any inaccurate or misleading references to it.

17.5 This clause shall apply during the Term and shall survive its termination for any reason without limit in time.

18 Warranties

18.1 Each Party warrants and undertakes to the other that:-

18.1.1 it has full power and authority to enter into this Agreement and to perform its obligations under this Agreement;

18.1.2 this Agreement has been executed by its duly authorised representative and represents a binding commitment on it;

18.1.3 it will comply with all applicable provisions of this Agreement;

18.1.4 it has obtained, and will maintain and comply with, all necessary authorisations, consents, licences, permits and approvals (including, without limitation, the Planning Permission), and will comply with all Legal Requirements and Project Requirements, in relation to the Project;

18.1.5 as far as it is aware, all information provided or made available to the other Party under or pursuant to this Agreement was, when provided, true, accurate and complete in all material respects and, in relation to any such information, it will notify the other Party of any inaccuracy or omission therein promptly upon becoming aware of the same, provided that FIG gives no warranty as to the quality, accuracy, completeness or fitness for purpose of the initial design work referred to in clause 7.1 or any information as to costs provided to NSC, whether before or after the Commencement Date, and shall not be liable therefor in any respect whatsoever;

18.1.6 there is no actual or potential conflict of interest between its pecuniary or other interests and those of the other Party or any of their respective Personnel or Associates; and it shall take all necessary steps to avoid any such conflict arising during the Term; and

18.1.7 it is legally and beneficially entitled to all the information and materials it has provided to the other Party under or pursuant to this Agreement, such information and materials having been wholly designed or purchased by, or licensed to, it (with a right to sub-license to the other Party); and so far as it is aware, no information, materials, products or services it provides pursuant to this Agreement infringes or will infringe the IPR or other legal or equitable rights of any third party.

18.2 NSC warrants and undertakes to FIG that its execution of this Agreement and its participation in the Project with FIG complies with NSC's memorandum and articles of association and any other constitutional or governing documents and with the terms and conditions of any agreement or arrangement to which NSC is party.

- 18.3 FIG warrants and undertakes to NSC that its execution of this Agreement and its participation in the Project with NSC complies with the terms and conditions of any agreement or arrangement to which FIG is party.

19 Liability

- 19.1 Nothing in this Agreement shall limit or exclude either Party's liability for:-

19.1.1 death or personal injury resulting from its negligence or that of its Personnel;

19.1.2 any fraud or fraudulent or negligent misrepresentation; and/or

19.1.3 any other liability which cannot be limited or excluded by law.

- 19.2 Subject to clause 19.1, FIG's total aggregate liability to NSC (whether in contract, tort (including negligence), breach of statutory duty, restitution, misrepresentation or otherwise) for any loss, liability, damage, costs, charges or expenses arising under or in connection with this Agreement shall not exceed the Maximum Amount.

- 19.3 Subject to clauses 19.1, NSC's total aggregate liability to FIG (whether in contract, tort (including negligence), breach of statutory duty, restitution, misrepresentation or otherwise) in each year for any loss, liability, damage, costs, charges or expenses arising under or in connection with this Agreement shall not exceed the Maximum Amount.

- 19.4 Except as expressly provided in this Agreement, neither Party shall be liable to the other Party (whether in contract, tort (including negligence), breach of statutory duty, restitution, misrepresentation or otherwise) for any loss, liability, damage, costs, charges or expenses of an indirect, special or consequential nature (including, without limitation, any economic loss or other loss of turnover, revenue, profits, business, contracts, opportunity, goodwill or anticipated savings) suffered or incurred by the other Party arising out of or in connection with any matter under this Agreement.

- 19.5 FIG accepts no liability or responsibility for:-

19.5.1 the acts or omissions of the Contractors, the respective Contractor Personnel or their Associates nor for any contractors or other third parties engaged in the preparation for, or conduct of, the Construction Programme; and/or

19.5.2 NSC's dealings (including its acts or omissions) with the Contractors or their respective Contractor Personnel or any contractors or other third parties engaged in the preparation for, or conduct of, the Construction Programme.

- 19.6 NSC shall indemnify FIG, and keep it fully and effectively indemnified, from and against all claims, demands, proceedings, losses, liabilities, damages, costs, charges and expenses (including, without limitation, legal costs) suffered or incurred by FIG or its Personnel or Associates, or any third party as a result of or in connection with:-

19.6.1 the negligent acts or omissions of, or the breach of this Agreement or any of the Construction Contracts by, NSC and its Personnel;

19.6.2 any loss of, liability for or damage to any property, or injury to or death of any person caused by any negligent act, omission or wilful conduct of NSC or its Personnel; and/or

19.6.3 any act, omission or conduct of NSC or its Personnel in breach of any Legal Requirements or Project Requirements.

19.7 Without prejudice to any other rights or remedies that FIG may have, NSC acknowledges and agrees that damages alone may not be an adequate remedy for NSC's breach of the terms of this Agreement. Accordingly, FIG shall be entitled (without proof of special damages) to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Agreement.

20 Insurance

20.1 During the Term, NSC shall take out and maintain in force with a reputable insurer and upon such terms as FIG shall approve (such approval not to be unreasonably withheld or delayed) the following insurances in relation to the performance of this Agreement:-

20.1.1 public liability insurance and professional indemnity insurance adequate to cover all risks arising in the performance of this Agreement and with a minimum amount of cover of £3 million per claim;

20.1.2 employer's liability insurance with a minimum amount of cover of £3 million per claim; and

20.1.3 such other insurance policies, and for such minimum amount of cover, as FIG may reasonably require from time to time to cover the liabilities that may arise from NSC and its Personnel performing its obligations, and delivering its services, under this Agreement.

20.2 Promptly upon request by FIG, NSC will provide to FIG:-

20.2.1 copies of the insurance policies referred to in clause 20.1 and evidence of the due and prompt payment of the premiums in respect of them; and shall ensure that all premiums in respect of such insurance cover are paid immediately they fall due for payment; and

20.2.2 such details as FIG shall reasonably request of any claims made under such insurance policies.

21 Protection of Personal Data

21.1 To the extent that either Party collects, processes, holds and protects Personal Data in the performance of its obligations under this Agreement, such Party shall:-

21.1.1 in relation to any Personal Data held on its behalf or by it on behalf of the other Party, comply with all applicable Legal Requirements relating to the use, processing and storage of Personal Data and the privacy of electronic communications (including, without limitation and as applicable, the General Data Protection Regulation ((EU) 2016/679)), and with the instructions of the other Party;

21.1.2 maintain appropriate technical and organisational measures to ensure the security of the Personal Data and to guard against unauthorised, accidental or unlawful access to, accidental loss of or destruction of, or damage to, the Personal Data; and all reasonable security programmes and procedures for the purpose of ensuring that any persons who are authorised to have access to the Personal Data shall respect and maintain its confidentiality;

- 21.1.3 promptly notify the other Party of (and provide all information in its possession concerning) any unauthorised or accidental disclosure or access made by any Personnel, Associates or any other identified or unidentified third party of or to any Personal Data held by it on behalf of the other Party;
 - 21.1.4 ensure that any Personnel or Associates holding Personal Data in connection with the performance of this Agreement comply with this clause;
 - 21.1.5 only process on behalf of the other Party such Personal Data as is necessary to perform its obligations and to deliver its services in accordance with this Agreement; and
 - 21.1.6 promptly notify the other Party of any request for Personal Data (whether from the subject of the data or any third party) and provide the other Party with all reasonable assistance in complying with such requests and with any such requests served on the other Party.
- 21.2 Each Party shall permit the other Party to monitor its compliance with this clause on reasonable prior notice and/or provide the other Party with such evidence of such compliance as the other Party may reasonably request.

22 Prevention of Corruption

- 22.1 Neither Party shall (and shall procure that none of its Personnel or Associates shall), directly or indirectly:-
- 22.1.1 give, offer, promise, or agree to give any person working for or engaged by the other Party any gift, financial or other advantage or other consideration which could act as an inducement or a reward for any act or failure to act in connection with this Agreement or any other agreement between the Parties, or for improperly performing a relevant function or activity; or
 - 22.1.2 agree to receive or accept any gift, financial or other advantage or other consideration as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement.
- 22.2 Each Party warrants, represents and undertakes that, so far as it is aware and except as disclosed in writing to the other Party before the Commencement Date, no gift, financial or other advantage or other consideration has been, or will be, paid or provided, or received or accepted, by any of its Personnel or Associates to or from any person working for or engaged by the other Party in connection with this Agreement; and that no agreement has been reached to that effect.
- 22.3 Without prejudice to clause 22.1, each Party shall (and shall ensure that any of its Personnel or Associates shall):-
- 22.3.1 comply with all Legal Requirements relating to the prevention of bribery and corruption; and
 - 22.3.2 promptly report to the other Party:-
 - (a) any request or demand for any undue financial or other advantage of any kind received by it and/or any of its Personnel or Associates in connection with the performance of its Services under this Agreement; and/or

- (b) any payment suspected to have been received or made for any undue financial or other advantage by it or any of its Personnel or Associates.
- 22.4 Any breach of this clause by either Party or any of its Personnel, Associates or assignees (whether or not acting with such Party's knowledge) shall entitle the other Party to terminate this Agreement with immediate effect.

23 Other Legal Requirements

- 23.1 *Freedom of Information:* In the event that either Party is, may be or shall become in the future, subject to any Legal Requirements which control, regulate or give access to information and data, the other Party shall, on request and at the requesting Party's expense, assist and co-operate with the requesting Party to enable such requesting Party to comply with any information disclosure requirements thereunder to the extent that such requirements relate to this Agreement or the Project.
- 23.2 *Other Legal Requirements:* In performing its obligations under this Agreement, each Party shall (and shall ensure that its Personnel and Associates shall) comply in all respects with all applicable Legal Requirements and all of its policies applicable and in force from time to time relating to:-
- 23.2.1 equality and diversity, and not discriminate against any person on the grounds of race, ethnic background, sex, disability, age, religious or political beliefs or otherwise; and
 - 23.2.2 the prevention of slavery and human trafficking, and ensure that it shall have in place measures to ensure compliance with the same;
 - 23.2.3 the health and safety of any person while on its premises or any other premises at which its services or obligations under this Agreement are to be performed; and shall notify the other Party immediately in the event of any incident occurring in the performance of its services or obligations at any such premises where that incident causes any personal injury or damage to property; and
 - 23.2.4 environmental protection.
- 23.3 *General:* Without limitation to clauses 21, 22 and the remainder of this clause 23, in performing its obligations under this Agreement, each Party shall (and shall procure that all its Personnel shall) observe and comply with all applicable Legal Requirements.
- 23.4 For the avoidance of doubt, a Party's failure to comply with any Legal Requirements shall amount to a material breach of this Agreement.

24 Term and Termination

- 24.1 This Agreement shall commence on and from the Commencement Date and shall continue in force for an initial period of three years (the **Initial Period**) unless it is renewed under clause 24.2 or it is terminated earlier in accordance with the provisions of this Agreement.
- 24.2 This Agreement may be renewed at the end of the Initial Period and on each anniversary thereof for a further period of one year in each case (each a **Further Period**) upon the written agreement of the Parties to such effect unless this Agreement is otherwise terminated in accordance with its terms. For the avoidance of doubt, this Agreement shall

expire not later than the sixth anniversary of the Commencement Date unless otherwise agreed in writing by the Parties.

24.3 Either Party shall be entitled to terminate this Agreement with immediate effect (or, at its absolute discretion, subject to such notice period as such Party shall specify) by notice in writing to the other Party in the event that:-

24.3.1 the other Party fails to pay any sum in full within 60 days of such sum becoming due and payable by it under this Agreement;

24.3.2 the other Party commits a material or persistent breach of this Agreement which is incapable of remedy or, in the case of a breach capable of remedy, fails to remedy such breach within 30 days after service of notice by the terminating Party, specifying the breach and requiring it to be remedied;

24.3.3 the other Party becomes insolvent or unable to pay its debts as they fall due for payment, or if an order is made, a resolution is passed, a petition is presented or other proceedings are taken (which, in the case of such petition or other proceedings, are not dismissed within seven days) for the winding-up of such other Party (whether compulsory or voluntary but other than voluntary for the purpose of a solvent amalgamation or reconstruction upon such terms as may have been approved by the terminating Party), or if a liquidator, administrator, administrative receiver, receiver or similar officer is appointed in respect of the other Party or the whole or any part of its assets or business, or if the other Party compounds or enters into a scheme of arrangement or general assignment for the benefit of, or makes a composition with, its creditors or takes or suffers any similar or analogous action in consequence of debt in any jurisdiction;

24.3.4 the other Party otherwise ceases to carry on its activities as conducted at the Commencement Date (either in whole, or as to any part or division involved in the performance of this Agreement);

24.3.5 the other Party fails to comply with any Legal Requirements;

24.3.6 the terminating Party reasonably believes that the other Party is about to be subject to any of the events referred to in this clause 24.3 and notifies the other Party accordingly;

24.3.7 ExCo does not approve the NSC Proposals and the Project for the purposes of clause 3.11 (including, as appropriate, following further consultations with NSC);

24.3.8 the Principal Construction Contract (or any other Construction Contract reasonably specified by FIG) is terminated for any reason whatsoever, whether by NSC or the Contractor concerned; and/or

24.3.9 a Force Majeure Event has continued for a continuous period in excess of ninety days and may reasonably be anticipated to continue, any such termination to be subject to, and in accordance with, clause 26.5.

24.4 Without limitation to its rights under clause 24.3, FIG shall also be entitled to terminate this Agreement with immediate effect (or, at its absolute discretion, subject to such notice period as FIG shall specify) by notice in writing to NSC in the event that FIG, acting in good

faith and on reasonable grounds (and having provided NSC with a reasonable opportunity, as appropriate, to address its concerns to its absolute satisfaction):-

24.4.1 has concluded that the Construction Programme has not been, or is not being, carried out, in all material respects in a manner consistent and in accordance with the terms of the Project Requirements (including, without limitation, the NSC Proposals approved by ExCo pursuant to clause 3.11); or

24.4.2 has serious concerns regarding NSC's conduct of the management of the Project and/or the health and safety of any person while on the Development Area.

25 Consequences of Termination

25.1 Promptly upon the expiry or other termination of this Agreement for any reason whatsoever:-

25.1.1 the Parties shall cease to have any on-going obligations towards each other except in respect of antecedent events or as set out in this clause;

25.1.2 each Party shall pay all amounts due and payable to the other Party hereunder in respect of any period prior to or expiring on the date of expiry or termination of this Agreement;

25.1.3 subject to clause 16.4, all licences granted by either Party to the other under this Agreement shall terminate and each Party shall (except with the prior written agreement of the other) discontinue to use the other Party's name or any brand, logo, insignia or other IPR; and

25.1.4 subject to clause 25.2, each Party shall (free of charge) deliver (and require that its Personnel and Associates deliver) to the other Party all documents, literature, manuals, papers, information, data and disks (in whatever form, medium or format they are stored) and other property (including any equipment) belonging to, or containing Confidential Information of, the other Party which are in its possession or control (or that of any of its Personnel or Associates) (wherever they may be located) at the date of expiry or termination. If either Party fails to do so, the other Party may enter such Party's premises and take possession of them. Until they have been delivered or returned, the Party in possession shall be solely responsible for their safekeeping and will not use them for any purpose not connected with this Agreement. Without limitation, NSC shall, promptly upon the expiry or termination of this Agreement, provide to FIG all records it maintains or for which it is responsible under clause 11.1 in any format reasonably requested by FIG (whether in writing, on computer or otherwise).

25.2 Each Party shall be entitled to retain copies of such documents, literature, manuals, papers, information, data and disks of the other Party as are referred to in clause 25.1.4 to the extent, and for the period, necessary to comply with any applicable Legal Requirements.

25.3 Promptly upon the expiry or other termination of this Agreement for any reason whatsoever and subject as FIG may otherwise specify or direct, NSC shall use its best endeavours to ensure that each Contractor shall:-

25.3.1 vacate the Development Area and the remainder of the Site, and remove all plant, equipment, installations and structures erected or installed by that Contractor or its

Contractor Personnel at the Site (including the Development Area) (and not comprised within, incorporated into, or forming part of, the Construction Programme works, the Facilities or the fabric or structure thereof), and all unused materials and rubbish at the Site arising out of the provision of its services, provided that no fixtures or fittings installed by NSC or the Contractors in or to the Facilities shall be removed except with FIG's prior written consent and where they can be removed from the Facilities without damaging or defacing the same;

- 25.3.2 leave the Development Area and the remainder of the Site in a clean, safe and tidy condition to FIG's reasonable satisfaction and make good any damage (other than fair wear and tear) caused to the Site (including the Development Area) by the plant, equipment, installations, structures and materials (or their removal) referred to in clause 25.3.1, or by the actions of the Contractors or any of their Contractor Personnel or any other persons attending the Site on any Contractor's behalf or at its invitation; and
 - 25.3.3 remove from all places within the Site (including the Development Area) all signage, placards, posters or advertisements of every description installed by, or relating to, any of the Contractors.
- 25.4 In the event that the relevant (or any) Contractor shall fail to do any of the above, FIG shall be entitled, without further notice to NSC or the Contractor concerned or any other Contractor, to:-
- 25.4.1 enter upon the Site (including the Development Area) and take possession of the Facilities and other buildings and materials upon the Site;
 - 25.4.2 remove the Contractors from the Site (including the Development Area) and/or to prevent them from further interference with the Construction Programme;
 - 25.4.3 dispose of the Facilities and all related works (including building and other materials comprised within, incorporated into, or forming part of, the Construction Programme works, the Facilities or the fabric or structure thereof) as FIG sees fit;
 - 25.4.4 require the Contractors (or any of them), within fourteen days, to remove from the Site (including the Development Area) all plant, materials and property (including any materials stored in any warehouse accommodation on the Site) other than the materials already comprised within, incorporated into, or forming part of, the Construction Programme works, the Facilities or the fabric or structure thereof, whether such property belongs to the Contractors, their respective Contractor Personnel or any third party; and
 - 25.4.5 if any Contractor fails to remove, or procure the removal of, such plant, materials and property from the Site (including the Development Area) within fourteen days, to remove and store such plant, materials and property at NSC's expense; and, if the relevant Contractor or its sub-contractors fails to take possession of any such plant, materials and property so removed by FIG within sixty days from the date of repossession by FIG, FIG shall be entitled to sell or otherwise dispose of such item as it thinks fit and pay the proceeds of sale (if any) less any costs of removal, storage and sale to the Contractor concerned or to NSC on that Contractor's behalf.
- 25.5 The expiry or termination of this Agreement for any reason whatsoever shall not:-

- 25.5.1 prejudice or affect the rights, remedies, obligations or liabilities of either Party against the other Party that have accrued up to the date of expiry or termination, including the right to claim damages in respect of any breach of this Agreement (including any antecedent breach or any breach giving rise to such termination); or
- 25.5.2 affect the continuing rights of the Parties under this clause or any other provision of this Agreement that, either expressly or by necessary implication, has effect after such expiry or termination.
- 25.6 The rights and remedies provided by this Agreement are cumulative and (unless otherwise provided in this Agreement) do not exclude any other rights or remedies available in law.
- 25.7 Except as otherwise provided in this Agreement, neither Party shall be liable to pay any costs, expenses or other sums to the other Party arising out of or in connection with the expiry or termination of this Agreement.
- 26 Force Majeure**
- 26.1 Neither Party shall be liable for any delay or failure to perform its obligations under this Agreement, nor be liable to any claim for compensation or damage, nor be deemed to be in breach of this Agreement, to the extent that such delay or failure is caused by any event beyond its reasonable control, including (without limitation) acts of God, fire, flood, earthquake, natural catastrophe, storm, pandemic and epidemic, war, terrorism, explosion, riot, civil disturbance or other national emergency, embargo, strike, lock-out or industrial dispute (involving employees other than its own), any acts or restraints of a government or public authority (except, in the case of FIG, its own acts or restraints), judicial orders or any breach or non-performance of this Agreement by the other Party (**Force Majeure Event** but subject as provided in clause 26.2).
- 26.2 Notwithstanding clause 26.1, Covid-19 (caused by the coronavirus SARS-CoV-2), any derivatives or variants thereof and any viruses related thereto, and any and all economic, social or other effects thereof shall only be taken into account for the purposes of this clause and treated as a Force Majeure Event to the extent that they have a material adverse effect on the ability of a Party to perform its obligations under this Agreement which is in excess (to a material extent) of that in force as at the Commencement Date and which was not in the reasonable contemplation of the Parties as at the Commencement Date.
- 26.3 A Party affected (or likely to be affected) by a Force Majeure Event shall notify the other Party promptly upon becoming aware of a Force Majeure Event, and as soon as reasonably practicable after the Force Majeure Event has ceased to have any material effect on such Party.
- 26.4 The Party affected shall use all reasonable endeavours to mitigate the effect of the Force Majeure Event and to carry out its obligations under this Agreement in any way that is reasonably practicable.
- 26.5 If a Force Majeure Event continues for a continuous period in excess of ninety days and if such Force Majeure Event may reasonably be anticipated to continue, the non-affected Party may terminate this Agreement by written notice to the other Party.

27 Other Remedies

27.1 If NSC fails or omits to perform its obligations or provide its services in accordance with, or otherwise fails to comply with, the terms of this Agreement (and in particular but without limitation, if NSC fails to manage the Construction Programme in accordance with clause 5 or fails to manage the Construction Costs in accordance with clause 13.2), FIG shall be entitled (without limitation to any other right or remedy it may have under this Agreement or the general law) to exercise any one or more of the following rights or remedies, namely to:-

27.1.1 suspend the operation of the Agreement (including the award of contracts (including Construction Contracts) or incurring of further fees or costs thereunder) until the situation has been resolved to FIG's absolute satisfaction, failing which (at the end of such period as FIG shall specify) FIG shall be entitled to terminate this Agreement pursuant to clause 24.3.2;

27.1.2 terminate this Agreement pursuant to clause 24.3.2;

27.1.3 require NSC, without charge to FIG, to re-perform such part of its obligations or services as FIG shall specify and/or carry out such additional work as is necessary to correct NSC's failure, in which case FIG shall have the same rights under this clause 27.1 in respect of any such additional work;

27.1.4 require NSC to take such measures as FIG shall reasonably specify to reduce the Construction Costs (or any aspect of them);

27.1.5 refuse to accept the provision of any further services by NSC and to be released from its obligation under this Agreement to reimburse any further Construction Costs or pay any other sums under this Agreement; and/or

27.1.6 purchase substitute services from a third party as replacements for, or alternatives to, the services provided by NSC.

28 Assignment

28.1 Subject to clauses 4.3, 28.2 and 28.3, this Agreement is personal to each Party, neither of whom shall assign, transfer, delegate, sub-contract, mortgage, charge or otherwise deal with the delivery of all or part of (or all or any of its rights and obligations under) this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed). Without limitation to either Party's right to withhold such consent or to stipulate additional terms or conditions, a condition of any consent to a delegation or sub-contract by either Party shall include such Party being liable for all acts and omissions of the employees, agents, consultants, contractors, sub-contractors and delegates of the delegate or sub-contractor as if such acts and omissions were acts and omissions of such Party.

28.2 Subject as provided in clause 4.3, NSC shall be entitled to engage:-

28.2.1 the Contractors pursuant to the Construction Contracts; and/or

28.2.2 the professional advisers and Personnel referred to in clauses 3.1.2 and 4.2,

in each case, as necessary in order to carry out the Construction Programme, provided that no such engagement shall qualify NSC's duties, obligations and liabilities hereunder or its liabilities for all acts and omissions of such Contractors, professional advisers and Personnel as if such acts and omissions were acts and omissions of NSC in accordance with clause 28.1.

- 28.3 FIG may, without further notice to NSC, transfer or novate its obligations to any government department of FIG or any entity which is wholly-owned by FIG and further provided that NSC does not incur any increased cost or obligation as a consequence.
- 28.4 Where either Party consents to any delegation or sub-contract, the other Party shall, promptly upon request, send copies of each delegation or sub-contract to the consenting Party.
- 28.5 This Agreement shall be binding on, and enure to the benefit of, the Parties to this Agreement and their respective successors and permitted assignees; and references to either Party shall include that Party's successors and permitted assignees.

29 Notices

- 29.1 Any notice, demand or other communication to be given by one Party to the other Party under or in connection with this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid registered post or other next Business Day delivery service or by electronic mail to the other Party at its address as follows (or such other address as that other Party may notify to the first-mentioned Party from time to time in accordance with this clause):-

29.1.1 FIG at:-

Falkland Islands Government, Secretariat, Stanley, Falkland Islands, FIQQ 1ZZ

E-mail address csilvadonayre@sec.gov.fk

marked in each case for the attention of "Director of Development and Commercial Services" (or as otherwise notified by FIG from time to time).

29.1.2 NSC at:-

45 John Street, Stanley, Falkland Islands FIQQ 1ZZ

E-mail address chair@falklandsNSC.org.fk

marked in each case for the attention of the "Chair"

- 29.2 Any notice, demand or other communication delivered in accordance with clause 29.1 shall be deemed to have been received (unless there is evidence to the contrary):-

29.2.1 if delivered by hand, at the time of delivery to the relevant address;

29.2.2 if posted by pre-paid registered post or other next Business Day delivery service, on the second Business Day after posting; and

29.2.3 if sent by electronic mail, at the time of transmission or, if there is evidence of disruption or non-delivery, when received in legible form,

Provided that if such delivery takes place on a day which is not a Business Day, or after 4.00pm on a Business Day, it shall be deemed to occur on the next Business Day.

- 29.3 The provisions of this clause shall not apply to the service of any legal proceedings.

30 General

- 30.1 *Parties' Relationship:* Nothing in this Agreement will make either Party the agent of the other Party nor does it establish or imply any partnership, joint venture, or any agency, fiduciary, employment or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to bind in any way, or to make any commitments, representations or warranties, assume any obligations or liabilities, pledge the credit, or exercise any rights or powers, on behalf of, the other Party (or purport to do so); and each Party shall indemnify the other Party against all claims, demands, proceedings, losses, liabilities, damages, costs, charges and expenses incurred or sustained by the other Party as a result of, or in connection with, any unauthorised act or omission of such Party or breach by it of this clause.
- 30.2 *Entire Agreement:* This Agreement and the documents referred to in it set out the entire agreement and understanding between the Parties with respect to the Project and the delivery of the Construction Programme, and supersede and replace all prior written or oral agreements, representations, understandings, discussions or correspondence between them and their agents relating to the Project or the delivery of the Construction Programme (including, without limitation, the Heads of Agreement, dated 30th November 2020, between the Parties). Each Party confirms and acknowledges that, in entering into this Agreement, it has not relied on, and will have no remedy in respect of, any statement, representation, warranty, understanding, inducement or promise (whether negligently or innocently made, whether oral or otherwise) of any person (whether party to this Agreement or not) other than as expressly incorporated into this Agreement; that no custom or practice of either Party at variance with the terms specified in this Agreement shall add to or vary this Agreement or be of any force or effect; and that all conditions, warranties, undertakings or other terms implied by statute, common law, custom, trade, usage, course-of-dealings or otherwise are excluded from this Agreement to the fullest extent permitted by law. Nothing in this clause shall limit or exclude any liability for fraud, fraudulent misrepresentation or fraudulent misstatement.
- 30.3 *Inconsistencies:* In the event of any conflict within this Agreement or between this Agreement and any document referred to herein (and in the absence of any written agreement to the contrary), clauses 1 – 32 of this Agreement shall prevail over the Schedules and the Appendix (and the Parties will take all steps necessary to amend the Schedules and/or Appendix so as to remove any such conflict) and this Agreement shall prevail over any other document to the extent legally permissible for it to do so.
- 30.4 *Variations:* Except as expressly provided in this Agreement, no variation to this Agreement shall be effective unless agreed in writing and signed by the duly authorised representatives of both Parties provided that no consent of any Contractor shall be necessary for any such variation to take effect. For the avoidance of doubt and notwithstanding clause 1.2.7, no notification or variation of this Agreement shall be valid if made by electronic mail.
- 30.5 *Severable Provisions:* In the event that any provision of this Agreement is rendered void by any Legal Requirement, the remaining terms, conditions and provisions of this Agreement shall remain in full force and effect and the Parties shall use all reasonable endeavours to agree any lawful and reasonable variations to this Agreement which may be necessary in order to achieve, to the fullest extent possible, the same effect as would have been achieved by the provision in question.

- 30.6 *Waivers:* A failure by either Party to exercise, or a delay in exercising, (in whole or in part) any right, power, privilege, claim or remedy (together, **Rights**) conferred by or arising under this Agreement or by law shall not constitute a waiver of that or any other Rights; and no single or partial exercise of any Rights under this Agreement shall prevent any further exercise of such Rights or the exercise of any other Rights. Any waiver by either Party of a breach of any term of this Agreement or of any default under this Agreement shall not be deemed a waiver of any subsequent breach or default and shall not affect the other terms of this Agreement.
- 30.7 *Third Party Rights:* Except as otherwise expressly provided in this Agreement or as otherwise agreed by the Parties, nothing in this Agreement shall confer or purport to confer on any third party (including, without limitation, the Contractors) any benefit under, or any right to enforce any term of, this Agreement.
- 30.8 *Further Assurance:* Without limitation to clause 16.3.4, each Party shall, at the reasonable request and expense of the other Party, execute and do any deeds and other things reasonably necessary in order to implement, evidence and confirm the provisions and the intended purpose of, this Agreement and to confer on the other Party the full benefit of all the provisions of this Agreement.
- 30.9 *Time of Essence:* Time is of the essence of this Agreement with regard to any dates or periods specified in this Agreement or in the Project Plan for the performance of any obligation by either Party, and any dates and periods which may be substituted for them in accordance with this Agreement or by written agreement between the Parties.
- 30.10 *Counterparts:* This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement provided that all such counterparts shall together constitute the same agreement.
- 30.11 *Non-fettering:* Nothing contained or implied in this Agreement shall prejudice or affect the rights, powers, duties and obligations of FIG in the exercise of its functions as a public authority or otherwise under any Legal Requirements, which may be exercised as fully and effectually as if FIG was not party to this Agreement.
- 30.12 *Joint and Several:* If either Party comprises two or more persons, then all obligations, liabilities, covenants, agreements and undertakings expressed or implied on the part of that Party in this Contract shall be deemed to be joint and several obligations, liabilities, covenants, agreements and undertakings by such persons; and where the context permits, references to such Party shall mean and include any one or more of such persons as well as such persons jointly.

31 Dispute Resolution

- 31.1 If any dispute, issue or claim arises between the Parties under or in any way in connection with this Agreement or its validity, construction, performance, enforceability, termination or subject-matter (whether of a contractual or tortious nature or otherwise) (**Dispute**) then, except as expressly provided in this Agreement, the Parties shall follow the procedure set out in this clause.
- 31.2 In the first instance, each Party shall arrange for its respective Manager and other Personnel who have day-to-day involvement with the Project to meet solely in order to resolve the Dispute, and such Managers and Personnel shall use reasonable endeavours in good faith to resolve that Dispute.

- 31.3 If the Dispute is not resolved in accordance with clause 31.2 within fifteen Business Days of such Dispute arising, the Parties shall arrange for the Chief Executive of FIG and the Chair of NSC (or in each case their direct replacements or authorised nominees) to attempt in good faith to resolve the Dispute.
- 31.4 If the officers of the Parties referred to in clause 31.3 are for any reason unable to resolve the Dispute within thirty Business Days of such Dispute arising, then the Parties shall attempt to settle it by mediation. To initiate a mediation, a Party shall give notice in writing (**Mediation Notice**) to the other Party, requesting mediation of the dispute. If the Parties are not able to agree the appointment of a suitable qualified mediator within 14 days after service of the Mediation Notice, either Party may apply to the Centre for Effective Dispute Resolution (**CEDR**) to appoint a mediator. The mediation shall commence within twenty-eight days of the date of the appointment of the mediator and in all respects in accordance with such procedures as the mediator shall direct. The costs of such mediation shall be borne by one or other Party, or apportioned between, and borne by, the Parties in such proportions, as the mediator shall direct.
- 31.5 If the Parties fail to resolve the Dispute through mediation under clause 31.4 within sixty Business Days after service of the Mediation Notice or either Party fails to participate or to continue to participate in the mediation before the expiry of the said period of sixty Business Days, or the mediation terminates before the expiry of that period, then the Dispute shall be referred to, and finally resolved by, the courts of the Falkland Islands in accordance with clause 32.2. Neither Party may commence any court proceedings under clause 32.2 in relation to the Dispute (either in whole or part) until sixty Business Days after service of the Mediation Notice, provided that the right to issue proceedings is not prejudiced by such delay.
- 31.6 During any Dispute (including a Dispute as to the validity of any aspect of this Agreement), the Parties shall continue their respective performance of the provisions of this Agreement.

32 Governing Law and Jurisdiction

- 32.1 This Agreement and any Dispute shall be governed by, and construed in accordance with, the laws of the Falkland Islands.
- 32.2 Subject to clause 31, each Party irrevocably submits to the exclusive jurisdiction of the courts of Falkland Islands with regard to, and irrevocably agrees that the courts of the Falkland Islands shall have exclusive jurisdiction to settle, any Dispute.

This Agreement has been executed on the date stated at the head of this Agreement.

SIGNED by
as authorised signatory for and on behalf of
FALKLAND ISLANDS GOVERNMENT

)
)
) 

SIGNED by)
as authorised signatory for and on behalf of)
FALKLAND ISLANDS)
NATIONAL SPORTS COUNCIL)

A handwritten signature in black ink, appearing to be 'J. H. Hume', written in a cursive style.

SCHEDULE 1

Site

All that piece or parcel of land situated on Bypass Road, south of Dairy Paddock Road, Stanley on East Falkland Island, known as the Old Rugby Pitch, which area of land extends to approximately 9.57 hectares and, for the purposes of identification only, is shown edged red on the Plan.

SCHEDULE 2

Project Plan

(see attached)





NSC - Proposed Sports Hall and Pitch - Programme REV01

Task Name	Duration Start	Finish	Preld
1 From signature to Concept	4 mos	Mon 12/04/24 Fri 30/07/21	
2 MONTH 1			
3 Governance Strategy	1 mon	Mon 12/04/24 Fri 07/05/21	
4 Communications Strategy	1 mon	Mon 12/04/24 Fri 07/05/21	
5 Risk Management Policy	1 mon	Mon 12/04/24 Fri 07/05/21	
6 Architectural Design	1 mon	Mon 12/04/24 Fri 07/05/21	
7 Site Selection/Placement	1 mon	Mon 12/04/24 Fri 07/05/21	
8 Supplier Evaluations	1 mon	Mon 12/04/24 Fri 07/05/21	
9 MONTH 2			
10 Preliminary Design	1 mon	Mon 10/05/24 Fri 04/06/21 8	
11 Ground Surveys	1 mon	Mon 10/05/24 Fri 04/06/21 8	
12 Cost Investigations i) pitch ii) building iii) groundsworks iv) M&E	1 mon	Mon 10/05/24 Fri 04/06/21 8	
13 Site Report	1 mon	Mon 10/05/24 Fri 04/06/21 8	
14 MONTH 3			
15 Procurement Strategy	1 mon	Mon 07/06/24 Fri 02/07/21 13	
16 Variations Policy	1 mon	Mon 07/06/24 Fri 02/07/21 13	
17 Programme Development	1 mon	Mon 07/06/24 Fri 02/07/21 13	
18 Iterative Design Amendments	1 mon	Mon 07/06/24 Fri 02/07/21 13	
19 MONTH 4			
20 Completion of Design	1 mon	Mon 05/07/24 Fri 30/07/21 18	
21 Cost Plan	1 mon	Mon 05/07/24 Fri 30/07/21 18	
22 Outline Specifications	1 mon	Mon 05/07/24 Fri 30/07/21 18	
23 Stakeholder Engagements	1 mon	Mon 05/07/24 Fri 30/07/21 18	
24 Outline Planning Application	1 mon	Mon 05/07/24 Fri 30/07/21 18	
25 Presentation to FIG	0 days	Fri 30/07/21 Fri 30/07/21	
26			
27 FIG Approval Process	2 mos	Mon 02/08/24 Fri 24/09/21	
28 Detailed Design	3 mos	Mon 27/09/24 Fri 17/12/21 27	
29 Procurement and Delivery	6 mos	Mon 20/12/24 Fri 03/06/22 28	
30 Building Construction to Watertight	3 mos	Mon 06/06/24 Fri 26/08/22 29	
31 Pitch Construction	2 mos	Mon 29/08/24 Fri 21/10/22 30	
32 M&E Finish	3 mos	Mon 24/10/24 Fri 13/01/23 31	

SCHEDULE 3

Project Governance

1 The JSC shall:-

- 1.1 review the draft Concept Design, the Outline Specification, the proposed Development Area as set out in the draft Site Plan, the Site Report, the Construction Programme, the Costs Plan, the Procurement Strategy, the Communications Management Policy, the Risk Management Policy and the Variations Tolerance Policy submitted by NSC pursuant to clause 3.10; consider whether they are fit to be submitted to ExCo pursuant to clause 3.11.1; request such amendments as it thinks fit for such purpose; and, subject thereto, confirm that the same may be submitted to ExCo as aforesaid;
- 1.2 review the draft Designs and Specification submitted by NSC pursuant to clause 5.3; consider whether they are suitable and fit for the purposes of the Construction Programme; request such amendments thereto as it thinks fit for such purpose; and, subject thereto, confirm its approval of the same;
- 1.3 review the draft designs and plans for the foundations of the Facilities submitted by NSC, and any additional remedial steps proposed by NSC, pursuant to clause 5.4; consider whether they are suitable and fit for the purposes of the Construction Programme; request such amendments thereto as it thinks fit for such purpose; and, subject thereto, confirm its approval of the same;
- 1.4 receive reports from NSC and/or the Contractor concerned (as appropriate) in accordance with clause 11.4; and shall make recommendations to NSC concerning any actions to be taken with respect to the foregoing;
- 1.5 receive reports from NSC in accordance with clause 11.6 regarding the cost management of the Project (including, without limitation, the Construction Costs payable, and the Construction Costs verified and approved by FIG pursuant to clause 13.4), and review such reports and the discharge by NSC of its responsibility to manage the Project's costs;
- 1.6 review the Procurement Strategy with respect to the Project, and the procurement exercises undertaken by NSC against the Procurement Strategy, the Procurement Principles and best market practice;
- 1.7 review NSC's management of the Project against best project management practice (as specified by the Association of Project Management from time to time);
- 1.8 review any variations to the Project Requirements referred to it for approval in accordance with clause 5.6 and the Variations Tolerance Policy; consider whether it is appropriate to adopt the same; request such amendments thereto as it thinks fit; and, subject thereto, confirm its approval of the same;
- 1.9 consider such other aspects of the Project as it shall think fit or as may be requested by FIG; and make whatever recommendations to the Parties it deems appropriate on any area within its remit where action or improvement is needed;

- 1.10 raise with either Party any issues arising from the above or in respect of the Project generally, and request such information from either Party, and/or take such steps, as it thinks fit to address any such issues;
 - 1.11 as necessary, consult, work and liaise with NSC, any departments and directorates of FIG, and/or such other parties as it thinks fit, in the review, assessment and the on-going monitoring of the Project;
 - 1.12 regularly review its own structure, terms of reference, size and composition to ensure it is operating at maximum effectiveness, and make recommendations to FIG for approval with regard to any changes, or the appointment of additional or alternative JSC Members, it considers necessary; and
 - 1.13 keep up-to-date and fully informed about strategic issues and commercial changes affecting or which might affect the Project.
- 2 The JSC may examine any activity within its terms of reference.
- 3 For the above and any ancillary purposes, the JSC shall have access to sufficient resources from the Parties in order to carry out its duties; and shall be entitled to obtain, at the Parties' expense, professional advice on any matter within its terms of reference, and to require from either Party (and their respective Personnel and Associates) such information in relation to the Project as it shall think fit.
- 4 The membership of the JSC shall comprise the following FIG officers (or, in each case, their respective appointed representatives) and/or such other FIG Personnel as FIG may specify in writing from time to time (together, the **JSC Members**):-
- 4.1 Financial Secretary;
 - 4.2 Director and Deputy Director of FIG's Development and Commercial Services Directorate;
 - 4.3 Head of Procurement;
 - 4.4 Deputy Director of FIG's Public Works Department; and
 - 4.5 FIG Contract Manager.
- 5 The following NSC officers (or, in each case, their respective appointed representatives) (together the **NSC Officers**) shall be entitled to (and/or such other Personnel of NSC as FIG may reasonably require in writing from time to time shall) attend meetings of the JSC:-
- 5.1 NSC's Chair;
 - 5.2 the Chair of NSC's project management board (if different);
 - 5.3 NSC's Project accountant; and
 - 5.4 NSC Project Manager,

Provided that all such NSC Officers and any other NSC Personnel who shall attend meetings of the JSC shall do so in an advisory capacity only, and shall not be entitled to participate in the decision-making of the JSC or the quorum for its meetings.

6 The JSC shall be administered in accordance with the following terms:-

- 6.1 The Director of FIG's Development and Commercial Services Directorate (or such other person as the JSC Members may nominate from time to time) shall act as chairperson of the JSC and shall chair meetings thereof. The secretary of the JSC shall be such person, and shall hold office on such terms, as the JSC Members may think fit.
- 6.2 The JSC will meet bi-monthly and/or at such other times during the year as agreed by the JSC Members or as otherwise requested by any JSC Member. Meetings of the JSC shall be called by the secretary of the JSC. Unless otherwise agreed, notice of each meeting confirming the venue, time and date (together with an agenda of the matters to be discussed at the meeting) shall be circulated to each JSC Member, each NSC Officer and any other person required to attend, not less than five Business Days prior to the date of the meeting (or such other period as the JSC Members may agree in writing). Any supporting papers shall be sent to each JSC Member, NSC Officer and other attendees (as appropriate) at the same time.
- 6.3 Decisions of the JSC shall be taken by consensus of the JSC Members (but not, for the avoidance of doubt, of the NSC Officers).
- 6.4 Only JSC Members and NSC Officers have the right to attend meetings of the JSC but other persons (including other NSC Personnel in accordance with paragraph 5 or other officers, employees, agents or contractors of either Party and external advisers) may be invited to attend all or part of any meeting as and when appropriate. If a matter that is to be considered by the JSC is one where a JSC Member or an NSC Officer, either directly or indirectly, has a personal interest, that JSC Member or NSC Officer shall not be permitted to attend the meeting.
- 6.5 A quorum for meetings of the JSC shall be any three JSC Members eligible to attend. A duly convened meeting of the JSC at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the JSC.
- 6.6 The proceedings and resolutions of meetings of the JSC (including the names of those present and in attendance) shall be minuted by the secretary of the JSC. Draft minutes of each meeting will be circulated promptly to all JSC Members who attended such meeting. Once approved, the minutes of each meeting will form a formal record of the decisions of the JSC.
- 6.7 The JSC shall continue in operation for the Term or such other period, or until such time, as FIG may specify in writing.

APPENDIX

Plan

(see attached)

From: Tracey Prior (Head of Finance) <TPrior@sec.gov.fk>
Sent: 20 April 2021 16:46
To: Catherine Silva Donayre (Director Development & Commercial Svcs) <csilvadonayre@sec.gov.fk>
Cc: Timothy Waggott (Financial Secretary) <TWaggott@sec.gov.fk>
Subject: RE: NSC Development Agreement

Hi Catherine,

Please find below Treasury certificate

CONTRACT CERTIFICATE - reference <u>CP 2020/1</u> - Certificate between <u>Falkland Islands Government and</u>		<u>Falkland Islands National Sports Council</u>
For Development Agreement related to Sports Centre Project		
		£ 3,000,000.00
IN ORDER FOR SIGNATURE		
<p>In accordance with paragraph 41.23 of Financial Instructions 2019, I confirm that I have inspected the financial provisions of the above contract between the Falkland Islands Government and the above named supplier. I can confirm that these appear reasonable and in compliance with conditions as previously approved. It should however be noted that I can make no comment on the legal aspects of the contract which is advised by the Attorney General's Chambers. Assuming that any such comments are positive, I am content that the contract is in order for signature.</p>		

Kind regards,

Tracey Prior
Head of Finance
Tel: +500 28406
Email: tprior@sec.gov.fk

The Treasury | Falkland Islands Government | Stanley | Falkland Islands | FIQQ 122

MEMORANDUM

To: Director of Development and Commercial Services **Ref:** AG/NSC Sports Centre

From: Senior Crown Counsel **Date:** 12 April 2021

Development Agreement relating to Sports Centre Project between:
(1) Falkland Islands Government
(2) Falkland Islands National Sports Council

I confirm that:-

- (a) in accordance with Section 39 of the Financial Instructions 2019, I have prepared and reviewed the agreement for the development of sports facilities in the Falkland Islands between the Falkland Islands Government and Falkland Islands National Sports Council (NSC) on the terms set out in the agreement; and
- (b) subject to the addition of a project plan in Schedule 2, and of the plan of the site in the Appendix, to the agreement, the agreement is in order to be signed on FIG's behalf.

Accordingly, I should be grateful if the Director of Development and Commercial Services would sign two copies of the agreement (in the form attached, subject to the additions referred to in paragraph (b) above) and issue one to NSC for counter-signature.



Matthew Jackson
Senior Crown Counsel



NATIONAL SPORTS COUNCIL FALKLAND ISLANDS

SPORTS COMPLEX

UPDATED CONCEPT DESIGN REPORT

Introduction

The Falkland Islands National Sports Council (NSC) has been appointed by the Falkland Islands Government (FIG) to act as its delivery partner for a new Sports Centre, to be built on the Old Rugby Pitch site opposite Dairy Paddock Road, under a Development Agreement dated 27th April 2021.

The Agreement makes provision for a Concept Design phase, to be carried out by the NSC, following which it should submit a report to Executive Council, who are responsible for giving the final approval to proceed.

Following the submission of the Concept Design to Executive Council in September 2021 (the preparation time for which had been time constrained due to the upcoming General Election), Exco gave conditional approval to proceed, within certain parameters delegated to the CE/FS/DCS, but requested that the project should be re-presented when all works were completed. This included FIG due diligence on the NSC documentation provided, and costings for the FIG deliverables (access and utilities) which had not been completed. It was agreed however that some work could proceed on the project so as not to delay further progress, that the Concept Design should be updated with results of that work, and that this would be submitted to Exco again when all necessary FIG and NSC work had been completed. FIG have advised that this should be the February 2022 Executive Council.

A considerable amount of work has taken place to the Football/Rugby pitch and the location for the building, which has enabled us to update the Cost Plan. Work has also commenced on detailed design for the whole facility, carried out by Arch Henderson as sub-consultant to Ajax Ltd, but this work is not sufficiently advanced to influence the Concept Design.

Concept Design Deliverables

The Agreement requires the submission of the following documentation by the NSC to FIG at Concept Design stage:

- a) Concept Design and Outline Specifications for the facilities
- b) Construction Programme
- c) Initial Payment Schedule and Cost Plan
- d) Governance Strategy
- e) Procurement Strategy
- f) Communication Management Policy
- g) Risk Management Policy
- h) Variations Tolerance Policy
- j) Site Plan
- k) Site Report

Copies of each of these documents were submitted with the original Concept Design. With the exception of items c) and k) each of these has previously been submitted to FIG for review and

comment, and were noted at the JSC Meeting held on July 23rd 2021. Only minor amendments were requested to the Governance Strategy to add additional information. Documents c) and k) were submitted with the Concept Design for the Exco paper. Document h) has subsequently been agreed.

The Facilities

There are two principal elements to the project, the Artificial 3G Grass Pitch and the Sports Hall.

Access to the Site

FIG has agreed that it will provide access to the site with a gravel track. This needs to be done early in the project, and be capable of taking construction traffic. NSC has written to FIG suggesting that this approach be re-considered, and that a surfaced road be provided to protect the facilities and reduce maintenance. So far there has been no formal response to this proposal, but FIG has begun work on the design, and is in discussions with our detailed design team to agree levels and placement.

The Site

The site has been assessed by Ajax Ltd, using data previously acquired by Arch Henderson, and supplemented by additional trial pits where required. There are no apparent restrictions to developing the site for the proposed purpose, and the Site Report advises that the site is suitable.

An area of land owned by FIC Ltd closer to the road and adjacent to the site has been assessed to see if it would materially reduce the cost of development. The cost of the land (£125,000), and the need to move a water main that runs through it (est £75,000), is unlikely to be wholly offset by reduced construction costs, and therefore it is not currently planned to pursue this.

The site(s) are accessed from the By-Pass Road by a gravel track to be constructed by PWD. There are 36 car parking spaces along the side of the Pitch, and a further 17 at the side of the Sports Hall. There is ample space for additional parking if required. It is the NSC view that further thought needs to be given to having a gravel road and no paths to a new Sports Hall, creating dirt and dust at the entrance and ultimately into the hall, and making pedestrian/cycle access less attractive. The FIG Public Health Unit has recommended at least proper cycle/pedestrian access to the building and the pitches.

Walkways around the building will be required for fire/planning purposes and will be in the scope.

Under the development agreement **power and water** will be brought to the site by FIG.

The project will include **pillar lighting** for the car parking areas, and two **fire hydrants** at the NW and NE corners of the building, this having been advised by the Chief Fire Officer.

The Pitch and the Sports Hall take up around 15% of the full site. There is plenty of room for further expansion, and for the recently approved cricket pitch. There have also been expressions of interest in building additional privately financed facilities which will further enhance the area as a sport and leisure facility. These would need to go through the normal land disposal processes where required.

The Pitch

It is proposed that the pitch is designed, laid, and marked out to enable the playing of **football** and **rugby**. As a large flat surface, it will also find use for training purposes for other outdoor sports including athletics and hockey, and may attract additional activities like softball or rounders, or be useful for school sports.

The current **levels of activity** are:

Football: 70+ adults registered for the Football League this season, 50+ FICS age students (excluding year 11 who play with the adults) are registered for the Junior League, and 40+ IJS aged children who attend supervised coaching and games.....so in total around 160 active players.

Rugby: There are 20+ adults in the Rugby Club, though their activities are restricted due to the poor facilities currently available. The new facility will enable training and coaching for younger players and more adult rugby.

The **dimensions** of the pitch(es) will be:

- For football 64m x 100m pitch area, with a runoff area at each side of 3m
- For rugby 64m x 110m, with an additional run off area at the ends of 3m

being an overall area of 70m x 116m, marked up for both sports. There is relatively little extra cost in adding rugby to the football pitch, and both can be played on a similar surface. There is no current commercially available surface that would also suit outdoor hockey.

Both rugby and football have been actively involved in the design of the facilities, including the selection of an appropriate playing surface. We have close working arrangements and continue to consult with them whenever required.

The **subsurface** will be designed in accordance with the stipulations of the English Football Association (FA) guide to 3G football turf pitches design principles and layouts, and World Rugby Regulation 22 on the design and layout of 3G rugby pitches. This provides certainty to FIG on standard and quality of playing surface.

This is typically made up of (from the bottom up) of a layer of porous stone materials containing the drainage system, a layer of smaller type material, a covering of geotextile, a porous hard surface (rolled hard core), a shock-pad of dense foam material, and the 3G grass surface filled with sand and then rubber crumb (or an eco-alternative).

Rubber crumb is typically made from recycled rubber, and is approved for this purpose by the FA and World Rugby. There are newer natural and bio-degradable materials coming available on the market, the most common of which is cork. This also provides an enhanced playing surface. Our design is based on using locally won **dune sand and cork fill**.

It is our plan that the pitch will be **floodlit**, with variable controls in locked boxes within the area of the pitch. The illumination would normally be 200 lux for playing, and 100 lux for training. Depending on cost we would aim for the lights to cover the pitch in 2 or 3 sections (6 poles), to enable sections to be used for 5-a-side (across the pitch) and training activities. Floodlighting was omitted in the original Cost Plan for reasons of affordability, but is now included.

The pitch will be surrounded by a purpose-built **welded mesh fence** of around 2.5m for ball retention (4.5m behind the goals/rugby posts). This does not restrict spectator vision. This was omitted for cost purposes in the initial Concept Design, but is **now included**.

Typical designs, specification sheets and **layouts** for the pitch are attached to the concept design drawings. These are from Tarkett/Field Turf from Canada, and from Edel Grass from The Netherlands, from whom we have comprehensive pricing and delivery proposals. We have similar pricing proposals from two other companies from the FA Approved suppliers list, SIS Ltd and Smith Civils. These are both more expensive than Tarkett. Edel Grass is FIFA approved, but is not on the FA list, but have been helpful to check costs. We are in the process of reaching **preferred supplier status** with Tarkett/Field Turf to assist with final design and materials lists. Their plan is to manufacture in Brazil, and transport by road to Montevideo, and ship via SAAS to the Falklands. Supervision of installation would be Tarkett staff from Chile.

Surface drainage from the pitch will be to the bypass roadside ditch, PWD have confirmed that is suitable, and FIC have agreed we can cross their land with the drainage.

There will be a variety of opportunities for **spectators**. The bund to the west of the pitch will be an ideal place to sit and watch. We are considering in the detailed design some form of terracing of the bund which would provide enhanced seating. The batters on the east side where the pitch level is lower than the surrounding area will also make excellent viewing area.. The car park to the east of the pitch is placed to enable viewing from vehicles (36 parking spaces).

We are also considering in detailed design the provision of additional windows in the west end of the sports hall, at mezzanine level, which can be used for seated viewing in poorer weather.

We have also suggested to the 40th Anniversary Committee that we arrange some tree planting (a Falklands Platinum Jubilee Wood) to the west of the bund to provide additional amenity value and shelter to the spectator area.

Pitch Maintenance. Though not strictly in the NSC scope of works, the cost plan includes provision for sweeper and groomer maintenance equipment for the pitch.

The pitch surface has an **8-year insured warranty** from the supplier, and an anticipated life of 15 years at normal levels of usage.

The work that we have carried out to date on the pitch has involved the removal of surface soil, and **cut and fill** to formation level for the pitch. Only minor rock intrusions were found on the site, which have been removed. There was a significant quantity of blue clay which needed to be removed, and has been stored with the topsoil to make the bund at a later date. Around 1,300 m³ of additional fill will have to be imported to replace the clay and complete formation level.

This work has enabled us to retire significant risk built into the pricing, and provide more detailed estimates to completion. The cost plan still retains a **contingency** of around 12% on the groundworks element of the project. The pitch supply price is a fixed price valid for 90 days (until 4th April 2022).

The Sports Hall

It is proposed that the Sports Hall is designed and laid out to enable at least two major sports activities to take place at the same time. The building is 50m x 50m x 7m to the eaves, constructed from structural steel with a concrete slab floor, and clad with steel sandwich panels 100mm thick on the walls and 150mm thick on the roof. The structural design of the building conforms to current FI Building Regulations.

The exterior of the building can be built with imaginative use of colour and cladding profile and orientation to make it look attractive. The internal walls will be clad on the interior to the height of around 3 m to provide a flat playing interior covering off the steel columns.

The **interior of the building** contains a 5-meter light structural steel run down one side for the foyer, office, toilets (men's, ladies and disabled), plant room, storage and changing area/bag storage. This run forms a mezzanine floor on the top, which creates a viewing platform the length of the building, capable of holding up to **120 spectators** in bleacher seating.

One end of the Sports Hall will have bespoke **gym style flooring**, a point-elastic system conforming to EN 14904, providing protection to athletes and a good multi use playing surface, with court lines cut into the surface. It is anticipated that this area would provide playing area for netball, tennis, volleyball, cricket, and indoor bowls.

Current levels of activity for these are:

Netball: 20-30 players at regular female sessions (from age 14 upwards), and 15-20 for mixed netball at weekends. Court only about 2/3rds the size required.

Tennis: There are currently no tennis facilities in the Islands. It is a major sport for all ages, and we believe there is substantial demand.

Volleyball: This is not an organised sport in the Islands (there is no club) but groups of people play regularly at SLC. Around 20+ players at present.

Cricket: 25+ players currently active, new outdoor pitch under construction, indoor practice facilities very restricted.

Indoor Bowls: 25+ active players in very restricted conditions (in the school street). New outdoor rink in planning. Substantial growth potential.

The other end will be set out as a **skating rink**, with batter boards to delimit the playing area, and a Stilmat playing surface designed specifically for in-line skating. This will accommodate both puck hockey on in-line roller blades, and ball hockey on indoor shoes. It is also eminently suitable for 5-a-side football and basketball. The area around the rink and up to the gym surface will be left as epoxy painted concrete.

We have examined the possibility of installing **artificial ice**, but it is currently beyond our budget capability, but could be retrofitted if funds become available.

Current levels of activity are:

Ball Hockey: 70+ players, including men's and women's adult leagues, and junior leagues at several age levels.

Puck Hockey: 70+ players, including men's, women's and juniors at several age levels.

Basketball: 30+ players, rapidly expanding popularity, particularly amongst older teenagers and young adults.

On the side opposite the viewing area, between the two ends, there will be a 4-lane purpose built **climbing wall**. This might alternatively be located in its own room in the facilities run. This will be finalised during detailed design.

The Concept Design proposed to have underfloor heating throughout the building, zoned between the two major playing areas and the utility areas for maximum efficiency. Whilst this will be more costly to install than space heaters a) it heats from the bottom up, not wasting heat in the upper reaches of the hall; and b) is lower operating cost with long lifespan. Depending on further capital and operating cost trade-offs, the heat source can be oil fired boiler, ground/air source heat pump, or roof or ground mounted solar panels. The renewable power options are our preference, but will be more costly to install, but with lower operating costs. We continue to evaluate the possible use of solar power on the north elevation to heat water for the heating system, but again this comes at higher capital cost (but reduced operating cost), and is not compatible with grid power (risking loss of heating if there is insufficient solar power). For cost purposes heating is currently from a diesel fired boiler.

To further evaluate the best solution the NSC has commissioned an **Options Study** from Arch Henderson to review:

- a) what is the best alternative to an underfloor heating system, is it as good or better, and what would be the budget estimate for it ?
- b) can it utilize renewable energy from either roof mounted or ground mounted solar panels, and what would be the additional capital cost, and reduced operating cost ?
- c) can we make any use of air source heat pumps, what would be the additional cost and is there a reduced operating cost ?
- d) suitable ventilation systems depending on the heating methods chosen.

Once this work is completed we can adjust capital and operating cost estimates as required.

It is proposed to collect rainwater from the roof for toilets. Outflow from toilets will be to a cess pit, which will require to be emptied from time to time. We do not propose to include showers.

The **lighting system** will be purpose designed for this building by specialists in sports hall lighting, using all LED lights providing an average lux of 750 across the playing areas. It will be able to light either end separately.

We would prefer to have **CCTV** both inside and for the exterior areas, controlled centrally in the building. This will enable the building, pitch and surrounding area to be monitored remotely. This was omitted for cost purposes in the previous concept design, but is now included.

There would normally be a centrally located **score board**. The Hockey Club owns a proprietary system that it has installed in the SLC, and which it proposes to move to the new facility on completion. We understand it will be possible to have a display at each end on the same system.

There remains some scope to optimise the footprint of the Sports Hall during detailed design. Current indications are that we might provide for the current scope (10 sports) within a building that is 10% smaller.

The work we have done on the **excavation** for the building has indicated some need to amend finished levels to remove blue clay (waste from the construction of the By-Pass Road), but no rock intrusions.

The overall cost of excavation has therefore been adjusted, but the rest of the Cost Plan remains as previously submitted.

Building Maintenance. This is not in the scope of the NSC project, but all facilities are robust and easy maintenance. We understand that PWD has suggested 3% of capital cost for the building maintenance budget. Design standards for the building would be 50 years minimum for the main structure, and a minimum of 15 years for the exterior finishes.

Not Included at this Time

At the present time we do not have the necessary capital funding to include in the project:

- a) an athletics track of any size or other athletics facilities (jumping pits, throwing areas)
- b) shooting or archery facilities
- c) artificial ice (or any other provision for an ice rink)
- d) any architectural designs to enhance the aesthetics of the building (beyond colour and profile)
- e) in NSC scope concrete or asphalt paths for pedestrians or bicycles (from the road to the hall)
- f) extended changing areas or showers
- g) any landscaping beyond remediation of disturbed areas, bunding and tree planting

Project Costs

The projected cost of the project is £3.0m including 15% contingencies on the main construction areas, but no contingencies on the supply areas where these are supported by reliable pricing from suppliers. The elements of the project, and their projected cost are attached as Appendix I. The following notes should be born in mind:

1. The earlier Groundworks estimates have been found to be more than adequate, and some adjustments have been made. The costings for the supply of the pitch are fixed and firm prices.
2. The Foundations figures are possibly high (over designed) but require verification by the building supplier when selected. One bid received on the Arch Henderson design.
3. The slab figure is considered sufficient, though there may be opportunities to refine it. Requires further discussion with Arch Henderson and contractors. Firm price indications received.
4. Pitch supply bid is comprehensive (from Canada, the Netherlands, China, and the UK). The Canadian bid is preferred, and uses supervision of installation from Chile.
5. The pitch installation estimate is adequate, and relies heavily on the cost of quarry materials.
6. Building supply from China is essential to achieve budget. USA and UK prices are over twice the price. The lowest Chinese price is incomplete, and the higher one used in the cost plan. The bids are at current high steel prices, we may see some reduction in 2022.
7. Building construction and floor supply/installation can be considered accurate. Two bids received for construction look complete. The floor will be laid with local input.
8. The Skating Rink and Climbing Wall prices are backed by detailed quotations.

9. M&E content is backed by detailed supplier budget estimate. One more complete estimate is expected, and one for electrics only. Arch Henderson are reviewing and checking designs for us.

10. Shipping is included at today's rates, advised by SAAS/Seafast, as required under the Agreement. These are expected to reduce in a few months' time, particularly from China.

11. We have fixed and firm prices from Arch Henderson, sub-consultants to Ajax Ltd, for the detailed design phase. Overall estimates have been revised slightly downwards, but we retain a contingency of £30,000 in this area.

There are no significant weak points in the pricing estimates, and overall, the price looks about right. Most areas are supported by supplier/contractor experienced estimates. There is scope to reduce in some areas if required.

Contingencies.

It is standard practice in construction projects to include a contingency against unknown circumstances or cost increases. We have worked to get good budget prices for much of the project, rather than relying on quantity surveyors estimates of quantities and rates. The requirement for contingency is therefore much reduced in several areas.

The primary unknown in this project has been in the initial groundworks...preparing the ground for construction, and we therefore allowed for a contingency of 15% in that area, both for the pitch and the building. Some of this risk is now retired, and contingencies amended slightly, but are still substantial.

The construction of the building, fit out, foundations and slab are considered to be fully priced, but a contingency of 15% is allowed in all of this area to allow for changes and unknowns in the construction.

Supply of the building will be against fixed specification and price, so no further allowance is made.

The M&E prices are priced against detailed designs provided by the contractor, so no further allowance is necessary.

Shipping costs are at current high rates, and are likely to fall, no further allowance is necessary.

Other supply items are fully priced, and no further allowance is provided.

The total contingency sum included in the Cost Plan is £210,000.

Preliminary Groundworks

The conditional approval of the project at Exco in September enabled us to proceed with some preliminary groundworks for both the pitch and the building. The essential purpose of doing this is to establish and eliminate unforeseeable risks in the groundworks.

Work done to date has

- a) stripped off the top layer of soil, which is stored for future use.
- b) undertake the majority of the cut and fill element of the pitch to formation level.
- c) excavated areas of blue clay that are unsuitable to sustain construction work. This is stored to build the bund to the west (with the soil to cover).

d) complete the fill element on the west side of the pitch.

The work at present has not uncovered any significant areas of hard rock ridges, which would have been our biggest additional cost. The excavation of the blue clay will require additional fill material to be evaluated, but it is not excessive.

Once the pitch is flat to formation level we will suspend work until construction begins, unless there are opportunistic advantages.

A similar exercise has commenced for the site of the building, which requires the removal of old excavated material from the by-pass construction, which will be stored with the pitch excavation materials. Some adjustments to design levels have been proposed, but this does not significantly affect the Cost Plan, and will reduce FIG road construction cost. Work in this area was not quite finished before the Christmas break, and 2/3 further days are required to complete. We will then suspend further work in this area.

Management of Risk

This is not a high-risk project, nevertheless every care has been taken to identify and mitigate risk.

The only major unknown was in the groundworks for the pitch, because it requires a flat area over large distances. Extensive trial holes have been dug over the whole of the site, and ground profiles completed to be able to estimate the amount of cut and fill.

The preliminary works carried out to date have now extinguished that risk. We have a flat area to formation level with just some fill to complete.

Similarly, the excavation work to the site for the building, whilst not yet complete, has not thrown up any major problems.

The risk of there being insufficient funds to complete both elements of the project to an adequate standard is considered extremely low.

We would not recommend a two-phase project (pitch then sports hall, or sports hall then pitch) because it is inefficient in terms of site activity, and is not necessary to manage the risk.

Project & Quality Management

The project is being managed by Mike Summers, Chair of the NSC Project Board, with advice and assistance from RSK. It is planned to use the RSK support team established to assist for Tussac House, on a call off basis, for project oversight, planning and risk management documentation, preparation of procurement documentation and negotiations. We are also in discussion with RSK about the provision of a resident site manager during construction, to be cost shared with the Museum Project.

Contracts

We propose to use NEC Short Form Contracts (or similar) for each of the major pieces of work on site, and supplier's contracts for the two major external procurements.

The Groundworks contract, substructure and laying of the pitch has been carried out on a time and materials basis, with high levels of supervision, and has proven to be very cost effective.

The foundations, slab, building construction and M&E works will be fixed price lump sum.

We will employ an independent inspection agency in China to check all elements of the building supply contract including materials specifications, manufacturing quality and accuracy, completeness, quantities and load out schedules.

The pitch supplier is a highly reputable Canadian business, with a long and successful track record. Our interactions to date have been positive and they are keen to undertake this project.

Maintenance

The maintenance costs for this facility will centre mainly around the pitch. The Sports Hall should be relatively maintenance free (but see comments submitted separately about an unsurfaced road).

1. The Pitch. The pitch will require regular brushing and grooming, depending on usage. The price used in our estimates includes the necessary equipment for brushing and grooming, only labour will be required. We have received advice from our IIGA colleagues in Faroe Islands (who operate a number of outdoors artificial pitches) that the wind has little or no effect on rubber crumb or eco infill. Topping up is occasional and limited.

The full-size football/rugby pitch would require 6kg per m² initial fill, which around 57 tonnes.

Rubber crumb is around £200/tonne, so 5% replacement per annum would cost around £600. Cork Eco fill will be slightly more, but the difference is not material.

The cost of maintenance for replacement, brushing and grooming should be no more than 4-6 hours per week unskilled time, on average £75 per week.

2. Sports Hall. The only scheduled maintenance in the Sports Hall will be keeping the floor and other public areas clean. The LCM advises the SLC cost is around £1,400 per month, and the new hall would be about the same.

3. The Site. The biggest maintenance cost is likely to be the gravel track.

Operating Cost

The principal operating costs will be heat, light and staff cover. The heating design has been arranged to minimise operating cost, though as noted further reductions can be achieved at higher capital cost.

Staffing is strictly an FIG matter, and should be left to the advice of the LCM.

Phase Two

Whenever we have discussed this project with MLAs and the Chief Executive it has been understood there would be a need for a second phase. This does not form part of the current project, but is referenced here for completeness. We have designed the site in a way that takes into account future additions, either as an extension to the Sports Hall, as lean-to's to the building, or in separate structures.

The key elements of any Phase Two works would be:

a) any omitted items (currently there are none).

b) A Running Track. There are various options for this on the site or on the school field, but no planning or design work has been done. We could probably build a four lane 300m track on the school field for around £250,000. Bigger ambitions cost more !! To put this track on the Old Rugby Pitch site would be

considerably more, because of the cost of levelling the site. We have not proceeded with planning a track around the football pitch for two key reasons.

- i. It would very substantially increase the cost of the pitch, requiring much more cut and fill;
- ii. Spectators and supporters become more remote from the pitch, and/or would stand and mill about on the track, ultimately causing damage. Where tracks are built around pitches supporters are generally in stands.

A 6 lane 400m running track (8 lanes x 400m would be standard) could cost upwards of £500k depending on the level of earthworks required.

A running track is an essential part of the sports infrastructure, and will be the primary focus of Stage Two.

c) Shooting Hall. Shooting and Archery would greatly benefit from a shooting hall on the side of the main building. This could be built as a lean to, requiring only around 3m ceiling height, should be easy to build, and relatively inexpensive. It would be used for up to 25m pistol and air rifle shooting, and indoor archery distances (currently shot in the FIDF hall). These are both Island Games and Commonwealth Games sports, and, given the right facilities, have the potential to be very popular over a very wide age range. Pistol shooting currently has very poor facilities, and air rifle essentially none. A broad estimate for this facility might be £100,000.

d) Artificial Ice. It would be possible to retrofit the skating rink with artificial ice, which apparently performs very similarly to real ice, but without many of the complications. It would allow any sport normally played on ice, including ice dancing, ice hockey and curling. The cost of the retrofit is around £250,000, but would not be suitable for 5-a-side football or basketball. It can be taken up and stored for part of the year if required.

Not in immediate focus, but the Sports Hall was originally designed in a way that enables future extension to the east for additional facilities. Changes to levels referenced above might make this more costly, but extension at different floor and roof height are possible.

Other Facilities on Site

This project has stimulated interest in additional facilities on the site, which would enhance the whole community benefit of the project, but at no additional cost to the project or to public funds.

Interest to date is from:

a) Cricket. The Cricket Club has been granted planning permission to build a cricket pitch in the SW corner of the site. This is supported by the NSC. We are happy to intercede in land issues if it is helpful. The wicket construction is complete, and the outfield is under preparation. Additional support areas might also be possible.

b) Strength and Conditioning Suite. Private interest has been expressed in this as a commercial venture, enhancing the output from the site and adding a new sport – weightlifting. It could be done as a lean-to on the main building, possibly in conjunction with the shooting facilities.

c) Huddle Valley. Many will have heard of the privately funded venture to create a soft play area for children in a secure environment, including trampolining and play areas. They are very interested in coming to this site, creating additional interest for parents and children. It might include a nursery. It might also incorporate the NSC proposed idea of a sports bar and viewing area for the pitches. This

has great potential for expanding the amenity value of the site, and we will work with others to develop the concept.

Sponsorship/Advertising

NSC has raised the possibility of obtaining further income to fund the capital costs of the project through sponsorship and advertising. FIG has given its provisional agreement to this.

In the event there are pieces of the project that will not fit into the strict £3m budget, the NSC may seek sponsorship for them on terms to be agreed.

Additionally, there is a significant opportunity for advertising a) around the rugby/football pitch; and b) around the skating rink. NSC has obtained prices from a local supplier for the procurement of suitable advertising boards that can be made available to local businesses, at prices and on terms to be agreed. NSC will pursue this as a project in the next few weeks. The contracts can only begin when the fence/rink are completed, so this is not time critical.

Naming rights for the Sports Hall might also be an opportunity, if there is commercial interest at a sufficient level.

Conclusions

This project can be delivered by the NSC within the Terms of the Development Agreement for the agreed budget of £3m, at low risk.



Sports Complex – Procurement Strategy

1. Introduction.

The project is to design, procure and build an All-Weather Sports Pitch and a Multi-Use Indoor Sports Hall on the old rugby pitch site in Stanley. The project is being carried out on behalf of the Falkland Islands Government under a Development Agreement dated 27th April 2021.

2. Procurement Principles.

- i. All procurement will be carried out in accordance with the requirements of the Development Agreement, and particular Section 4 thereof.
- ii. All procurements shall be fair, open, and transparent, and available for review if requested. Except where previously agreed, all contracts will be open to all suitably qualified companies on an open tender basis.
- iii. These contracts will be let on NSC terms and conditions, and are not required to comply with FIG Financial Instructions relevant to procurement of goods and services.
- iv. All procurement will seek to achieve best value for the project, and the processes followed will follow best practice for a project of this type and size.

3. Project Constraints.

- i. Timescale. There are no identified constraints on timescale. It is a greenfield site for which there are no access constraints. The project can commence when the Agreement is signed. Completion should be the earliest possible achievable date. No cost premium should be considered for speed.
- ii. Budget. There is a fixed budget of £3 million to complete all phases of the project. FI NSC can, at its own discretion, raise further funds if it so wishes. There is a cap of £100k on professional services up to concept design stage.
- iii. Site. The site has been allocated by FIG on the old rugby pitch off the Bypass Road. No planning application has yet been submitted, but the area is allocated in the Stanley Town Plan for sport and leisure development. There is easy access to the site; services will need to be provided from nearby connections. A number of test holes have been dug to test the ground; it is thought to be easy to develop. The Site Report required under the Development Agreement will highlight any issues with the site; to date none have been identified.
- iv. Governance. The NSC Project Board works on behalf of the NSC Board and the NSC Council. It may refer any matter to the Board for approval, and must refer the final scope at Concept Design to the Council for approval. The Development Agreement provides for a Joint Steering Committee (JSC) whose responsibilities are set out in the Agreement and the Governance Strategy.

4. Procurement Strategy.

- i. The over-riding factor in this project is the budget. All purchases will need to be made at the lowest possible cost without compromise to the quality of the finished product. Quality will normally be judged against industry standard, with a view to ease of maintenance and durability. Ajax or other professional advisors will make the required assessments, and if required the Project Board will consult clubs through the Council.
- ii. The Football Pitch must be of a good standard, and easy to maintain. It is proposed to use the English FA Design Framework, and the suppliers/contractors nominated therein, to guide pitch design and procurement.
- iii. The building must be fit for purpose, and functional for as many sports as possible. The final design will be subject to NSC Council (all clubs) approval, and the playing surface will be UK standards for schools, universities, and community sports halls. Structural design and quality will be guided by FIG Building Regulations.
- iv. This is a community project. The NSC will use its best endeavours to engage contractors and suppliers at lowest possible rates.

5. Market Analysis

Professional Services - All professional services (design, engineering, costing, project management, supervision of construction, legal, accountancy) will, wherever possible, be procured from FI based companies. This does not preclude them supplementing their expertise from elsewhere if required or if agreed.

Football Pitch - In order to maintain confidence in the quality of the product the football pitch surface should be procured, with technical supervision for laying the pitch, from companies approved under the English FA Framework. Floodlighting (if in the scope) should be to British Standards. The English FA are willing to provide advice and guidance where required, and contractors will be taken from their approved list.

Building – The structural steel building may be procured on a worldwide basis, to acceptable standards for materials and manufacture. Cladding and insulation would normally be procured from the same supplier as the structure. Internal finishes will be fit for purpose, and will be checked against UK industry standard. We have offers from other UK community projects to review our proposals, and may engage UK specialist designers if thought necessary to achieve best layout and design.

Groundworks, Drainage, Foundations and M & E works – To be procured locally. There are a number of suitably qualified companies in all areas. We have engaged with all potentially interested parties through direct contact and advertisement on the Sports Council FB page and the SAROS notification system.

6. Contracting Strategy and Delivery. It is envisaged there will be a series of separate contracts to deliver this project on budget.

- i. Design, Engineering and Project Management. These functions will be contracted locally through negotiated contracts with Ajax and RSK. The Ajax contract will be based on the ACE Standard Form. RSK are providing project management support and advice to the Project Manager free of charge, as

required. Additional specialist advice is available on a cost reimbursable basis (see below). Site management at the construction stage is also being sourced through RSK; to reduce costs the resource will be shared with the Museum project. It is not proposed to engage specialist designers at concept design stage, but we may seek external review of designs prior to final procurement. RSK will provide project planning services, and will maintain Risk Register information and Project Plans if required.

ii. Bulk Earthworks and Foundations. These will be offered through competitive tender to local companies with suitable track record, appropriate machinery and suitably qualified or experienced personnel. There are single source suppliers for quarry products (FIG) and concrete (Byron). The sub-base for the football pitch will be designed by the pitch supplier. The structural foundations will be designed by the building supplier. The quality of the slab will be determined by the Project Board advised by floor surface suppliers.

This contract may be split into two, or the Foundations contract awarded with the Building Construction contract, depending on offers received.

iii. Artificial Pitch. There will be a contract for the design, supply, and supervision of installation of the pitch. The NSC will be receiving multiple quotations from companies on the English FA approved list and the supplier will be chosen from that list based on the best price and which supplier can provide a solution which address the needs of the Falkland Islands. Bidders will all come from the English FA Framework which sets out minimum standards. Contractors will design the sub-base and provide remote supervision of cut and fill operations, laying the drainage and infill. They will be on site to supervise and direct laying of the top surface, shock-pad and pitch, and all finishing activities. Labour and machinery will be provided by the Earthworks Contractor.

iv. Supply of Building. This will be done by worldwide competitive tender by the NSC receiving multiple quotations from 2 x US suppliers through research, 3 UK suppliers through recommendations or local partnerships, 1 Chinese supplier through recommendation and 1 through research. The Project Board will pre-qualify suitable suppliers from steel manufacturing countries, according to previous experience. In practice this is likely to be the USA, UK, Europe, and China. Buildings will be procured on a design (including foundations) and supply contract, to include cladding, doors, and windows. For China we would appoint an independent inspection agency, Bureau Veritas which is a globally accepted profession verification agency to supervise the manufacturing and certification processes. This is specialised work in China, they have done work on other projects and will work on the Museum project as well. We may do similarly for other areas depending on confidence and track record.

v. Erection of Building. This will be offered through competitive tender to local companies with suitable track record, appropriate machinery and suitably qualified or experienced personnel. It is not anticipated that supervision services would be required. This contract will also include the internal fit out of the building (in conjunction with the M&E Contractor) and provision of labour to lay the floor (if required).

vi. M & E Contract. This will be offered through competitive tender to local companies with suitable track record, appropriate machinery, and equipment and suitably qualified or experienced personnel. Advertisements will be passed in the local media like the Penguin News and Falklands Radio for interested parties to provide quotations. This will include all electrics, lighting (internal and external), heating, plumbing, floodlighting for pitch area, CCTV, and scoreboards. It is anticipated that all supplies would come from the UK and to be to UK standards.

The only specialist areas are in the supply and laying of the football pitch, which will require a supply and supervision of installation contract, and the Sports Hall floor which can be laid by a local contractor, but may require specialist supervision. The form of contract will be negotiated and agreed with the supplier. The terms and conditions will also be agreed with the chosen supplier.

All other activities can be undertaken by local contractors familiar with the work, using Short Form NSC contracts, or similar.

The Project Board has general management, technical, project management and financial control skills. These will be supplemented with bought-in services if required.

7. Award of Contract

Evaluation and procurement recommendations will be undertaken by Ajax Ltd in consultation with the Project Manager. Recommendations will be made to the Project Board for approval, and signed off by the Project Board Chair (PBC). PBC will advise FIG Contract Manager of major procurement decisions, who may request details of the process if required.

8. Post Award Follow Up

All post award management and supervision will be undertaken by the Project Board, Project Manager and Ajax Ltd.

8. Contingency

In the event there are no compliant bids for any work packages, or lowest compliant bids are in excess of the budget, the Project Board will use its best endeavours to persuade companies to assist at rates that are within budget.

If following this process, the lowest compliant bids are in excess of the budget, to the extent that the project cannot be completed within budget, NSC will refer to the JSC for direction and resolution before making any contractual commitments.



Sports Complex - Communications Policy

1. Introduction.

The Sports Complex project is to design, procure and build an all-weather sports pitch and multi-use indoor sports hall on the old rugby pitch site situated on the Bypass Road, Stanley. The project is being carried out by the NSC, on behalf of the Falkland Islands Government (FIG), under an agreement dated 27 April 2021.

2. Project Background.

i. **Timescale:** The project started following the signing of the agreement between FIG and NSC which governs the project. There are no identified constraints on timescale. It is a greenfield site meaning there are no access constraints. Completion should be the earliest possible achievable date. No cost premium should be considered for speed.

ii. **Budget:** A fixed budget of £3 million has been approved to complete all phases of the project. NSC can, at its own discretion, raise further funds if it so wishes. There is a cap of £100,000 on professional services up to concept design stage.

iii. **Site:** The site has been allocated by FIG, situated on the old rugby pitch off the Bypass Road, Stanley. At the moment no planning application has been submitted, but the area is allocated in the Stanley Town Plan for sport and leisure development. There is easy access to the site and services will need to be provided from nearby connections. A number of test holes have previously been dug to test the ground and these have shown that it should be easy to develop.

iv. **Governance:** The NSC Project Board works on behalf of the NSC Board and the NSC Council. It may refer any matter to the Board for approval, and must refer the final scope at Concept Design to the Council for approval. The project oversight function for FIG is exercised by the Joint Steering Committee established under the Agreement.

3. Communications Policy.

i. This Policy is produced pursuant to Clause 3.5 of the Agreement.

ii. The NSC and FIG (the Parties) wish to keep the public fully informed and fully engaged in this community project.

iii. Information that is confidential will not be communicated to the public, NSC and FIG will agree what can or cannot be communicated, in line with the principles of the Access to Information Ordinance, which states that information should be in the public domain, unless there is an identifiable reason why it should not be.

v. There should be no restriction on informal communications within the bounds of the principles set out above.

vi. Where either Party wishes to issue a formal, proactive notice for example, a press release, radio, newspaper or television interview they will not do so without having first consulted the other Party, and agreed the principal content, tone, timing and purpose of the release.

vii. Where a reactive statement for formal media like the newspaper, radio or television is required, both Parties will work together to agree these lines; the only exception being where a politician may be asked in the course of an interview to answer a question that cannot be anticipated nor prepared for.

viii. Both parties agree to appropriately give notice of any proactive social media posts relating to the project to allow for a wider audience reach and amplification

viii. This Communications Policy does not apply to internal information and notices issued within the NSC or FIG, or between NSC and its contractors and suppliers.

FI National Sports Council
Sports Complex
Risk Register

					Responses				
Risk	Likelihood	Impact	Weighted Factor	Budget or Programme or Quality	Mitigations	Avoidance	Acceptance	Actions taken	C=Complete IP=In Progress NS=Not Started
Pitch Groundworks									
There is a risk that the groundworks will be impaired by Rock Intrusions	0	4	0	N/A	Trial Holes	Design to Avoid	Peck Out	Prelim Works Undertaken	C
There is a risk that Blue Clay will be found during the groundworks	0	2	0	N/A	None		Dig Out	Prelim Works Undertaken	C
There is a risk that there will be other Impediment	0	3	0	N/A	Trial Holes	Design to Avoid		Prelim Works Undertaken	C
There is a risk that the groundworks will need excess Cut & Fill	0	5	0	N/A		Select Best Site	Re-design/Supervise	Prelim Works Undertaken	C
There is a risk that groundwater is found during construction	1	2	2	B	Design	Drainage			IP

Building Groundworks									
There is a risk that the groundworks will be impaired by Rock Intrusions	0	4	0	N/A	Trial Holes	Design to Avoid	Peck Out	Prelim Works Undertaken	C
There is a risk that Blue Clay will be found during the groundworks	0	2	0	N/A	None		Dig Out	Prelim Works Undertaken	C
There is a risk that there will be other Impediment	0	3	0	N/A	Trial Holes	Design to Avoid		Prelim Works Undertaken	C
There is a risk that the groundworks will need excess Cut & Fill	0	5	0	N/A		Select Best Site	Re-design/Supervise	Prelim Works Undertaken	C
There is a risk that groundwater is found during construction	1	2	2	B	Design	Drainage			IP

Pitch									
There is a risk that the Design doesn't meet the required specification	1	5	5	Q	Use FA Accredited Suppliers/Designers. If the Design doesn't meet the specification then it is to be redesigned till it does.		None		IP
There is a risk that the cost of Materials increases	0	4	0	B	Supplier Evaluations	Improve cost plan with detailed costing within the Tender Documents to understand the full cost of the Procurement		Firm Price secured	C
There is a risk that there is inadequate Drainage built on site.	1	4	4	Q	Designs to be reviewed my PWDs Deputy Director.	A professional company is hired to complete the designs	Re-Design	To be addressed during detailed design	NS
There is a risk that that site will not be level once completed	2	3	6	Q	RSK will be providing a Project Manager to supervise the works, and sign off completed work.	a reputable company will be procured to complete the ground works.		To be addressed during detailed design	NS
There is a risk that the wrong fill is used	1	3	3	Q	PWDs Deputy Director will be reviewing all designs and option before work begins.	Design will specifically break down the type of fill required.	If the wrong fill is used it will be taken up and replaced with the right types.	To be addressed during detailed design	NS
There is a risk that the staff are inexperience with laying the turf and this means wastage and extra time in construction	4	5	20	B/P/Q	Supplier Warranty	Supplier of the materials will supervise the installations			NS
There is a risk that the surface is damaged during the work.	1	3	3	Q	Supplier Warranty	Supplier of the materials will supervise the installations			NS
There is a risk that poor access restricts the design and construction	1	3	3	Q	Reworks of the designs to meet Planning Requirements.	Early Planning Discussions to confirm planning assumptions are suitable.			NS
There is a risk that maintenance difficulties after the site is completed	1	3	3	Q	The maintenance of the pitch will have input from the supplier on the best way to maintain the site via the O&M Manuals - this will set out how the site should be maintained over the course of its lifecycle.	Budget to be requested by FIG to maintain the site once the works are completed.			NS
There is a risk that the cost of fill increases	2	2	4	B	Design and location have been selected to reduce the cost of the filling required.	The procurement exercise will include the full cost of the fill and a commitment to the price upon contract award.	Funds will have to be made available to cover the extra cost.		NS

Sports Hall

There is a risk that material costs increase	3	5	15	B	Design and location have been selected to keep costs to a affordable range.	The procurement exercise will include the full cost of the fill and a commitment to the price upon contract award.	Funds will have to be made available to cover the extra cost.		NS
There is a risk that Supplier Specification doesn't meet the user requirement	2	5	10	B/Q	Working directly with suppliers to find the most optimum solution to met the user requirements.	Design specifications during the procurement process will be specific to the requirements, bids should only be taken from suppliers that can provided the full specification.	acceptance of the Suppliers specification	To be addressed during detailed design	NS
There is a risk that the contractor is inexperience with interior requirements for the sports hall.	2	2	4	Q	Supervision from suppliers to be brought in and provide support during design and installation.	Work with Experienced Partners who have the ability or can subcontract the experience to complete the works.		To be addressed during detailed design	NS
There is a risk that the concrete slab is constructed poorly and requires additional work	3	4	12	B/Q/P	Warranties will be in place to rectify any issues that arise.	Works Supervision will be in place during the construction to notify the contractor of areas that need retification.			NS
There is a risk that weather increases the construction duration	3	4	12	P	Programme to include additional time to allow for weather delays.		Weather is out of the projects control and will be managed.		NS
There is a risk that The Planning Department will require additions to the design, increasing cost & delaying the programme.	3	3	9	B/P	Reworks of the designs to meet Planning Requirements.	Early Planning Discussions to confirm planning assumptions are suitable.			NS
There is a risk that the surface in the sports hall is poorly finished	2	5	10	Q/B	Supervision from suppliers to be brought in and provide support during design and installation.	Work with Experienced Partners who have the ability or can subcontract the experience to complete the works.			NS

General Risks									
There is a risk that cost of concrete increases	2	4	8	B	Design and location have been selected to keep costs to a affordable range.	The procurement exercise will include the full cost of the fill and a commitment to the price upon contract award.	Funds will have to be made available to cover the extra cost.		NS
There is a risk that steel prices increase	3	4	12	B/P	Design and location have been selected to keep costs to a affordable range.	The procurement exercise will include the full cost of the fill and a commitment to the price upon contract award.	Funds will have to be made available to cover the extra cost.		NS
There is a risk that Covid-19 causes issues during the construction	4	4	16	B/P	Overseas labour and materials will be ordered in advance of project start, with timelines including contingency.		Due to the pandemic FIG could issue control measure that restrict progress of the construction, this will be have to be accepted.		NS
There is a risk that the contractors cannot supply the labour required to meet the programme.	5	3	15	B/P	Overseas labour options to be included in proposals from contractors.	Early engagement with potential contractors and building the programme around the labour force availability.	Programme Delays as work will take longer to complete.		NS
There is a risk that the contractors have other priorities with other work	3	4	12	B/P		Early engagement with potential contractors and building the programme around their availability.	Programme Delays as work will take longer to complete.		NS
There is a risk that the Falkland Island Government delays the approval of milestone requirements.	5	3	15	B/P	Programme built with reasonable contingency to allow government functions to be completed without extending the timeline.	Documentation to be submitted on time to allow government processes to proceed.	Delays may happen and extensions to programme will be needed.		IP

There is a risk that political vascillation delay the programme and increase to budget.	2	5	10	B/P	Programme built with reasonable contingency to allow government functions to be completed without extending the timeline.	MLA Briefings to be completed during critical milestones to being Politicians on the journey.			IP
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Variations Policy

1. Introduction

Section 3.7 of the Development Agreement relating to the Sports Centre Project requires a Variations Policy to provide guidance on what changes may be made to the scope of the project post-approval by the Executive Council.

The purpose of this Variations Policy is to set out where final responsibility lies for changes to scope (including changes to quality and quantities) in the principal elements of the project.

2. Policy

Day-to-day management of the project rests with the NSC, and the NSC Project Manager will deal with minor variations, which will seek guidance from the NSC Project Board as required.

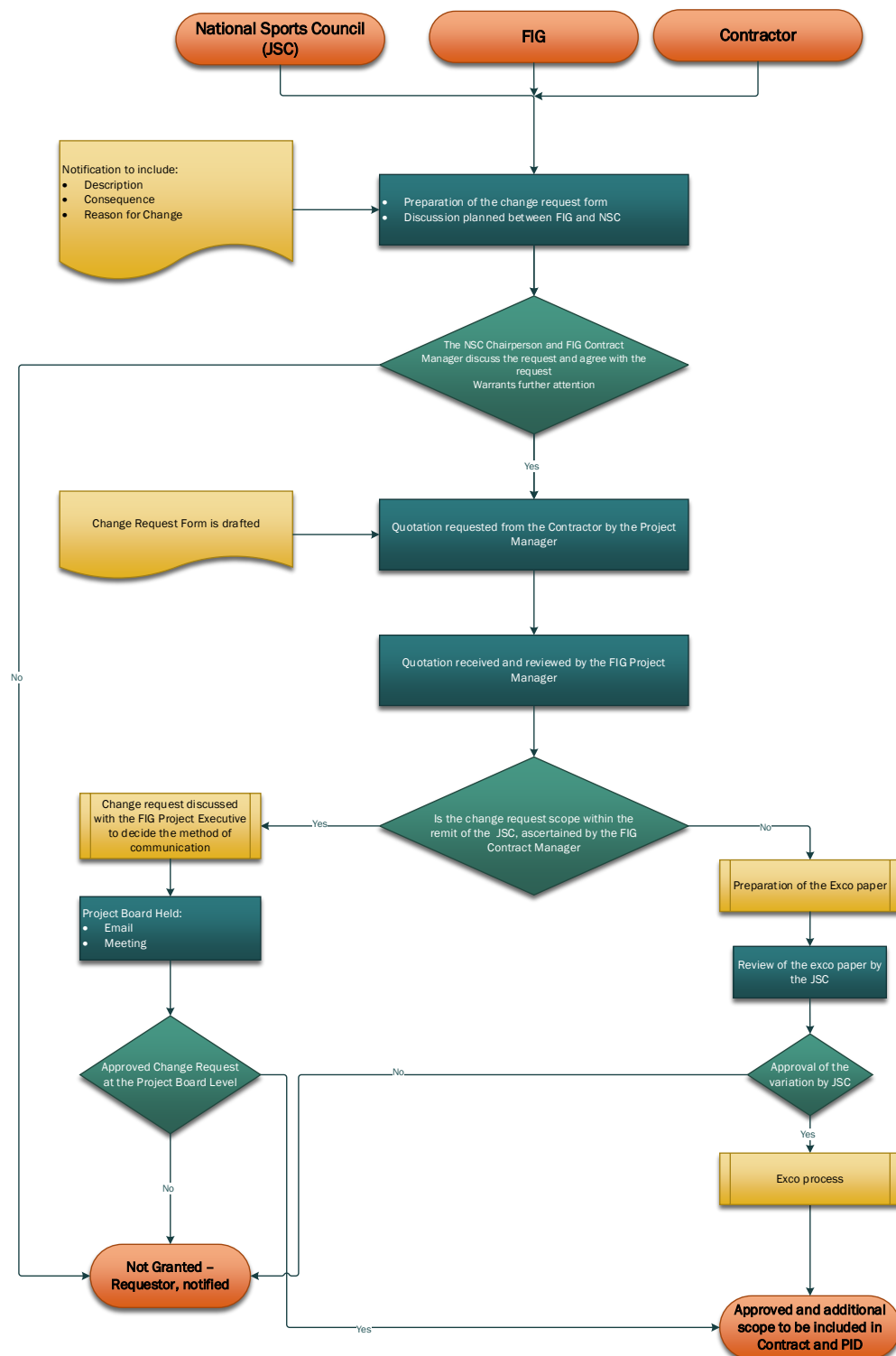
Concerning variations from the agreed Concept Design approved by ExCo outside of the Project Managers' authority, the policy is that all requests to vary the design would need to be managed initially through the Joint Steering Committee (JSC). If the FIG JSC members feel that additional authority is required in relation to agreeing to variations, then there may be a need for escalation to the FIG Chief Executive.

If the variation materially affects the project's ability to achieve the deliverables defined at the Concept Design stage, there would be a need to go back to ExCo.

The process by which the variation requests to FIG will be dealt with is outlined in the flow chart in Appendix 1

In practice, and once the construction work has started on-site, there will be a need to try and resolve requests regarding variations promptly to reduce costs associated with standing time for the contractor(s) on-site. To assist with this, Appendix 2 presents tolerances for areas where it is envisaged that a decision from the JSC re approving a variation may be needed.

Appendix 1 – Flow describing the way in which variation requests will be handled over the course of the project



Appendix 2 - Tolerances

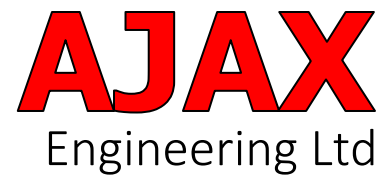
Should there be a material change to the design of the new facilities change, there would be a need to go back and to the Executive Committee.

Areas that could be considered to be material variations and would require Exco approval would include:

- The overall projected price for the agreed scope exceeds £3 million
- Any material variation from what was agreed by Executive Council

Areas that could be considered to be topics that would require variations which will need to be agreed upon by JSC:

- The JSC will deal with all other variations.



SITE REPORT Old Rugby Field

Report on adequacy of the selected site for the proposed facilities

Report produced for National Sports Council

Project Ref: 20105 | Rev: 01 | Date: May 2021

Document Control Sheet

Project Name: NSC – New Sports Facility
Project ref: 20105
Report Title: Report on adequacy of selected for the proposed new facilities
Document Ref: R01/rev01
Date: May 2021

	Name	Position	Signature	Date
Prepared by:	Mark Gilbert	Structural Engineer	M. I. Culbert	05.05.21

Revision	Date	Description	Prepared	Reviewed	Signed
01	01.09.2021	FIC Land to north removed	MG	MS	M. I. Culbert
02	11.01.2022	Results of preliminary groundworks added	MG	MS	M. I. Culbert

Ajax Engineering Ltd disclaims any responsibility to the Client and others in respect of any matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the Client and generally in accordance with the appropriate ACE Agreement and taking account of the manpower, resources, investigations and testing devoted to it by agreement with the Client. This report is confidential to the Client and Ajax Engineering Ltd accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

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1.0 INTRODUCTION

In April 2021 Ajax Engineering Ltd were commissioned by National Sports Council (NSC) to undertake project Engineering Services for the proposed new sports facilities to be located at the site known as 'The Old Rugby Pitch' (See Appendix I – Location Plan).

As part of the Agreement between the NSC and the Falkland Islands Government (FIG), a site report was required to investigate the existing state and condition of the proposed site and develop a site plan, with the aim to report in writing whether the proposed development area is suitable and fit for the construction of the facilities in accordance with the project requirements and applicable legal requirements.

2.0 THE SITE

The proposed location for the new sports facility is located to the south of dairy paddock road, on the south side of the bypass. It is bound by '10 Acres' to the west and private undeveloped land to the east. The site is locally referred to as the 'old rugby pitch' and is currently crown land, utilised by horse owners for seasonal grazing and the Stanley community for recreational purposes.

Access to the site is via a narrow, fenced strip of land with a gravel track from the Bypass Road, leading through the site from north to south. The western half of the site was used as a rugby pitch during the 1980's and 1990's and anecdotal evidence would suggest that this same area was utilised as vegetable plots by the British forces during the second world war. The eastern half of the site has a gravel road leading through from north to south, but otherwise appears undeveloped.



Figure 1: Looking north east across the site.

3.0 GROUND INVESTIGATION

A ground Investigation was undertaken by Arch Henderson LLP, between the 15th and 19th January 2018 and included the location, excavation and logging of 49 mechanical excavator trial pits using a Hitachi Zaxis 130LCN excavator. The location of the trial pits were placed on a 40m grid across the full site, with some adjustments made to ensure effective coverage of the site was achieved (See Appendix II – Trial Pit Locations).

No contamination testing was requested by the client and as such no samples were taken. Further, all trial pit logs are based on visual field descriptions only as no samples were taken for laboratory verification.

A topographic survey of the site was undertaken using Leica Viva GS15 GPS equipment and a site plan produced, to which we have added the trial pit location. The co-ordinate system is based on the Falkland Islands local grid as established by the PWD Survey Office (See Appendix III – Topographic Survey Plan).

A summary of the site results from the ground Investigation are summarised and presented in Appendix IV.

The site can be divided between west and east. The west of the site is defined as a general rectangle from a north south line between TP02 and TP46. The east of the site is a rectangle east of the line defined by TP07 southward to TP45.

The western site ranges in height from approximately 46m above sea level, sloping downhill north west to 42m. The eastern site ranges from 50m in the east to 47m in the west and has less of a pronounced slope. The topographic survey is seen in Appendix II.

The upper horizon across the site consists of a black brown topsoil with roots and ranges in depth from 0.10m in TP08 to 0.45m in TP46. Beneath the topsoil and fill lies the fairly typical quaternary successions of sub soils for the Stanley area.

The fill is seen beneath the topsoil as reworked topsoil, reworked clay, cobbles and boulders, and maybe related to the construction of the access track network or localised historical access for Stanley residents utilising these tracks. It is believed that these tracks were used to access the numerous peat banks to the south of the site.

The quaternary successions consist of upper horizons of brown, grey, occasionally mottled orange, soft to firm, sandy clays with varying degrees of cobbles and boulders.

At depth the horizons change to a stiff grey and grey/blue sandy silty clay with cobbles and boulders, which at some locations becomes 'very stiff' in strength.

This horizon normally sits directly on the weathered rock head (in places, residual soil) of the Stanley quartzite, which is exposed and ripped as large angular cobbles and boulder sized,

remains. The horizon of weathering and ripping (with this type of excavator) is usually approximately 0.50m.

Interestingly for this site, in some of the western trial pits (TP's 13, 21, 25, 27, 31, 34, 35, 36, 37, 38, 44, 45, 46 & 47) the lower horizon of stiff clay sits directly on a loose gravelly sand with many well rounded cobbles and boulders, and could be related to an old river/water course. This assumption can be based on the broadly sloping 'valley sides' which characterise the west side of the site.

Limited ground water was also encountered beneath the site (TP's 18, 19, 21, 29, 34, 36). It is expected that if the pits had remained open for a longer period, that water may be seen at depth at other locations. It should be noted that these trial pits have been excavated at the height of the Falklands Summer.

Bulk earth works as undertaken in December 2021, revealed fairly uniform sub-soils across the sites local to the pitch area and building. No large outcrops of rock were exposed and as such, these works have eliminated/reduced the risks associated with excavation of the groundworks.

4.0 DISCUSSION

This large site has the potential, if correctly managed, to fulfil the needs of the sports facilities in addition to associated infrastructure and buildings. All design disciplines should be involved with the final layout/plan.

In terms of sub-soils, the ground sequences as exposed, with associated earth works and site levelling, should be capable of supporting the proposed use.

All peaty topsoil will need to be removed and stored on site as this will be a valuable resource for the final landscaping and indeed natural grass coverage (if needed).

All soft clays and fill across the site should also be removed as these may impede site works due to poor bearing capacity (less than 50kN/m²) and 'trafficability'.

The firm to stiff clays should be an ideal founding horizon with anticipated bearing strengths of 100 – 125 kN/m² - although it is imperative that during works these are covered and kept dry as the levelling and earthworks progress. These clays will be ideal for standard footing for buildings, in addition to the dense weathered and non-weathered rock at depth. This underlying bedrock will have an anticipated safe bearing capacity in excess of 200 kN/m². Bearing capacities given are indicative based on experience of material described. This information is not warranted and anybody relying on this information should satisfy themselves of its validity.

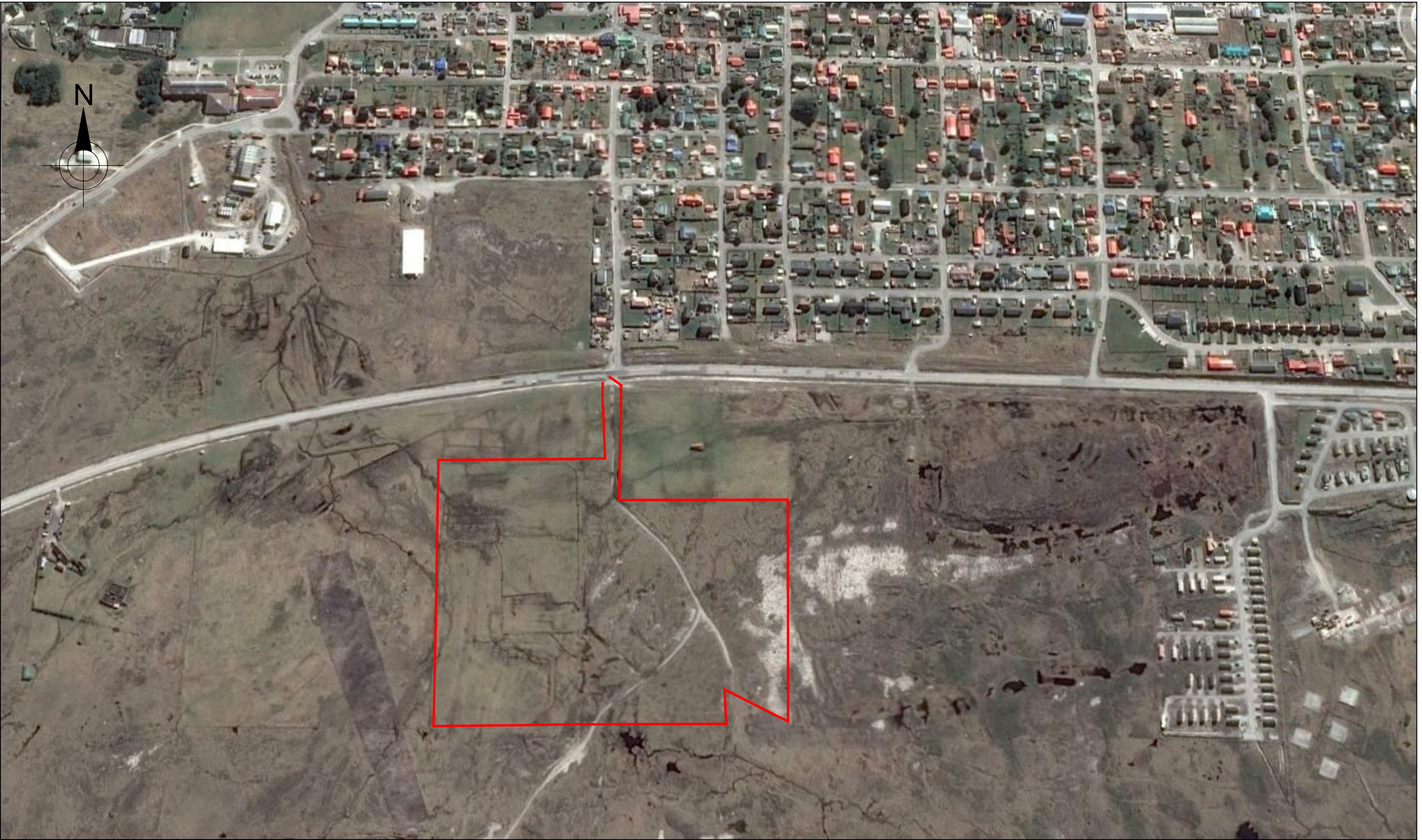
In areas of the 'lower' loose sand horizons, additional geotechnical calculations will be needed to ensure there is no differential settlement of the stronger material overlying the weaker loose sand at depth.

Similar comments apply to the construction of the access roads and car parks. It is recommended that the upper topsoil, fill and softer clays are removed to expose the competent sub-soils at depth.

Drainage will be a key part of the design. All materials with the exception of the competent rock are easily excavated. The cohesive nature will not be ideal for natural soakaways/attenuation. As such, drainage will require diversions to the underlying sands or away from the site to the north or south. The south is preferable due to existing Stanley drainage being at times overloaded to the north.

Initially it is recommended to investigate the areas where the least cut and fill will be required to achieve the desired level surfaces, with its associated cost benefits. Analysis of the subsoil reworking and quantities will form the basis of the preliminary costs.

Appendix I – Site Plan



Reflections Building, Dean Street, Stanley, Falkland Islands
Tel : (500) 22232 - Mobile : +(500) 54232
www.archhenderson.co.uk - email : arch.henderson@horizon.co.fk
SCALE: NTS
Offices in : Aberdeen, Dundee, Falkland Islands, Glasgow, Lerwick, Stromness and Thurso

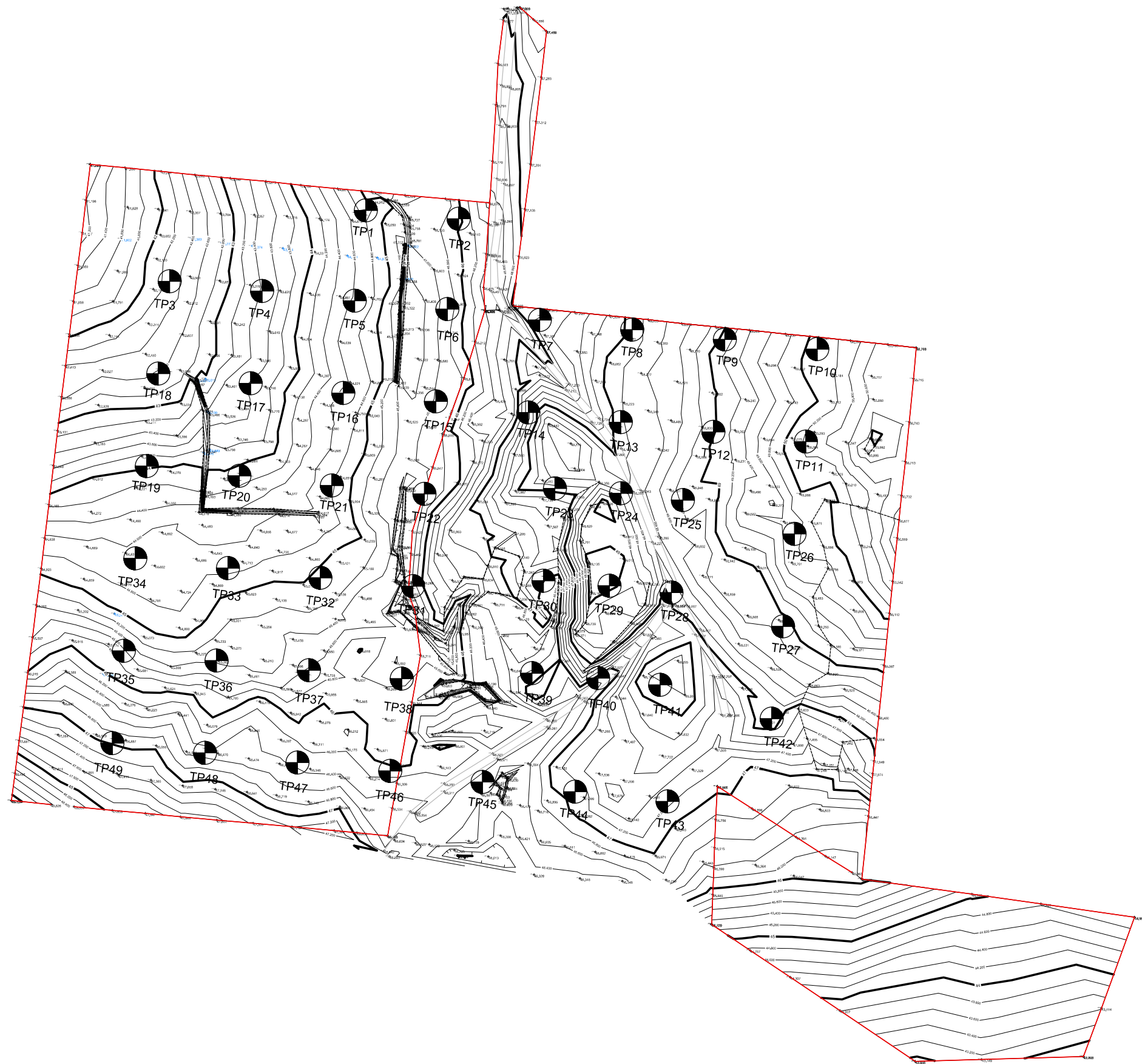
Civil Engineers
Structural Engineers
Architects
CDM Co-ordinators
Geotechnical services
Environmental services

NOTES :

PROJECT :	FALKLAND ISLANDS GOVERNMENT ALL WEATHER SPORTS SURFACE		DRAWN :	DRP	DATE :	30.01.2018
			CHECKED :	MIG	DATE :	30.01.2018
	TITLE :		LOCATION PLAN		SCALE : (A3)	NTS
					DRAWING STATUS :	INFORMATION
DRAWING No :		179022-LCP		REV :	-	

REV	DATE	REVISION	DRN	CHK
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Appendix II – Trial Pit Locations



NOTES :

**Arch
Henderson**
1919

Reflections Building, Dean Street, Stanley, Falkland Islands
Tel : (500) 22232 - Mobile : +(500) 54232
www.archhenderson.co.uk - email : arch.henderson@horizon.co.fk

SCALE: NTS

Offices in : Aberdeen, Dundee, Falkland Islands, Glasgow, Lerwick, Stromness and Thurso

Civil Engineers
Structural Engineers
Architects
CDM Co-ordinators
Geotechnical services
Environmental services

REV

DATE

REVISION

DRN

CHK

PROJECT :		DRAWN :	DATE :
FALKLAND ISLANDS GOVERNMENT ALL WEATHER SPORTS SURFACE		DRP	30.01.2018
TITLE :		CHECKED :	DATE :
TRIAL PIT LOCATIONS		MIG	30.01.2018
SCALE : (A3)		NTS	
DRAWING STATUS :		INFORMATION	
DRAWING No :		REV :	-
179022-TPL			

Appendix III – Topographic Survey Plan

Appendix IV – Summary of Ground Investigation Results

[illegible]

LOCATION	TP19	TP20	TP21	TP22	TP23	TP24	TP25	TP26	TP27	TP28	TP29	TP30	TP31	TP32	TP33	TP34	TP35	TP36
LEVEL	44.01	44.06	44.76	45.62	48.42	48.60	48.77	49.73	48.90	48.10	49.11	47.56	45.40	44.97	44.70	44.62	45.60	45.31
Black brown, peaty topsoil with roots	GL - 0.40	GL - 0.30	GL - 0.40	GL - 0.20		GL - 0.50	GL - 0.40	GL - 0.20		GL - 0.30	0.40 - 1.30	GL - 0.30	GL - 0.15	GL - 0.30	GL - 0.30	GL - 0.40	GL - 0.40	GL - 0.30
Soft, brown, slightly sandy silty CLAY	-	-	-	-	-	-	-	-	-	-	-	0.30 - 0.70	-	-	-	-	-	-
Soft to firm, brown grey sandy silty CLAY with angular cobbles & boulders	0.40 - 0.80	0.30 - 0.90	0.40 - 0.90	-	0.20 - 1.20	0.50 - 0.90	0.40 - 0.80	-	-	-	1.30 - 1.90	-	0.15 - 0.60	0.30 - 0.60	0.30 - 0.60	0.40 - 0.80	0.40 - 0.80	0.30 - 0.60
Loose, gravelly sand with many angular cobbles and boulders	-	-	-	-	GL - 0.20	-	-	-	GL - 0.20	0.60 - 1.10	GL - 0.90	-	-	-	-	-	-	-
Firm, blue grey, mottled orange, sandy silty CLAY, with cobbles and boulders, becoming stiff with depth	0.80 - 2.00	0.80 - 2.00		-	-	-	-	-	-	-	-	0.70 - 1.40	-	-	-	-	-	-
Firm, white grey, gravelly sandy CLAY, with many angular cobbles and boulders, becoming stiff with depth (Weathered rock head?)	-	-	-	-	-	-	-	0.20 - 0.60	-	-	-	-	-	-	-	-	-	-
Firm to stiff, blue silty sandy clay, with cobbles and many boulders, and orange sandy lenses, becoming stiffer with depth	-	-	-	-	-	-	0.80 - 1.70	-	0.20 - 0.50	-	-	-	-	0.60 - 4.00	-	-	-	-
Stiff, brown/grey, sandy silty CLAY with many angular cobbles and boulders	-	-	-	0.20 - 0.50	-	-	-	-	-	0.30 - 0.60	-	-	-	-	-	-	-	-
Stiff, grey, sandy gravelly CLAY with many angular cobbles and boulders	-	-	-	-	-	0.90 - 1.20	-	-	-	-	-	-	-	-	-	-	-	-
Stiff, grey/blue silty sandy CLAY, with many angular cobbles and boulders	2.00 - 4.00	2.00 - 4.00	0.90 - 3.10	0.50 - 1.10	1.20 - 1.60	-	-	-	-	-	1.90 - 2.30	-	0.60 - 1.40	-	0.60 - 4.00	0.80 - 2.20	0.80 - 2.30	0.60 - 1.90
Very stiff, mottled orange/red, sandy silty CLAY, with many angular cobbles and boulders	-	-	3.10 - 3.30	-	-	1.20 - 1.30	-	-	-	-	-	-	-	-	-	-	-	-
Loose, becoming medium dense, grey white, slightly silty, very gravelly SAND, with rounded cobbles and boulders	-	-	3.30 - 4.00	-	-	-	1.70 - 2.20	-	0.50 - 1.10	-	-	-	-	-	-	2.20 - 4.00	2.30 - 4.00	1.90 - 3.90
Loose, becoming medium dense, orange white, slightly silty, very gravelly SAND, with rounded cobbles and boulders	-	-	-	-	-	-	-	-	-	-	-	-	1.40 - 2.70	-	-	-	-	-
Medium dense to dense, orange brown, slightly sandy, very gravelly sand, with cobbles and boulders	-	-	-	-	-	-	-	-	1.10 - 1.70	-	-	-	-	-	-	-	-	-
Dense to very dense weathered rock head	-	-	-	-	1.60 - 1.70	-	2.20 - 2.50	-	-	-	-	-	-	-	-	-	-	-
Rock head	-	-	4.00	1.10	1.70	1.30	2.50	0.60	1.70	1.10	2.30	1.40	-	-	-	-	-	-
GROUNDWATER	3.70	-	3.20		-	-	-	-	-	-	1.30	-	-	-	-	3.20	-	accumulating

[illegible]



Sports Complex

Governance Strategy

1. Introduction.

The Sports Complex project is to design, procure and build an All-Weather Sports Pitch and a Multi-Use Indoor Sports Hall on the old rugby pitch site in Stanley. The project is being carried out by the NSC on behalf of the Falkland Islands Government under an Agreement dated 27th April 2021 (the Agreement).

2. Project Background.

- i. Timescale. The project will commence on signature of the Agreement between FIG and NSC which governs the project (27th April 2021). There are no identified constraints on timescale. Completion should be the earliest possible achievable date. No cost premium should be considered for speed.
- ii. Budget. There is a fixed budget of £3 million to complete all phases of the project. FI NSC can, at its own discretion, raise further funds if it so wishes. There is a cap of £100k on professional services up to concept design stage.
- iii. Site. The site has been allocated by FIG on the old rugby pitch off the Bypass Road. It is a greenfield site to which there are no access constraints. No planning application has yet been submitted, but the area is allocated in the Stanley Town Plan for sport and leisure development. There is easy access to the site; services will need to be provided from nearby connections. A number of test holes have previously been dug to test the ground; it is thought to be easy to develop.
- iv. Governance. There is an NSC Project Board, which works on behalf of the NSC Board and the NSC Council, which is responsible to deliver the project. It may refer any matter to the Board for approval, and must refer the final scope at Concept Design to the Council for approval. The project oversight function for FIG is exercised by the Joint Steering Committee (JSC) established under the Agreement.

3. Powers & Duties of the NSC Project Board

The NSC has delegated to the Project Board all the necessary powers and duties to ensure the successful completion of the project, such powers and duties to include:

- (a) Represent the NSC in relation to the Agreement and liaise with FIG and any other parties accordingly, including meeting with the JSC.
- (b) Appoint a Project Manager, and contract professional services to assist delivery of the project in accordance with the Agreement.
- (c) Present any proposed or revised concept design and costings for the project to the NSC Council for approval prior to submission to FIG for review and approval.
- (d) Devise a suitable Site Plan, Site Report, Concept Design, Construction Programme, Costs Plan, Procurement Strategy, Communications Management Policy, Risk Management Policy and Variations Tolerance Policy for the Project in accordance with the Agreement.
- (e) Agree with the JSC the final content of all of the above documents for presentation to ExCo.
- (f) Ensure that all procurement is undertaken within the terms of the Procurement Strategy. Any individual procurement (or linked group of procurements) valued over £50k must receive formal sign off from the NSC Board.
- (g) Oversee Detailed Design to ensure it fulfils the requirements of the Agreement and that the project remains within budget.
- (h) Place contracts for the procurement and construction works, and oversee its efficient and timely completion.
- (i) Act as the formal point of contact for all third-party contractors or consultants engaged in the delivery of the project.
- (j) Regularly review and update the project content, quality, programme and budget to ensure they remain within agreed parameters.
- (k) Establish and maintain a Risk Register for the project and update the NSC Board of any material changes in the Risk Register.
- (l) On completion hand over to FIG all project documentation in accordance with the Agreement.

The Project Board must, at all times, follow the principles, requirements and conditions of the Agreement.

4. NSC Project Board Membership

The membership of the NSC Project Board are appointed by the Board from time to time. The initial appointments are:

- 4.1 NSC Chair – Mike Summers
- 4.2 NSC Vice-Chair – Andy Brownlee
- 4.3 NSC Treasurer – Sharon Gilbert
- 4.4 NSC Male Athlete Representative – Colin Summers

5. Powers & Duties of the Joint Steering Committee.

The Agreement sets out the powers and responsibilities of the JSC formed under its terms. These are to:

5.1 Review the draft Concept Design, the Outline Specification, the proposed Development Area as set out in the draft Site Plan, the Site Report, the Construction Programme, the Costs Plan, the Procurement Strategy, the Communications Management Policy, the Risk Management Policy and the Variations Tolerance Policy submitted by NSC; consider whether they are fit to be submitted to ExCo; request such amendments as it thinks fit for such purpose; and, subject thereto, confirm that the same may be submitted to ExCo.

5.2 Review the draft Designs and Specifications submitted by NSC; consider whether they are suitable and fit for the purposes of the Construction Programme; request such amendments as it thinks fit for such purpose; and, subject thereto, confirm its approval;

5.3 Review the draft designs and plans for the foundations of the Facilities submitted by NSC; consider whether they are suitable and fit for the purposes of the Construction Programme; request such amendments thereto as it thinks fit for such purpose; and, subject thereto, confirm its approval of the same;

5.4 Receive reports from NSC at two monthly intervals, in accordance with the Agreement and make recommendations to NSC concerning any actions to be taken with respect to those reports;

5.5 Review the Procurement Strategy with respect to the Project, and the procurement exercises undertaken by NSC against the Procurement Strategy, the Procurement Principles and best market practice;

5.6 Review NSC's management of the Project against best project management practice (as specified by the Association of Project Management from time to time);

5.7 Review any variations to the Project Requirements referred to it for approval in accordance with the Agreement and the Variations Tolerance Policy; consider whether it is appropriate to adopt the same; request such amendments thereto as it thinks fit; and, subject thereto, confirm its approval of the same;

5.8 Consider such other aspects of the Project as it shall think fit or as may be requested by FIG; and make whatever recommendations to the Parties it deems appropriate on any area within its remit where action or improvement is needed;

5.9 Raise with either Party any issues arising from the above or in respect of the Project generally, and request such information from either Party, and/or take such steps, as it thinks fit to address any such issues;

5.10 As necessary, consult, work and liaise with NSC, any departments and directorates of FIG, and/or such other parties as it thinks fit, in the review, assessment and the on-going monitoring of the Project;

5.11 Regularly review its own structure, terms of reference, size and composition to ensure it is operating at maximum effectiveness, and make recommendations to FIG for approval with regard to any changes, or the appointment of additional or alternative JSC Members, it considers necessary; and

5.12 Keep up-to-date and fully informed about strategic issues and commercial changes affecting or which might affect the Project.

6. JSC Membership

The membership of the JSC shall comprise the following FIG officers (or, in each case, their respective appointed representatives) and/or such other FIG Personnel as FIG may specify in writing from time to time (together, the **JSC Members**):-

- 6.1 Financial Secretary;
 - 6.2 Director and Deputy Director of FIG's Development and Commercial Services Directorate;
 - 6.3 Head of Procurement;
 - 6.4 Deputy Director of FIG's Public Works Department; and
 - 6.5 FIG Contract Manager.
7. The following NSC officers (or, in each case, their respective appointed representatives) (together the **NSC Officers**) shall be entitled to (and/or such other Personnel of NSC as FIG may reasonably require in writing from time to time shall) attend meetings of the JSC:-
- 7.1 NSC's Chair (Mike Summers);
 - 7.2 the Chair of NSC's project management board (if different);
 - 7.3 NSC's Project accountant (Sharon Gilbert); and
 - 7.4 NSC Project Manager (John Hammerton),

Provided that all such NSC Officers and any other NSC Personnel who shall attend meetings of the JSC shall do so in an advisory capacity only, and shall not be entitled to participate in the decision-making of the JSC or the quorum for its meetings.

8. The JSC shall be administered in accordance with the terms of the Agreement.

MVS
V1 2/6/21
Amended 4/8/21