DATED 2010

BARNSLEY METROPOLITAN BOROUGH COUNCIL

and

THE GOVERNING BODY OF PENISTONE ADVANCE LEARNING CENTRE

A G R E E M E N T

PENISTONE ADVANCED LEARNING CENTRE

A C Frosdick, LLB, DipLG
Borough Secretary
Town Hall
Barnsley
S70 2TA

THIS AGREEMENT is between BARNSLEY METROPOLITAN BOROUGH COUNCIL and THE GOVERNING BODY OF PENISTONE ADVANCED LEARNING CENTRE .

Background

(a) The Governing Body is the duly constituted Governing Body of the new Advanced Learning Centre and has the power to enter into contracts by virtue of the Education Act 2002.

(b) The school is in an area in respect of which the Authority is the Children's Services Authority.

(c) This agreement has been entered into in compliance with the requirements of the Planning Condition [ ] dated.

The Governing Body and the Authority have agreed that it is in the interests of the school to enter into this Agreement and that the Governing Body undertakes to carry out the functions set out herein.

It is agreed as follows:-

Definitions and Interpretations

1.1 In this Agreement the following words and phrases shall unless the context otherwise requires have the following meanings:-

"Advanced Learning Centre" means the premises situate at [ ] delineated in red on the Plan at Schedule [].

"Authorised ALC Officer" means the School Headteacher or such other person as the school may nominate in writing to the Parties to act on behalf of the Advanced Learning Centre.

"Authorised Authority Officer" means the BSF Programme Manager or such other person as the Authority may nominate in writing to the Parties to the act on the Authority's behalf.

"Authorised Contract Officer" means the Chief Executive or such other person as the Contractor may nominate in writing to the Parties to act on the Contractor's behalf.

"Authorised Governing Body Officer" means the Chair of Governors or such other person as nominated in writing to the Parties to act on behalf of the Governing Body.

"BLEP" Barnsley Local Education Partnership Limited.

"Commencement Date" means the date upon which this Agreement is executed.

"Community Use Period" being the period of time when the ALC facilities are not being used for the core school curriculum purposes.

"Core Hours" as defined within the Governor's Agreement at Schedule [ ].

"ECJ" European Court of Justice.

"Facilities Management" means the services provided by the Facilities Management Team

"**Facilities Management Team**" means the personnel from John Laing Infrastructure Limited or any third party notified to the Parties from time to time.

"Governor Related Party" as defined within the Governors' Agreement.

"ICT Contractor" shall mean Bull TCL and Civica or any other subsequent contractor who may be appointed from time to time.

"Initial Term" means the period from the commencement date until the expiry of this Agreement

"Leisure Operations" means the provision of the sporting functions as defined within Schedule 1 and as provided in accordance with the Corporate Sports Development Plan.

"**LEP**" Local Education Partnership.

"Opening Time" means the time when the building is open to the Parties to prepare for the Community Use Period and or other operational requirements.

"Requirements" may mean but it is not limited to use by the Parties to hold meetings, discussion forums to monitor performance to check facilities and to carry out necessary repairs and installations as agreed between the Parties and the Facilities Management Team

"Priority Groups" means persons falling within the following categories: -

Age 16 and under

Age 45 and over

Girls and Women

Lower Socio Economic Groups

Minority Groups

People with Disabilitie

"Regulations" means all legislation, Health & Safety Regulations, Statutory Codes and Practices, Authority and Facilities Management Team Policies in force or coming into force from time to time.

"Reporting Periods" means monthly quarterly and annual reporting processes as required and determined between the Parties.

"Sports Development Programme" as agreed between the Parties.

"Sport England Requirements" means the implementation and continuing Authority and Governors' obligation to ensure that each ALC serving individual communities operates its sporting provision in accordance with the principles set out herein.

"TEU" Treaty of the European Union.

"Users" shall mean all persons entering onto and egressing from the Leisure Suite and parts of the ALC from which they need to pass to go about their lawful purpose.

Aims and Objectives

(1) The Authority in conjunction with the Governing Body has as its mission the working together to enrich lives through enjoyable sport and leisure choices for all. Its strategic aims are to work towards improving the quality of sporting and physical activities provided within the Borough whilst engaging

with local communities, young people and other target groups to develop and encourage health and well-being throughout the Borough of Barnsley. In furtherance of their aims and objectives the Authority and the Governors, in conjunction with Sport England and the ALC, wish to promote community use of the sports facilities at the ALC, to encourage more people to participate in and succeed in sport and to bring about more active and successful sporting communities.

(2) The Governing Body of the ALC as the body primarily responsible for the control of the use of the ALC premises during the core hours, as defined within the Governors' Agreement, attached hereto at Schedule [ ], between the Governors and the Authority dated [ ], wishes to enter into this Agreement along with the Authority in order to make the ALC sports facilities available when their use is not required by the ALC for use by the local community. Further, the Authority and the Governing Body wish to increase and improve the quality of sporting opportunities, not only for the pupils of the school, but also for the wider community groups.

1. **Interpretation**

1.1 The Clause headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

1.2 Any Schedule to this Agreement shall have effect as it is set out within this Agreement.

1.3 Where the context requires singular, it shall also include the plural and vice versa and a reference to the male gender shall also include the female gender and vice versa.

1.4 An obligation not to do any matter or thing includes an obligation not to cause or to commit the doing of such act, matter or thing by anyone directly or indirectly under the Governors' control.

1.5 Unless expressly stated to the contrary, any reference to a specific statute or statutes generally include that any statutory extension or modification, amendment or re-enactment of it or them and any regulations or orders made under it or them.

2. Commencement and Duration of the Contract

The Term of the Agreement

2.1. This Agreement shall come into force on the first day of the opening of the ALC.

3. Authority Obligation

3.1 Notwithstanding that The Authority owes obligations to the Governors and to BLEP in accordance with Project Documents; to the extent that these obligations are relevant to the provision of the community use function as set out herein and without prejudice to the Authority's obligations in accordance with the Governors Agreement and Project Documents the Authority undertakes to perform its obligations in a timely manner and with due regard to the interests of the ALC and the Governing Body.

3.2 The Authority shall use its reasonable endeavours to ensure that Sport England Requirements are met and shall assist all parties where in the opinion of the Authority it is appropriate to do so in achieving the aims and objectives of this Agreement.

4. Obligation of Governors

4.1 The Governors acknowledge that in relation to their ALC a planning condition has been imposed upon the Authority to have in place a Sporting Community Use Agreement which requires the Authority and the Governors to enter into an Agreement to commit to pro-actively managing the Sporting Community Use area within each ALC for the wider public and community benefit. This Agreement must be entered into prior to the opening of the ALC.

4.2 The Governors shall ensure that their ALC has complied with this planning obligation and continues to comply with the condition on an on-going basis.

4.3 The Governors in conjunction with the discussions with their head teachers and business managers have options in how they wish to perform this obligation and this should be discussed with the Authority in the first instance.

4.4 The options include:-

4.4.1 Employing directly a Sports Manager or such other named person to perform the functions required as set as an example list in Schedule 1 and as

determined from time to time by the Sporting Development Plan. Such employee will be required to achieve set targets and provide such reports as appropriate to the position and determined by the ALC but which should provide for Priority Groups and charged in accordance with the Pricing Policy as determined from time to time by the ALC, its business manager(s) and the Authority to ensure a fair system of pay and play and continued use of the Passport to Leisure Scheme.

4.4.2 To procure a management company or a Joint Venture arrangement to perform all or some of the functions, the list of which is not exhaustive as set out in the attached schedule 1 and as agreed between the Authority and the Governors in compliance with the wider corporate Sports Development Plan. Such procurement must be in accordance with the Public Contracts Regulations 2006 and wider Treaty of the European Union and any contractor must enter into the attached contract at schedule [ ] or as varied during the procurement process as agreed between the Authority, the Governors and Sport England

5. Insurance

5.1 The Governors shall in accordance with the Governors Agreement ensure that in the case where the Governors procure a third party contractor to perform the function of the operation and management of the Community use provision, that sufficient and appropriate insurance cover is provided to protect the insurable interests of all stakeholders to the ALC.

5.2 That where appropriate the Authority and or Governors are named as co-insured.

6. Licences

6.1 The Governors shall ensure that all appropriate licences are obtained by either the appropriate employee or the procured contractor to enable the lawful carrying out of the sporting provision and community use activity. The Authority shall not be liable for any fees or costs associated with the obtaining of such licences.

6.2 The Governors shall ensure that all licence requirements in terms of copyright restrictions are adhered to by the Users and that no liability shall pass to the Authority in the case of any breach howsoever arising of such terms.

7. Liability

7.1 The Governors are obligated in accordance with the Governors Agreement in relation to damage to the facilities and confirm their compliance with this provision; in addition to that obligation by virtue of this clause the Governors shall ensure that any employee or procured third party contractor are made aware of this provision and are given the appropriate reporting mechanisms to fulfil the obligations set out in the Governors Agreement.

8. General Provision

8.1 The Governors and Stakeholders to this Agreement shall if necessary hold meetings as appropriate to discuss the progress and development of the Agreement and Sporting provision generally. All notices calling for such meetings shall be provided to the authorised officers as set out within the definitions to this agreement. Alternative nominate officers may attend in place of those prescribed on written notice to all other parties.

8.2 Any disputes arising from this Agreement shall be dealt with in accordance with the Governors Agreement as appended hereto.

8.3 The Governing Body shall co-operate with the Authority in providing such information as necessary to produce appropriate reports for Sport England as required.

8.4 This Agreement may be varied by the Parties, such variation to be in writing and signed as a Deed by the parties before the variation is deemed to be effective.

8.5 The parties shall liaise with Sport England prior to any such variation to this Agreement and in the case of a procurement of a third party contractor, any variation to the terms of that agreement shall also be with liaison with Sport England.

8.6 Nothing in this Agreement is intended to bind any party other than the parties to this Agreement and the Contract Rights of Third parties Act shall not be applicable in this instance.

EXECUTED as a DEED by the Parties hereto the day and year first above written.

THE COMMON SEAL OF)

BARNSLEY METROPOLITAN)

BOROUGH COUNCIL was affixed)

hereunder in the presence of:)

Borough Secretary/
Authorised Signatory

EXECUTED as a DEED on behalf of the Governing Body of the new ALC

SIGNED AS A DEED ON BEHALF OF)

THE PENISTONE ALC GOVERNING BODY)

SIGNED)

hereunder in the presence of witness:)

SCHEDULE 1– LEISURE OPERATIONS

The List contained herein is not exhaustive or intended to be limiting and must include the Corporate Sports Development Plan-

- Racket Games - Tennis, Badminton, Squash, Table Tennis
- Ball Games - Football 5 a-side
  Football Local league
  Rugby
  Netball
  Basketball
  Volleyball
  Hockey
  Cricket
  Rounders
- Karate, Judo, Tai Chi, Yoga, Pilates, Tae Kwan Do
- Gym, Aerobics, Step Classes, other exercise classes, ie Skipping, Boxercise, LBT
- Dance, Zumba
- Archery, Field and Track
- Running Clubs
- Health and Fitness Suite - Weight Training
  Cardio Vascular

and consideration to be given to Seminars on ranges of topics from Health and Fitness, Improvement in the Community, Raising Awareness and Coaching and Leadership courses, Yoga Training Courses.

SCHEDULE 2 - LEISURE PROPERTY

[Plan edged red for each ALC location showing areas of access and egress and other areas which will need to be used - toilets, kitchens, etc.]

SCHEDULE 3 –
Governors Agreement