

THIS AGREEMENT is dated xxxx 2022

BETWEEN:

(1) Bedwas Community Rugby Ltd
CASC Registration Number (the "**CASC**")

and

(2) Bedwas Rugby (2022) Ltd
Company Registration Number [] (the "Subsidiary")

BACKGROUND

- (A) The Subsidiary is a commercial company wholly owned by the CASC and exists to raise funds for the CASC to use for the provision of facilities for, and the promotion of participation, in rugby football.
- (B) The Subsidiary and the CASC wish to define and agree the framework within which dealings between them shall be carried on including the use of property belonging to the CASC and the sharing of resources between the CASC and the Subsidiary.
- (C) The income that is derived from, and goes to the CASC, and the income that is derived from, and goes to the Subsidiary, is set out in the Schedule of Income Generating Activities at the end of this Agreement.

IT IS HEREBY AGREED AS FOLLOWS:

1. **DEFINITIONS**

In this agreement the following words and phrases shall have the following meanings (unless the context otherwise requires):

"Activity/ies"	means all activities of the Subsidiary;
"Best Use"	means a use of the Name, Logo(s), Data and Rights which: <ul style="list-style-type: none">(a) does not damage or conflict with, or threaten to damage or conflict with, the good name and reputation of the CASC;(b) does not cause or threaten reasonable objection by a significant number or group of members of the CASC or by its board;(c) does not conflict with or threaten to conflict with the objects and/or policies of the CASC from time to time; and(d) (within the above constraints) maximises the direct and indirect benefits to the CASC;
"Costs"	means the costs of all staff (including catering staff), premises, bar related costs, facilities, equipment and other costs in connections with the Activities.

"Data"

means all data owned by the CASC and/or the Subsidiary relating to the names and addresses and other details of members/supporters/customers of the CASC and/or the

	Subsidiary;
"DPA"	means the Data Protection Act 1998 (and any re-enactment or amendment);
"Logo"	means any logo(s) of the CASC from time to time;
"Name"	means Bedwas Community Rugby
"Rights"	means all intellectual property rights, including without limitation copyright, trade mark and database rights and any other intellectual property rights whether registered or not, which are owned or used by the CASC from time to time and which the CASC is entitled to license to the Subsidiary, other than rights to in relation to the Name, Logo and Data granted pursuant to this agreement.

2. **ACTIVITIES**

- 2.1. Every Activity shall be within the scope of this agreement and shall (so far as capable of so doing) be subject to its terms and conditions save only to the extent the CASC and the Subsidiary expressly agree in writing to the contrary.
- 2.2. The Subsidiary shall obtain the prior written approval of the CASC for:
 - (a) the employment of any staff by the Subsidiary;
 - (b) any material change to the Activities of the Subsidiary;
 - (c) any material change to the goods or services provided by the Subsidiary;
 - (d) any material changes to the suppliers or contractors used by the Subsidiary; and/or
 - (e) any change to the opening hours of the bar.
- 2.3. The Subsidiary shall ensure that all Activities, including the production and procurement of goods and services, shall comply with all applicable laws and regulatory requirements and standards, and with all ethical and other policies of the CASC as notified to the Subsidiary from time to time (or of which the Subsidiary should reasonably be aware) including meeting the requirements of section 62-66 of the Licensing Act 2003. For the avoidance of doubt all such policies which are in place as at the date of this agreement shall be deemed to have been notified to the Subsidiary.
- 2.4. The CASC agrees to allow the Subsidiary to use part of its premises to carry on the Activities when those premises are not required for the CASC's own purposes. The Subsidiary acknowledges that the CASC has overall control of its premises and has the ultimate decision on the use of any such part.

3. **BEST USE OF THE NAME, LOGO(S) AND RIGHTS**

- 3.1. The CASC authorises, licenses and appoints the Subsidiary as its non-exclusive licensee to make Best Use of the Name, Logo and Rights, subject to the terms of this agreement.
- 3.2. The Subsidiary may sub-license the benefit of the licence contained in this clause 3 only with the consent of the CASC, provided that any such sub-licence shall contain an obligation on the sub-licensee not to do anything which would put the Subsidiary in breach of any of its obligations under this agreement. The CASC agrees to provide appropriate support and resources to support the Subsidiary's Best Use.

4. BEST USE OF THE DATA

4.1. In so far as the Data is owned by the CASC:

- (a) the CASC authorises, licenses and appoints the Subsidiary to make Best Use of the Data in exploiting it commercially and the CASC agrees to provide appropriate support and resources to support the Subsidiary's Best Use; and
- (b) the Subsidiary undertakes to make Best Use of the Data.

4.2. The licence in 4.1(a) from the CASC to the Subsidiary shall be subject to the following provisions:

- (a) to the extent that the Subsidiary is a data controller in respect of the Data licensed to it by the CASC, it shall comply with all obligations imposed on data controllers under the DPA;
- (b) to the extent that the Subsidiary is a data processor in respect of the Data licensed to it by the CASC, it shall:
 - (i) comply with the DPA as if it was a data controller and shall not do anything which could result in the CASC breaching the DPA;
 - (ii) act only on the instructions of the CASC which shall be the data controller in respect of any such Data processed by the Subsidiary;
 - (iii) process such Data only to the extent, and in such manner, as is necessary in order to comply with its obligations under this Agreement or any service Agreement between the parties or as is required by law or by any regulatory body including but not limited to the Information Commissioner's Office;
 - (iv) ensure that it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of such Data and against accidental loss or destruction of, or damage to, such Data, which shall be of a standard at least equivalent to those of the CASC;
- (c) the Subsidiary will be responsible for accessing any data it requires and shall bear all costs and expenses incurred in connection with the accessing of Data;
- (d) the Subsidiary shall not mail, e-mail, telephone or otherwise contact those persons whose personal data is contained in the Data who have indicated that they do not wish to be so contacted; and
- (e) the Subsidiary shall to the fullest extent permitted by law permanently maintain confidentiality in respect of the Data.

4.3. The Subsidiary will not assign, license or otherwise part with the Data or any right to use the Data or any information included in the Data without the prior written consent of the CASC.

4.4. The Subsidiary authorises the CASC to exploit its Data for the purposes of the CASC, and warrants that such use will not put the CASC in breach of the DPA.

4.5. For the purposes of this agreement, "**data controller**", "**data processor**", "**personal data**", and "**processing**" shall have the meanings ascribed to them in the DPA.

5. **PROMOTIONAL LITERATURE AND COMMUNICATIONS**

- 5.1. The Subsidiary shall provide to the CASC all promotional, advertising and sales literature and other material which uses the Name and/or Logo(s) in advance of such use and the CASC shall have 30 days in which to raise objection to the same on grounds of breach of any of the provisions of this Agreement/the use of such material shall be subject to the prior written consent of the CASC.
- 5.2. Where reasonably practicable, the Subsidiary will provide the CASC with not less than seven days' advance notice of any forthcoming major mailings, communications or promotional campaigns.
- 5.3. The CASC shall be permitted to insert such information and educational or promotional literature concerning its activities in the Subsidiary's mailings and communications as it may from time to time require provided that if so requested by the Subsidiary it shall pay any reasonable additional expenses incurred in doing so.

6. **ASSIGNMENT OF OTHER RIGHTS**

All goodwill and intellectual property rights which are generated or created by the Subsidiary in the course of the Activities are hereby assigned to the CASC. Insofar any such intellectual property rights are necessary for the Subsidiary to perform its obligations under this agreement, they are hereby licensed back to the Subsidiary for the duration of, and subject to the terms of, this agreement. The Subsidiary shall promptly provide to the CASC, on its request, copies of material in which such rights subsist.

7. **COSTS**

7.1. Costs shall be paid for as follows:

1. the CASC shall not be liable to the Subsidiary in respect of the Subsidiary's use of the premises and/or the Costs which shall be paid directly by and be the sole responsibility of the Subsidiary;
2. any dispute as to the fair and proper apportionment of the liability for the Costs shall be resolved at the request of either party by the conclusive determination of a chartered accountant nominated by the accountancy company appointed by the CASC and such accountant may be employed by or be a partner of such company. The nominated accountant shall act as an expert and not as an arbitrator and may stipulate such arrangements and requirements with regard to the matter concerned as he or she may from time to time consider appropriate including the proportions in which the parties shall be liable for his or her proper fees and expenses; and
3. in relation to the Costs, the Subsidiary shall be the contracting party pursuant to the governing principle (unless there shall be good reason to the contrary in any case) that the CASC is responsible for the sporting activities of the club and the Subsidiary is responsible for Activities that generate income to be donated to the CASC for the CASC's purposes.

7.2. To the extent any charges need to be apportioned between the CASC and the Subsidiary, such as charges for cleaning of the club premises in respect of both parties' use of such, the liabilities for those charges shall be reviewed at the end of the CASC's financial year on 30th September, and appropriate charges for the following 12 months made between the CASC and the Subsidiary to reflect the agreed apportionment.

8. PAYMENT

- 8.1. The consideration payable by the Subsidiary to the CASC for the provision of support for, and the use of the:
- (a) Name and/or Logo(s);
 - (b) Rights; and
 - (c) Data,
- under the terms of this agreement shall be 5 per cent of the gross annual turnover of the Subsidiary based on the audited accounts for the Subsidiary for the financial year ending 30th September each year.
- 8.2. Consideration under clause 8.1 shall be invoiced by the CASC during October of each year.
- 8.3. The Subsidiary shall also pay an annual rental charge of £2000 plus VAT to the CASC for use of the CASC's premises for the purpose of the Activities. The rental charge will be reviewed at the beginning of each new financial year.
- 8.4. The CASC shall render to the Subsidiary the appropriate invoices for all sums due under clause 8.

9. TERMINATION

- 9.1. The CASC may terminate this agreement immediately by notice in writing if the Subsidiary does anything which in the reasonable opinion of the CASC is contrary to Best Use or is otherwise inimical to the objects of the CASC or brings or is reasonably likely to bring the Name, Logo(s) or reputation of the CASC into disrepute.
- 9.2. Either party may terminate this agreement immediately by notice in writing to the other in the event that:
- (a) the other party commits any other material breach of this agreement; or
 - (b) a resolution is passed for the voluntary or compulsory liquidation of the other party or a receiver or administrator is appointed over all or part of the other party's business or assets or any analogous action or proceeding takes place in any jurisdiction.
- 9.3. This agreement may also be terminated by either party giving to the other not less than six calendar months' notice in writing to expire at any time.
- 9.4. Termination of this agreement shall be without prejudice:
- (a) to any right or remedy of either party against the other subsisting at the time of termination and obligations as to confidentiality shall in any event continue; and
 - (b) to any contract entered into by the Subsidiary with any third party in good faith, provided that on termination of this agreement the Subsidiary shall, if required to do so by the CASC, take such steps as the CASC may direct to terminate any relevant contract, or to facilitate the transfer of the rights and obligations under any relevant contract to the CASC.

10. NO AGENCY OR PARTNERSHIP

- 10.1. The Subsidiary undertakes not to:
- (a) act as agent of the CASC,

- (b) contract with any person or entity on behalf of or in the name of the CASC,
 - (c) commit the CASC,
 - (d) in any other way make the CASC liable,
- unless it has obtained the prior written consent of the CASC.

10.2. The Subsidiary shall not contract or hold itself out as a partner or joint venturer with the CASC, unless it has obtained the prior written consent of the CASC.

10.3. The Subsidiary undertakes at all times in its public relations, promotional materials, stationery, literature and correspondence with third parties to maintain a clear separate identity to that of the CASC.

11. **ACCOUNTS AND RECORDS**

11.1. The Subsidiary shall provide the CASC with details of its Activities fully and promptly and in such manner as the CASC may from time to time reasonably require (and any dispute as to accounting and records shall be conclusively resolved by the accountancy company to the CASC for the time being) or other independent accountants nominated by the Institute of Chartered Accountants in England and Wales.

11.2. The Subsidiary will promptly following request make available to the CASC or its agents all records, papers and information in relation to the matters covered by this agreement and will allow the CASC and its agents to make copies of them.

12. **CONFIDENTIALITY**

12.1. The CASC agrees with the Subsidiary and the Subsidiary with the CASC to treat as secret and confidential and not at any time for any reason to disclose or permit to be disclosed to any person or persons or otherwise make use of or permit to be made use of any information relating to the other party's business affairs or finances (as the case may be) where knowledge or details of the information was received during the period of or in connection with this agreement.

12.2. The obligations of confidence referred to in this clause shall not apply to any confidential information which:

- (a) is in the possession of and is at the free disposal of the disclosing party or is published or is otherwise in the public domain prior to the receipt of such information by the disclosing party; or
- (b) is or becomes publicly available on a non-confidential basis through no fault of the disclosing party; or
- (c) is received in good faith by the disclosing party from a third party who on reasonable enquiry by the disclosing party claims to have no obligations of confidence to the other party in respect of it and imposes no obligations of confidence upon the disclosing party.

13. **GENERAL**

13.1. This agreement is personal as between the parties and the Subsidiary can only assign its rights and/or obligations under this agreement with the CASC's prior written consent.

13.2. No amendment or addition to this agreement shall be made unless made in writing and executed by the parties.

- 13.3. No delay, single or partial exercise or omission of either party in exercising any right under this agreement shall operate to impair such right or be construed as a waiver thereof.
- 13.4. In the event that any provision of this agreement is declared by any judicial or other competent authority to be void, voidable or illegal the remaining provisions shall continue to apply.
- 13.5. This agreement does not create any right enforceable by any person not a party to it.
- 13.6. The CASC shall not be liable for any breach of any term of this agreement which is the result of any cause beyond its reasonable control.
- 13.7. Any demand, notice or other communication by either party to the other may be delivered personally to the recipient or sent to the recipient by post or email at its address specified above (or at such other address notified by the recipient in advance). Any such notice, demand or other communication shall be deemed to have been received 24 hours after posting (where sent by first class prepaid post), immediately upon such delivery (where delivered personally) and immediately on sending (where sent by email) provided no adverse answerback is received, whether or not it is actually received.

Schedule 1

Schedule of Income Generating Activities

This Schedule outlines to which entity different types of income generating activities are allocated.

1. *Full members subscriptions*

Income generated from full member (including junior member) subscriptions will go to the CASC.

2. *Supporter members subscriptions such as Sponsors or Vice Presidents*

Income generated from supporter members (such as supporting non-participating members) subscriptions will go to the Subsidiary, whereby the supporter members are associate members of the Subsidiary under the Subsidiary's Articles of Association.³

3. *Property income*

Income generated from use of the CASC's property will go to the Subsidiary. Grants received will go to either Company depending on the source and purpose of the grant received.

4. *Bar income*

The responsibility for the CASC's alcohol committee will be delegated to the directors of the Subsidiary who will also be members of the CASC. In compliance with the Licensing Act 2003, none of the members of the alcohol committee will derive any private benefit from the supply of alcohol in their capacity as members of the alcohol committee.⁴

All bar income from full members of the CASC, any other member (such as affiliates) and non-members (such as guests and the Subsidiary's supporter members) will go to the Subsidiary provided that activities generating bar income meet the requirements of section 62-66 of the Licensing Act 2003.⁵

5. *Equipment sales*

All income generated from equipment sales will go to the Subsidiary.

6. Advertising and sponsorship

All income generated from advertising and sponsorship will go to the Subsidiary.

Signed for and on behalf of

Bedwas Community Rugby

Signature:

Name:

Role:

Date:

Signed for and on behalf of

Bedwas Rugby (2022)

Signature:

Name:

Role:

Date: