

CONSULTANCY AGREEMENT FOR COACHING SERVICE PROVIDER for Biddestone Tennis Club ("BTC")

NAME: Sam HULL (the "Coach")

ADDRESS: 2 Farmers Close, Chippenham, SN15 1UE

DATE:

WHEREAS

(A) In reliance on the Coach's skill, expertise and knowledge, BTC wishes to engage the Coach to design and deliver a coaching programme for BTC.

(B) The Coach agrees to design and deliver a coaching programme on and subject to the terms and conditions set out in this agreement and its schedules (the "Agreement").

IT IS AGREED as follows:

1. Provision of Services

BTC engages the Coach to provide the services set out in the schedule (the "Services") and the Coach agrees to provide the Services on and subject to the terms and conditions contained in this Agreement.

2. Duration of Engagement

This Agreement shall commence with effect from 1st January 2017 and shall continue for a fixed term of 1 year until 31st December 2017 subject to the terms and conditions set out in this Agreement unless terminated earlier in accordance with clause 10.

3. Coach's General Obligations

3.1 The Coach agrees and undertakes to provide the Services with all due care and diligence and in accordance with best practice and to act in the best interests of BTC at all times.

3.2 The Coach shall report to BTC who shall be responsible for monitoring the Services provided by the Coach. Following consultation with the Coach, BTC reserves the right, at any time, to require the Coach to change any aspect of the Services, as required.

3.3 The Coach agrees to attend such meetings, at such locations and at such times, as BTC shall reasonably require in connection with the Services.

3.4 The Coach agrees to maintain an office in the Coach's home or such other location as the Coach shall determine, equipped at the Coach's own expense with such resources as to enable the Coach to provide the Services to BTC.

3.5 Unless otherwise agreed with BTC, the Coach shall be responsible for supplying and maintaining, at the Coach's own expense, all equipment required in connection with the Services.

3.6 The Coach agrees to familiarise himself with the rules, policies and procedures of the Place to play from time to time existing including (without limitation) BTC complaints' procedure, its child protection policies and procedures and its equality and diversity policy.

4. Coach's Qualifications

- 4.1 The Coach shall maintain, throughout the duration of this Agreement, an unrestricted LTA Coach Licence and shall provide a copy to BTC as and when reasonably required.
- 4.2 The Coach agrees to provide BTC, or its nominee as required, with an Enhanced Disclosure from the Disclosure and Barring Service (DBS) as and when reasonably required by BTC throughout the duration of this Agreement. Each such Enhanced Disclosure must be satisfactory to BTC (acting in its absolute discretion).

5. Exclusivity Arrangements

- 5.1 The Coach shall be free to be employed by, perform work for and/or accept any engagements with any third party during the continuance of this Agreement provided the quality of the Services provided under this Agreement is not adversely affected.
- 5.2 It is agreed that for the duration of this agreement, the Coach shall have the exclusive right to provide the Coaching Service (subject to Clauses enabling the Coach to appoint assistants or replacements). BTC will use reasonable endeavors to ensure that no coaching, in return for payment, is conducted by a person or persons other than the coach unless mutually agreed.

6. Club Obligations

- 6.1 BTC shall agree with the Coach a reasonable court access to enable the Coach to deliver his services. BTC and the Coach will, in consultation with one another, devise and record a timetable setting out the resources agreed with the Coach for the purposes of those sessions.
- 6.2 BTC recognises that from time to time the Coach's requirements may change and changes to the timetable of coaching sessions referred to in 6.1 above may be required. Requests by the Coach to make such changes shall be discussed and shall not be unreasonably refused by BTC.

7. **Fees.**

- 7.1 The Coach shall be entitled to collect and retain fees paid for actual coaching (the "Coaching Fee"). If the Coach cancels a Coaching session for any reason, the Coach will provide an alternative Coaching session or reimburse the Coaching Fee.
- 7.3 The Coach shall be responsible for providing coaching schedule details and cost of Coaching sessions to BTC to enable them to be displayed on the BTC ClubSpark website.

8. Additional Obligations

- 8.1 For the purposes of this Agreement, the expression "Property" shall mean all or any property belonging to BTC which is provided to the Coach or prepared by the Coach in connection with the Services, and any confidential information belonging to BTC whether stored as part of a document or in any other medium (including electronic and digital media).
- 8.2 The Coach agrees, whenever requested by BTC and in any event on the termination of this Agreement to surrender to BTC promptly any Property in the Coach's possession, custody or control. The Coach acknowledges and agrees that, on the expiry or termination of this Agreement, the Coach shall not be entitled to retain and shall not retain any Property.
- 8.3 Save in the proper performance of the provision of the Services and subject to clause 8.4, the Coach shall not, at any time, use, copy, disclose, communicate and/or publish or enable or cause any person(s) to become aware of and/or use, copy, disclose, communicate and/or publish any confidential information belonging to BTC.
- 8.4 The obligation contained in clause 8.3 shall not apply to any information which:-

- 8.4.1 the Coach is ordered to disclose by a court or tribunal of competent jurisdiction or which he is otherwise required or permitted to disclose by law; or
- 8.4.2 is (other than through the Coach's breach of clause 8.3) available to the public generally.
- 8.5 BTC believes that in connection with the provision of the Services, the Coach may be required to process personal data (as such term is defined in the Data Protection Act 1998 (the "Act")) on behalf of BTC. The parties acknowledge that for the purposes of the Act, the Coach is a data processor in respect of any personal data which the Coach may process and accordingly the Coach agrees:
- 8.5.1 not to process any personal data other than in accordance with the prior instructions of BTC;
- 8.5.2 not to do or omit to do anything which may result in BTC being in breach of its obligations under the Act; and
- 8.5.3 if, under the Act, BTC is required to provide any personal data which is in the possession or under the control of the Coach to any individual, to provide all necessary co-operation to BTC to enable BTC to meet its obligations under the Act.
- 8.6 BTC will be entitled to ownership of:
- 8.6.1 any work or material developed, written or prepared by the Coach in relation to the Services (whether individually, collectively or jointly with BTC and on whatever media) including (without limitation) any documents, reports, studies, data, diagrams, charts, specifications, databases or computer programs and related copies and working papers whether developed, written or prepared before or after the signing of this Agreement (the "Materials"); and
- 8.6.2 all present and future copyright, design rights, database rights, trade marks and other intellectual property rights (the "Intellectual Property Rights") in the Materials, which the Coach assigns to BTC by this Agreement with full title guarantee and free from all third party rights.
- 8.7 The Coach undertakes to do anything reasonably required (both during and after the term of this Agreement) to ensure that all Intellectual Property Rights in the Materials are assigned to the Place to play and to assist BTC in protecting or maintaining such rights.
- 8.8 BTC grants the Coach a non-exclusive licence to use the Intellectual Property Rights in the Materials for the duration of this Agreement for the sole purpose of performing the Services.
- 8.9 For the duration of this agreement (until BTC) the Coach shall not be obliged to pay BTC for access to its resources as recorded in Clause 6. Prior to the expiry of this period BTC shall review this provision and reserves the right to impose a charge for the use of its resources . BTC shall notify the Coach in advance if it intends to impose a charge and the level of its charge.
- 8.10 The obligations contained in this clause 8 are capable of surviving the termination of this Agreement and shall continue to apply following the termination of this Agreement.
9. Liability
- 9.1 The Coach agrees and acknowledges that BTC will be relying upon the skill, expertise, knowledge, and experience of the Coach in the provision of the Services (or any substitute involved in the provision of the Services under clause 13) and accordingly the Coach agrees to fully indemnify and keep BTC fully indemnified against and from all claims, demands, awards, damages, actions, losses, costs (including legal costs) and other expenses arising as a result of or in connection with the provision of the Services (or any of them) including without limitation, any claims that may be made against BTC in respect of income tax and/or national insurance or similar contributions in connection with the Services.
- 9.2 Nothing in this Agreement shall exclude or limit the liability of the Coach for death or injury caused by the Coach's negligence.

9.3 The Coach shall throughout the duration of this Agreement take out and maintain in force insurance policies in respect of the potential liabilities, including but not limited to public liabilities, of the Coach under this Agreement whether through the LTA or otherwise and will supply BTC with copies of current certificates of insurance for the duration of this Agreement.

10. Termination

10.1 This Agreement may be terminated by either party giving to the other not less than 1 month's notice in writing.

10.2 Without prejudice to any other rights or remedies to which BTC may be entitled whether under this Agreement or at law, BTC shall be entitled to terminate this Agreement immediately by notice in writing if:

10.2.1 the Coach is in breach of any obligations under this Agreement and such breach (if capable of remedy) is not remedied by the Coach within 7 days of receipt of a notice from the Place to play specifying the breach and requiring its remedy;

10.2.2 the Coach for whatever reason is unable to provide the Services for a continuous period of BTC, unless otherwise agreed with BTC.

10.2.3 the Coach's performance or conduct brings or is, in the opinion of BTC, likely to bring BTC into disrepute. For the avoidance of doubt, if the Coach is unable, at any time, to comply with clause 4 above, BTC shall be entitled to terminate this Agreement immediately; or

10.2.4 the Coach causes loss or damage to BTC through negligence or by wilful act or omission.

10.3 In the event of termination in accordance with clause 10.2, BTC shall be entitled to withhold any or all of the fees provided for under this Agreement whether or not they may have accrued and without prejudice to any other rights BTC may have in respect of the Coach's breach, performance or conduct.

10.4 The Coach shall not be required to fulfil an obligation under this Agreement and the provisions of clause 10.3 shall not apply, if, the Coach is prevented from fulfilling the obligation by any acts or omissions of BTC. The Coach shall only be entitled to rely on the provisions of this clause 10.4 if the Coach gives written notice to BTC of any act or omission which prevents the Coach from fulfilling the obligation within three days of the occurrence of the act or omission.

11. Relationship

11.1 For the avoidance of doubt, it is stated that the parties intend and agree that this Agreement shall be treated for all purposes as a contract for services with the relationship of the Coach to BTC being that of independent contractor.

11.2 Nothing contained in this Agreement shall be construed as having or have the effect of constituting any relationship of employer and employee between the parties and the Coach shall not be entitled to receive any benefits available to employees of BTC including, without limitation, any salary, overtime payments, sick pay, and pension contributions.

12. Tax Liabilities

The Coach shall have the status of a self-employed person and shall be responsible for all tax liabilities arising in connection with the provision of the Services including but not limited to liability for the payment of income tax and national insurance contributions in respect of the Coaching Fee.

13. Substitution

13.1 The Coach shall be entitled to nominate other persons to provide part of the Services on the Coach's behalf.

13.2 Any nominated person must be known by BTC to be suitably qualified, registered and experienced.

- 13.3 The Coach shall be responsible for:
- 13.3.1 ensuring that adequate insurance cover is in place in respect of the Coach's potential liabilities for any other persons; and
- 13.3.2 providing evidence that any other persons are appropriately qualified for their role and have a satisfactory Enhanced Disclosure from the Disclosure and Barring Service (DBS).
14. Entire Agreement
- 14.1 This Agreement constitutes the whole and only agreement between the parties relating to the subject matter of this Agreement.
- 14.2 Each party acknowledges that in entering into this Agreement it is not relying upon any pre-contractual statement which is not set out in this Agreement.
- 14.3 Except in the case of fraud, no party shall have any right of action against any other party to this Agreement arising out of or in connection with any pre-contractual statement except to the extent that it is repeated in this Agreement.
- 14.4 For the purposes of this clause 14, "pre-contractual statement" means any draft, agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature whatsoever, whether or not in writing, relating to the subject matter of this Agreement made or given by any person at any time prior to the date of this Agreement.
15. General
- 15.1 Neither party intends that any term of this Agreement shall be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party.
- 15.2 No variation of this Agreement shall be effective unless made in writing and signed by both parties.
- 15.3 If any provision of this Agreement is held to be illegal, void, invalid or unenforceable, the validity and enforceability of the remainder of this Agreement shall not be affected.
- 15.4 Any notice required to be given under this Agreement, or in connection with the matters contemplated by it, shall be in writing and personally delivered or sent by pre-paid first-class post to the address of the other party set out at the beginning of this Agreement or to such other address as may be notified by the parties from time to time. Such notice shall be deemed to have been given on delivery at the relevant address (if delivered personally) or, if sent by first-class pre-paid post, two days after the date of posting.
- 15.5 This Agreement shall be governed by and interpreted in accordance with the law of England and Wales and each of the parties submits to the exclusive jurisdiction of the English and Welsh Courts as regards any claim or matter arising under this Agreement.

SCHEDULE

Services

The design and delivery of an agreed coaching programme (the "Programme") which meets the requirements of BTC.

The Programme must operate within the following guidelines:

- appropriate coaching must be provided to juniors and optionally to adults also;
- only appropriately qualified coaches must deliver coaching sessions; and
- only individuals with satisfactory Enhanced Disclosures from the Disclosure and Barring Service (DBS) must deliver sessions.

And should include:

- marketing the Programme,
- the purchase of coaching equipment,
- correspondence with participants on the Programme,
- co-ordination of additional coaching staff,
- undertaking school visits and proactively developing links with local schools,
- organising and attending intra and inter club junior competitions,
- preparation of progress reports as required by BTC,
- attending meetings with BTC as required,
- aiding BTC progress towards meeting the LTA Tennismark minimum standards.
- other general administrative duties.

SIGNED by
[*Sam Hull*

] _____

SIGNED by
[

] _____

for and on behalf of Biddestone Tennis Club