**Disclaimer**

This sample agreement is provided by Sports Physiotherapy New Zealand for use only as a suggested format. The information and clauses contained are provided for consideration only and are not to be used for any other purpose by any person or organisations.

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Professional advice should be obtained for each particular situation and this agreement must not be used for any purpose other than as a general guide.

**DRAFT CONTRACT FOR SERVICES AGREEMENT**

# Parties, Commencement and Term

## The Parties of this contract (the Agreement) are:

**(**the **Organisation/ Club)**

and

(the **Contractor/ Physiotherapist**)

## **Terms and conditions**

## This Agreement commences on the commencement date set out in Schedule 1 and will continue until the expiry date specified in Schedule 1 (the **Term**), unless terminated earlier in accordance with clause 10. The Term may be extended by agreement between the parties in writing.

## The Organisation/Club will make a payment of the fee specified in Schedule 1 (the **Fee**) to the Contractor/ Physiotherapist for carrying out the duties of the position during the Term.

## The Fee shall be payable subject to the conditions set out in Schedule 1. The Organisation/Club shall pay the Contractor/Physiotherapist the Fee with fourteen (14) days of receiving the invoice.

## The relationship between the Organisation/Club and the Physiotherapist/Contractor is one of principal and independent contractor.  Nothing in this Agreement, or the way in which it is performed, will create any relationship of employment, partnership, joint venture or other type of relationship between the Organisation/Club and the Contractor/Physiotherapist.

## In respect of matters relating to this Agreement, the Organisation/Club shall be represented by the person nominated in Schedule 1.

# The Position

## The Organisation/Club has agreed to appoint the Contractor being the physiotherapist of the team/organisation specified in Schedule 1. The Contractor may appoint a suitably qualified and skilled Substitute to perform the Services on behalf of the Contractor.

## The Contractor/Physiotherapist will be responsible for all returns, payments and paperwork due to the appropriate Government Agency relating to the running of the Contractor’s business, including by way of example, but not limited to Income Tax, IRD returns, Accident Compensation levies or premiums and Goods and Services Tax.

# Services/ Duties

## The services the Contractor/Physiotherapist will provide are set out in Schedule 2 (the **Services**).

## The Contractor/Physiotherapist will diligently and proactively undertake the Services (and all reasonably necessary and incidental matters) efficiently and to a good professional standard. The Contractor/Physiotherapist will conduct themselves at all times in a professional manner and comply with the Physiotherapy Code of Ethics and Professional Conduct and the Sports Physiotherapy Code of Conduct and all other relevant legislation governing the physiotherapy profession in New Zealand, including but not limited to the following (and any amendment or replacement legislation):

## the Health Practitioners Competence Assurance Act 2003;

## the Privacy Act 1993 and any relevant privacy code;

## the Health Information Privacy Code 1994;

## the Human Rights Act 1993;

## the Accident Compensation Act 2001; and

## the Health and Safety at Work Act 2015 and any regulations.

## The Contractor/Physiotherapist is free to provide services to organisations other than the Organisation/Club.

# Taxes

## If The Contractor/Physiotherapist register or are registered for Goods and Services Tax (**GST**), the Contractor/Physiotherapist will produce evidence of registration (including GST number) to the Organisation / Club and ensure all invoices comply with GST requirements. The Contractor/Physiotherapist will inform the Organisation / Club immediately if they cease at any time to be registered for GST.

## The Contractor/Physiotherapist is responsible for all payment of tax, levies, premiums, assessments or or other payments levied upon him as required under any legislation which may be in force and relates to any substituted legislation or affects the performance of the Services.

# Accident and Compensation Act 2001

The Contractor/Physiotherapist is responsible for complying with the Injury Accident Compensation Act 2001 and Regulations, any replacement legislation or any other relevant legislation and will pay all relevant levies and premiums, including earner’s premiums.

# Expenses

The Contractor/Physiotherapist will be reimbursed for expenses related to the Services which are approved by the Organisation/Club in writing. Otherwise, business-related and other expenses are the responsibility of the Contractor/Physiotherapist.

# Confidential Information

## Both parties will hold in strict confidence all transactions, records and information pertaining to this Agreement and the Services and the Organisation/Club and its affairs and to its members, players, or customers (**Confidential Information**), both during the period of this Agreement and after its termination. Confidential Information must not be disclosed without the written consent of the other party. The Contractor/Physiotherapist may use or disclose Confidential Information only to the extent that such disclosure is necessary for the performance of the Services.

## This clause does not apply to information, which is legally required to be disclosed, or which becomes generally available to and known by the public other than due to a breach of this clause. This clause shall continue to apply after the termination of this Agreement.

## The Club/Organisation acknowledges that the Contractor/Physiotherapist may become party to information that is confidential to an individual player and that the Contractor/Physiotherapist cannot be obliged to disclose that information to the Club/Organisation without the player’s consent.

# Intellectual property

## All information, methods, techniques and know-how supplied by the Organisation/Club and communicated to the Contractor/Physiotherapist remain the property of the Organisation/Club.

## All information, methods, techniques and know-how supplied by the Contractor/Physiotherapist and communicated to the Organisation/Club remain the property of the Contractor/Physiotherapist.

## All ideas, concepts, copyright, inventions, patents, designs, trade marks or other products or processes developed or created by The Contractor/Physiotherapist which directly arise from or in connection with the Services (the **Intellectual Property**) will be the sole and exclusive property of the Contractor/Physiotherapist.

# Termination of Services

## This Agreement will expire at the end of the Term unless extended by agreement or terminated in accordance with this Agreement.

## Either party may immediately terminate this Agreement by notice in writing, if during the Term, the other party commits a material breach of this Agreement.

## The Contractor/Physiotherapist may also immediately terminate this Agreement by notice in writing, if during the Term, the Organisation/Club asks or requires the Contractor/Physiotherapist to provide Services that the Contractor/Physiotherapist considers would constitute a breach of his or her professional obligations (including any obligations under the Physiotherapy Code of Ethics and Professional Conduct and the Sports Physiotherapy Code of Conduct).

## Either party may terminate this Agreement by giving 14 days’ notice in writing to the other party if the other party is in breach of this Agreement and has failed to remedy the breach within 5 days notice in writing from the other party, or where such breach is not capable of being remedied.

## Either party may terminate this Agreement at any time by giving the other not less than 1 months notice in writing.

## Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the parties and, upon termination of this Agreement, the Organisation/Club will pay any monies owed to the Contractor/Physiotherapist up until the Termination Date.

# Other providers

## The Organisation/Club agrees that, unless otherwise agreed with the Contractor/Physiotherapist during the Term it will not use, solicit or promote rival or conflicting providers (other than the Contractor/Physiotherapist) for the Services or any similar services.

# Registration

## The Contractor/Physiotherapist is responsible for maintaining their registration with the Physiotherapy Board of New Zealand and a current practicing certificate (and any associated costs).

## 

# Return of Materials

## Upon the expiry or termination of this Agreement or at any time when requested, either party will, without making or retaining any copies, deliver all documents, information and other records and materials in whatever form owned by or belonging to the other party (including any Confidential Information or Intellectual Property).

# Indemnity

## The Club/Organisation agrees to indemnify (and will keep indemnified) the Contractor/Physiotherapist against all claims, liabilities, loss, costs and expense incurred as a consequence of the provision of the Services under this Agreement.

# Force Majeure

## Neither party will be liable for failure to perform obligations under this Agreement if the failure results from force majeure, act of God, fire, explosion, act of terrorism, industrial dispute, Act of Parliament or change of legislation, regulation, order made under a registered authority or anything beyond the party’s control.

# Disputes

## If any dispute arises between the parties touching or affecting the terms of, or the rights or liabilities of the parties or either of them under this Agreement, in the first instance, the parties agree to try and resolve the dispute by negotiation with each other.

## If negotiation is unsuccessful the parties agree the dispute will be submitted to the arbitration of a sole arbitrator to be appointed by the parties or, if the parties are unable to agree, to be nominated by the President of the New Zealand Law Society or his or her nominee.

# Miscellaneous

## No modification, variation or waiver of this Agreement or any one or more of the terms herein shall be effective or binding on either of the parties unless it is in writing and signed by both parties.

## This Agreement shall be governed by New Zealand law.

## This Agreement may be signed by faxed or scanned counterparts.

## This Agreement constitutes the entire agreement entered into between the parties and replaces all previous written or oral agreements and undertakings.

# Signatures

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ confirm that I have read and agree to the above terms and conditions.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

(The Contractor/Physiotherapist Name)

Signed for and behalf of :

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_)

(The Organisation/Club)

**SCHEDULE 1: TERMS AND CONDITIONS**

**[*Amend this Schedule to Insert details for the individual arrangements made***]

|  |  |
| --- | --- |
| Contractor/Physiotherapist |  |
| Club/Organisation |  |
| Service recipient | [Define all recipients of service who this contract applies to.]1 |
| Commencement date |  |
| Expiry date/event | **[***Specify date or event, such as “the conclusion of the 2016 season, which is expected to be approximately [date]”***]** |
| Fee | **SELECT APPROPRIATE OPTION**  An hourly rate of $XX per hour (exclusive of GST) [*Include any specific arrangements as to the hours to be worked/charged – e.g. for training/preparation.*]  **OR**  A weekly rate of $XX per week (exclusive of GST)  **OR**  A rate of $XX per match (exclusive of GST), such fees to include payment for all time spent by the Contractor providing the Services, including all training/travel or other time spent in preparation for any match.  **OR**  A rate of $XX (exclusive of GST) for the [season/Term] of this contract, such fees to include payment for all time spent by the Contractor providing the Services. This Fee shall be payable [*at the [start/conclusion] of the Term/or set out any applicable instalments*]. If this Contract is terminated by either party prior to the conclusion of the Term [s*pecify whether the fee will be pro-rated to the date of termination or payable in full.*] |
| Conditions of payment of the Fee | Payment will be made on invoice by the Contractor and subject to the following terms: The Contractor/Physiotherapist will be required to submit an invoice [by the 30th of each month stating the services provided to the Organisation/Club] **OR** [specify when an invoice shall be provided for the Season etc if that is the desired fee structure].  * The invoiced amount should be the Fee prescribed in this Agreement. * Payment will be made by the Club/Organisation within 14 days after the production of an invoice. * If The Contractor/Physiotherapist is GST registered the invoice must include the GST incurred on the sum specified in the Agreement providing the invoice complies with GST requirements. |
| Other | *Insert any other terms and conditions that have been agreed for individual circumstances (such as requirement for insurance, any pre-agreed expenses etc).* |

Notes

1. Insert the specific group the contract applies to e.g. a specific team, all players at the club, the entire club including management etc. etc.

**SCHEDULE 2: SERVICES**

**1.** Physiotherapist for the \_\_\_\_\_\_\_\_\_ team

(ADD / DELETE AS APPLICABLE)

* Attend where appropriate all training sessions and matches
* Assess and treat all musculoskeletal injuries
* Establish a treatment plan for each injury and discuss with player and management
* Subject to the consent of the player, liaise with the head coach regarding injuries, prognosis and progress being made
* Provide onward referral as needed
* If the player seeks treatment from another physiotherapist, liaise with the player and treating physiotherapist in regards to progress
* Maintain written records and treatments as per ACC requirements
* Accompany a player to hospital if required
* Assist with recovery strategies, nutritional advice and drug testing as required
* Be familiar with the list of banned substances
* Where applicable, and subject to the consent of the player, inform parents and club medical practitioners on the overview of injuries to players

[*Depending on what fee structure is agreed, consider whether any provisions need to be included regarding the hours that will be required and/or if any specific services will attract additional payment. Consider also if there need to be any minimum/maximum hours or fixed terms the Physiotherapist will be available. Consider including any provisions that recognise that the Physiotherapist cannot be required to provide services that go against his/her professional judgment.*]