

Agreement

between

XXX DHB

XXX DHB Address

Ph:
Fax:

Contact: «CONTRACTDEPUTY_NAME»

and

«PROVIDER_NAME»

«CONTRACT_DESCRIPTION»

«PROVIDER_ADDRESS»
«PROVIDER_ADDRESS2»
«PROVIDER_CITY»
Ph: «PROVIDER_PHONE»
Fax: «PROVIDER_FAX»

Contact: «PRVDRCONTACT_NAME»

You, as the Provider, agree to provide the Services on the terms of this agreement.

Signed for and on behalf of the
XXX DHB
by:

Signed for and on behalf of
«PROVIDER_NAME»
by:

Authorised Signatory

Authorised Signatory

Position

Position

Date

Date

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SECTION A GENERAL TERMS AND CONDITIONS

A1 TREATY OF WAITANGI AND MAORI HEALTH STATEMENT

The Treaty of Waitangi establishes the unique and special relationship between iwi Maori and the Crown. As a Crown entity the **XXX DHB** considers the Treaty of Waitangi principles of partnership, proactive protection of Maori health interests, co-operation and utmost good faith, to be implicit conditions of the nature in which the internal organisation of the Ministry of Health responds to Maori health issues.

Equally **XXX DHB** expects providers to apply these principles in their relationship with their clientele. Therefore, all contracted providers whose clients may include Maori, must be able to demonstrate how their policies and practices shall benefit the health outcomes of their Maori clientele.

A2 RELATIONSHIP PRINCIPLES

The following values will guide both of us in dealing with each other under this agreement:

- A2.1 **Integrity** - we will act towards each other honestly and in good faith;
- A2.2 **Open communication** - we will listen, talk and engage with each other openly and promptly including clear and timely written communication;
- A2.3 **Valuing People** - we will work in a co-operative and constructive manner recognising each other's viewpoints and respecting each other's differences;
- A2.4 **Accountability** - we will each recognise the accountabilities that each of us have to our respective and mutual clients and stakeholders; and
- A2.5 **Innovation** - we will build on our successes and encourage new approaches and creative solutions to achieve positive outcomes for communities and consumers of health and disability services.

A3 MAORI HEALTH PRIORITY

- A3.1 You agree that Maori health is a specifically identified health gain priority area. You must therefore establish and implement a Maori health policy that reflects that fact. In developing this policy, you must take into account any Maori strategy issued by the Minister of Health.
- A3.2 You must specify how you intend to implement this policy. In particular, you will need to identify those services you will deliver as explicit contributions to Maori health gain priorities, how these services will be measured to ascertain what benefit is evident and other additional opportunities that may exist for furthering Maori health gain.

A4 TERM

This agreement will be for a term of [number] months from [date] to [date], unless ended earlier by either of us on the terms of this agreement.

A5 PROVISION OF SERVICES

You must provide the Services and conduct your practice or business in a prompt, efficient, professional and ethical manner and consistently with:

- a. all relevant strategies issued under the Act;
- b. Our Objectives as set out in Section 22 of the Act, our district strategic plan, annual plan and settlement of intent, and any directions or requirements given to us by the Minister of Health under Section 32 or 33 of the Act; and
- c. all relevant Law.

A6 PAYMENTS

- A6.1 We will pay you for the Services as specified in the Service Schedule to this agreement.
- A6.2 We will pay you default interest on any amount due to you under this agreement and in arrears for more than 20 days at the base interest rate of our bankers plus 2% per year calculated from the due date for payment to the date of actual payment. You must first have given us an invoice completed in the format required and we must have received it by the date specified in the Service Schedule to this agreement.
- A6.3 We may withhold any payment for Services while you are in breach of this agreement.

A7 OTHER ARRANGEMENTS

- A7.1 You must not enter into any other contract or arrangement, which might prejudice your ability to meet your obligations in this agreement, but subject to this you may provide services to others.
- A7.2 Nothing in this agreement gives you an exclusive right to provide the Services and we may source services equivalent to yours from other suppliers.

A8 SUBCONTRACTING AND ASSIGNMENT

- A8.1 You must not subcontract or assign the benefit or burden of any of your obligations under this agreement without our prior written consent which may not be unreasonably withheld. If we give consent you must comply with any reasonable conditions we impose as part of the consent.
- A8.2 You will be responsible for all acts and omissions of your employees, agents and subcontractors even if they are done without your knowledge or approval.
- A8.3 We may transfer our rights under this agreement by giving you notice of this.

A9 INFORMATION

- A9.1 The purpose of this clause A9 is to give us all the rights we need to use and own the results of the Services, without the need for further consent. In this clause:

Author's Rights: means those rights given to an author in Part IV of the Copyright Act 1994 (including rights to identification and restrictions on certain uses of the work);

Information: means any information or material owned by us; or that you obtain from us; or you otherwise acquire or produce directly in connection with the provision of the Services;

- A9.2 We acknowledge that the Intellectual Property Rights that you own prior to the date of this agreement remain your property. You grant us a non-exclusive, transferable, irrevocable licence to use your Intellectual Property Rights but only to the extent that is necessary for us to use and own the results of the Services.

A9.3 Nothing in this agreement gives us ownership of your nga mea tikanga me nga taonga Maori.

A9.4 You acknowledge that the Intellectual Property Rights we own remain our property. We grant you a non-exclusive licence to use these Intellectual Property Rights, for the purpose of you performing your obligations under this agreement.

A9.5 You confirm that:

- a. the creation and use of the Information, the assignment and licence of any rights to us under this agreement and your performance of the Services will not infringe the rights of any person; and
- b. you have, or will obtain, all necessary licences and consents required to perform the Services and your obligations under this agreement (before you start to perform them), including the irrevocable waiver by all relevant persons of their Author's Rights in the Information in relation to its use by either of us.

In respect of any Health Education Resources and any other copyright works (as defined in the Copyright Act 1994) which you produce or arrange to be produced directly in connection with the Services, you assign to us all present and future copyright in those copyright works and irrevocably waive your Author's Rights in them.

A9.6 If any claim is made against us that our use of the Information infringes the Intellectual Property Rights of anyone, you will, at your cost, provide us with all reasonable assistance to defend the claim.

A9.7 When this agreement ends (for whatever reason) you will assist us to transfer the Information within your possession or control to us in a manner that preserves the Information and its integrity. You must ensure that the Information transferred is of sufficient quality, clarity and completeness to enable us to understand it and use it for our purposes. If this agreement is lawfully ended due to a breach by a party, then the party in breach will pay the costs of complying with this transfer clause, otherwise these costs will be shared equally.

A10 INFORMATION AND REPORTS

You must:

- a. keep secure accurate records of the performance by you and your employees, agents and advisers of this agreement (Records) and make them available to us in accordance with our reasonable instructions;
- b. keep proper business records and promptly complete a balance sheet, statement of income and expenditure and cashflows in accordance with accepted accountancy principles at the end of each financial year; and
- c. report to us on the performance of this agreement in accordance with our reasonable instructions and if requested by us send reports direct to any Minister of the Crown or any governmental body in the manner we specify.

A11 AUDIT

A11.1 You and your permitted sub-contractors must allow us and our authorised agents, access on 24 hours notice to:

- a. your premises;
- b. all premises where the Records are kept; and
- c. staff, sub-contractors or other people used by you in providing the Services,

and allow us to interview any staff, subcontractors and the people you supply Services to (and their families) for the purposes of carrying out an audit of your performance and compliance with this agreement.

A11.2 Our right to audit under this clause continues after this agreement ends but only to the extent that it is relevant to the period during which this agreement exists.

A12 INSURANCE

You must effect and maintain such insurance that we reasonably require from time to time in relation to your performance of this agreement.

A13 INDEMNITY

You must indemnify us against all claims, damages, penalties, losses and costs (whether direct or indirect) which we incur as the result of your performance of the Services or your failure to comply with your obligations in this agreement.

A14 COMPLAINTS

You must comply with any applicable standards for the health sector relating to complaints and comply with the requirements of any Complaints Body. If there is no applicable standard, then you must implement a complaints procedure if specified in this agreement.

A15 NOTIFICATION OF PROBLEMS

A15.1 You must advise us promptly in writing:

- a. of anything which may or is likely to materially reduce or affect your ability to provide the Services, including anything relating to any premises or equipment used by you or your key personnel;
- b. if you materially fail to comply with any of your obligations in this agreement;
- c. of any serious complaints or disputes which directly or indirectly relate to the provision of the Services; and
- d. of any issues concerning the Services that might have high media or public interest.

A15.2 You must have in place realistic and reasonable risk management processes and contingency plans to enable you to continue to provide the Services on the occurrence of any of the matters in this clause 16, and must provide us with details of those plans if we request them.

A16 PUBLIC STATEMENTS AND ADVERTISING

A16.1 Neither of us may during or after this agreement either directly or indirectly criticise the other publicly, without first fully discussing the matters of concern with the other in good faith and in a co-operative and constructive manner. Nothing in this clause prevents either of us from discussing any matters of concern with our respective staff, subcontractors, agents or advisers.

A16.2 You must not use our name or logo without our prior written consent and then only in accordance with our instructions.

A17 DISPUTE RESOLUTION

- A17.1 If either of us has any dispute with the other in connection with this agreement, then:
- a. both of us will use our best endeavours to settle the dispute by agreement between us and act in good faith and co-operate with each other to resolve the dispute;
 - b. if the dispute is not settled by agreement between us within 30 days, then, unless both of us agree otherwise:
 - i. full written particulars of the dispute must be promptly given to the other; and
 - ii. the matter will be referred to mediation in accordance with the Health Sector Mediation and Arbitration Rules 1993, a copy of which is available from the Ministry of Health;
 - c. neither of us will initiate any litigation during the dispute resolution process outlined in paragraph b. above, unless proceedings are necessary for preserving the party's rights; and
 - d. both of us will continue to comply with all our obligations in this agreement until the dispute is resolved, but payments may be withheld to the extent that they are disputed.
- A17.2 Clause 17.1 will not apply to any dispute:
- a. concerning any renegotiation of any part of this agreement; or
 - b. directly or indirectly arising from any matter which has been referred to a Complaints Body unless the Complaints Body directs otherwise.

A18 VARIATIONS TO THIS AGREEMENT

We may vary this agreement by 30 days written notice to you to comply with any requirement imposed on us by the Crown, but otherwise this agreement may only be varied by written agreement signed by both of us.

Where possible we will give you at least 30 days notice of any change to this agreement required by the Crown and we will consult with you to reach agreement on the changes. If we cannot both agree within 30 days, then either of us may cancel this agreement by giving at least 30 days prior written notice.

A19 OUR LIABILITY

- A19.1 While we are liable to pay you for the Services on the terms of this agreement, we are not liable to you for any claims, damages, penalties, losses or any other costs you incur in performing the Services. If however we are found to be liable for any of these whether at law, by statute, in equity or otherwise arising from the relationship between us and you then our liability to you for any single event or series of related events is limited to the amount paid to you for the Services in the month prior to the relevant claim being brought to our attention.

A20 ENDING THIS AGREEMENT

- A20.1 Without limiting any other rights we may have, we may end this agreement immediately by written notice to you if :
- a. we have good reason to believe you are or will be unable to carry out all your material obligations under this agreement. (Before ending this agreement for this reason we must Consult with you and if we believe the health or safety of any

person is at risk we may suspend your provision of the Services while we Consult with you);

- b. you have failed to carry out any of your obligations in this agreement and the failure is material and cannot be remedied;
- c. you (or any one of you) are adjudged bankrupt;
- d. you are a company and you are placed in receivership or liquidation; or
- e. you have failed to carry out any of your obligations in this agreement and the failure can be remedied by you but you fail to do so within 30 days of receiving written notice of the default from us.

A20.2 If after 30 days from your receiving our notice referred to in clause 20.1e., the obligation still has not been met, we may by written notice, instead of ending this agreement:

- a. at any time vary or withdraw from the coverage of this agreement any of the Services in respect of which you have not met your obligation, either straight away or at any later date; and
- b. cease payment for any of the Services from the date of their withdrawal.

You have the same rights and must follow the same procedures if we have not met a material obligation under this agreement and as a consequence you wish to withdraw the relevant Service.

A21 CONFIDENTIALITY

Except to the extent that this agreement otherwise provides, or we are required to disclose information by law, neither of us may disclose to any other person any information provided to the other which we agree is confidential or which is either commercially sensitive or not intended for disclosure to third parties (Confidential Information), unless and until the Confidential Information becomes public knowledge but not because of a breach of any obligation of confidence.

When this agreement ends you must return to us all of our Confidential Information in your possession or control.

Both of us acknowledge that this agreement, but not any Confidential Information, may be published by us through any media including electronically via the Internet.

A22 NO ACTION BY THIRD PARTIES

This agreement is not intended to confer legally enforceable benefits on any person who is not a party to it and no third party may enforce any of the provisions in this agreement.

A23 WAIVER AND RIGHTS

A23.1 Your Services must always be performed in the time frame specified in the agreement. Any waiver by either of us of this requirement or of any other right or remedy we may have under this agreement must be in writing and duly signed. Each waiver may only be relied on for the specific purpose for which it is given. A failure or delay by either one of us to exercise any right given to it under this agreement does not mean that the right has been waived.

A23.2 The exercise by us of any express right set out in this agreement (Express Right) does not limit any other rights, powers or remedies available to us under this agreement, at law or in equity, including any rights, powers or remedies which would be available to us if the Express Rights were not set out in this agreement.

A24 ENTIRE AGREEMENT

This agreement sets out the entire agreement and understanding between both of us and replaces all prior oral or written statements, representations and agreements or arrangements relating to its subject matter.

A25 NOTICES

A25.1 Any notice given pursuant to the agreement must be in writing and may be served personally or sent by registered mail or by facsimile transmission. All notices must state the contract reference number given to this agreement.

A25.2 Notices given:

- a. personally are served upon delivery;
- b. by post (other than airmail) are served three days after posting;
- c. by airmail are served two days after posting; and
- d. by facsimile are served upon receipt of the correct answer back or receipt code.

A25.3 The address and facsimile number for each of us are as specified in this agreement or as from time to time notified in writing to the other party.

A26 RELATIONSHIP

Nothing in this agreement should be interpreted as constituting either of us an agent, partner or employee of the other and neither we nor you may represent to anyone that:

A26.1 it is the other party or is an agent, partner, trustee, joint venture partner or employee of the other party; or

A26.2 it has any power or authority to incur any obligation of any nature on behalf of the other party.

A27 PARTIAL INVALIDITY

Each term of this agreement is separately binding. If any provision in this agreement is lawfully held to be illegal, unenforceable or invalid, this will not affect the remainder of this agreement which will remain in force.

A28 INTERPRETATION

In this agreement:

- a. "we", "us" and "our" means the **XXX DHB** including its legal successors and its permitted consultants, subcontractors, agents, employees and assignees;
- b. "you" and "your" means the Provider named in this agreement including its permitted subcontractors, agents, employees and assignees;
- c. "both of us", "each of us", "either of us" and "neither of us" refers to the parties;
- d. terms given a defined meaning in this agreement have that meaning where the context permits words referring to the singular include the plural and the reverse;
- e. any reference to any of the parties includes that party's executors, administrators or permitted assigns, or if a company, its successors or permitted assigns or both;

- f. everything expressed or implied in this agreement which involves more than one person binds and benefits those people jointly and severally;
- g. clause headings are for reference purposes only;
- h. a reference to a statute includes:
 - all regulations under that statute;
 - all amendments to that statute; and
 - any statute substituting for it which incorporates any of its provisions
- i. all periods of time or notice exclude the days on which they are given and include the days on which they expire; and
- j. all references to “including” are to be read as “including without limitation”.

A29 DEFINITIONS

In this agreement the following expressions have the stated meaning:

<u>Expression</u>	<u>Meaning</u>
Act	The New Zealand Public Health and Disability Act 2000.
Agreement	This agreement and each schedule to this agreement.
Complaints Body	Any organisation appointed to deal with complaints relating to the Services: <ul style="list-style-type: none">a. under this agreement;b. by both of us by mutual agreement;c. by a Health Professional Authority;d. by Law; ore. by us as an advisory committee.
Consult	Each of us must: <ul style="list-style-type: none">a. fully state our proposals and views to the other and carefully consider each response to them;b. act in good faith and not predetermine any matter; andc. give the other adequate opportunity to consult any other interested party. <p>The obligation of either of us to Consult will be discharged if the other refuses or fails to Consult.</p>
Health Education Resources	Leaflets, posters, stickers, cards, manuals, resource kits, training kits, videos or other similar material (but excluding newsletters) which are about promoting health for general distribution or for people in a specified group provided for under this agreement.
Health Professional Authority	Any authority or body that is empowered by any statute or the rules of any body or organisation, to exercise disciplinary powers in respect of any person who is involved in the supply of health and disability services.
Law	Includes: <ul style="list-style-type: none">a. any legislation, decree, judgment, order or by-law;

- b. any rule, protocol, code of ethics, practice or conduct and other ethical or other standards, guidelines and requirements of any Health Professional Authority;
- c. any relevant standards of the New Zealand Standards Association; and
- d. any future law.

Ministry

The Ministry of Health (by whatever name known) and any successor department of state and include the Minister of Health and the Director-General of Health and any of his her or their delegates.

Our Objectives

Include:

- a. the objectives specified in our statement of intent (as defined in the Act);
- b. directions and requirements notified to us by the Minister of Health under the Act from time to time; and
- c. the objectives listed in Section 22 of the Act.

Services

The health services and/or disability services specified in the Service Schedule.

SECTION B PROVIDER SPECIFIC TERMS AND CONDITIONS

B1 INTRODUCTION

B1.1 It is agreed that the following details apply to this Service Schedule.

Legal Entity Name	«PROVIDER_NAME»
Legal Entity Number	«PROVIDER_NUMBER»
Contract Number	«CONTRACT_CONTRACTID» / «CONTRACT_VERSION»
Service Commencement Date	«CONTRACT_STARTDATE»
Service End Date	«CONTRACT_ENDDATE»

It is agreed that the services will be paid for in accordance with the details given in the Payment Details below.

B2 DETAILS OF ALL PURCHASE UNITS WHICH APPLY TO THIS SERVICE SCHEDULE

Purchase Unit (PU ID)	Volume	Unit Price excl. GST (per PU)	Total Price excl. GST (UP x V)	GST Rate (%)	Payment Type
Total price for the Service Schedule			0.00		

Purchase Unit (PU ID)	Total Price excl. GST	GST Rate (%)	Payment Type
Total price for the Service Schedule	0.00		

B3 PAYMENT DETAILS

B3.1 Price

The price we will pay for the Service you provide is specified above. Note that all prices are exclusive of GST.

B3.2 Invoicing

We will pay you on the dates set out in the Payment Schedule below for the services you provide in each invoice period so long as we receive a valid GST tax invoice from you. The invoice must meet all legal requirements and must contain the following information:

- provider name (legal entity name)
- provider number (legal entity number)
- provider invoice number
- contract number
- purchase unit number or a description of the service being provided
- date the invoice is due to be paid/date payment expected

- dollar amount to be paid
- period the service was provided
- volume, if applicable
- GST rate
- GST number

If we do not receive an invoice from you by the dates set out in the Payment Schedule below, then we will pay you within 20 days after we receive the invoice.

B4 PAYMENT SCHEDULE

Payments will be made by us on these dates:	On invoices received by us on or before:	For services supplied in the period:	Amount (excl GST)
20 July 2000	30 June 2000	June 2000	
21 August 2000	31 July 2000	July 2000	
20 September 2000	31 August 2000	August 2000	
20 October 2000	30 September 2000	September 2000	
20 November 2000	31 October 2000	October 2000	
20 December 2000	30 November 2000	November 2000	
22 January 2001	31 December 2000	December 2000	
20 February 2001	31 January 2001	January 2001	
20 March 2001	28 February 2001	February 2001	
20 April 2001	31 March 2001	March 2001	
21 May 2001	30 April 2001	April 2001	
20 June 2001	31 May 2001	May 2001	
20 July 2001	30 June 2001	June 2001	
20 August 2001	31 July 2001	July 2001	
20 September 2001	31 August 2001	August 2001	
22 October 2001	30 September 2001	September 2001	
20 November 2001	31 October 2001	October 2001	
20 December 2001	30 November 2001	November 2001	
21 January 2002	31 December 2001	December 2001	
20 February 2002	31 January 2002	January 2002	
20 March 2002	28 February 2002	February 2002	
22 April 2002	31 March 2002	March 2002	
20 May 2002	30 April 2002	April 2002	
20 June 2002	31 May 2002	May 2002	
22 July 2002	30 June 2002	June 2002	
20 August 2002	31 July 2002	July 2002	
20 September 2002	31 August 2002	August 2002	
21 October 2002	30 September 2002	September 2002	
20 November 2002	31 October 2002	October 2002	
20 December 2002	30 November 2002	November 2002	
20 January 2003	31 December 2002	December 2002	
20 February 2003	31 January 2003	January 2003	
20 March 2003	28 February 2003	February 2003	
21 April 2003	31 March 2003	March 2003	
20 May 2003	30 April 2003	April 2003	
20 June 2003	31 May 2003	May 2003	
21 July 2003	30 June 2003	June 2003	
20 August 2003	31 July 2003	July 2003	
22 September 2003	31 August 2003	August 2003	
20 October 2003	30 September 2003	September 2003	
20 November 2003	31 October 2003	October 2003	
22 December 2003	30 November 2003	November 2003	

20 January 2004	31 December 2003	December 2003
20 February 2004	31 January 2004	January 2004
22 March 2004	29 February 2004	February 2004
20 April 2004	31 March 2004	March 2004
20 May 2004	30 April 2004	April 2004
21 June 2004	31 May 2004	May 2004
20 July 2004	30 June 2004	June 2004
20 August 2004	31 July 2004	July 2004
20 September 2004	31 August 2004	August 2004
20 October 2004	30 September 2004	September 2004
22 November 2004	31 October 2004	October 2004
20 December 2004	30 November 2004	November 2004
20 January 2005	31 December 2004	December 2004
21 February 2005	31 January 2005	January 2005
21 March 2005	28 February 2005	February 2005
20 April 2005	31 March 2005	March 2005
20 May 2005	30 April 2005	April 2005
20 June 2005	31 May 2005	May 2005
20 July 2005	30 June 2005	June 2005
Total		