



Te Kaporeihana Āwhina Hunga Whara

**Contract HW####**

**Contract for services between Accident Compensation Corporation and Supplier Name**

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## The Parties

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ACCIDENT COMPENSATION CORPORATION, a statutory corporation continued by the Accident Compensation Act 2001 (called ACC and we)

**SUPPLIER NAME CAPS** (called Supplier and you)

**Address**

## The Contract

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We appoint you to deliver the Services described in each Service Schedule that forms part of this Contract, and you accept that appointment. You will provide each Service described in a Service Schedule for the Term described in that Service Schedule. This Contract sets out the Parties' rights and obligations.

The documents forming this Contract are:

1. This Cover Page
2. Standard Terms and Conditions
3. Service Schedules entered into under this Contract
4. Any variations made according to this Contract.

### How to read this Contract

1. Together the above documents form the whole Contract.
2. Clause numbers refer to clauses in the Standard Terms and Conditions.
3. Words defined in the Definitions section at clause 1 have the stated meaning throughout the Contract.

### Acceptance

In signing this Contract, each Party acknowledges that it has read and agrees to be bound by this Contract.

For and on behalf of

**Accident Compensation Corporation:**

For and on behalf of

**Supplier Name:**

\_\_\_\_\_  
(signature)

Name Katrina Watson

Position Manager  
Health Procurement and Contracting

Date \_\_\_\_\_

\_\_\_\_\_  
(signature)

Name \_\_\_\_\_

Position \_\_\_\_\_

Date \_\_\_\_\_

# Standard Terms and Conditions

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## 1. Definitions of terms used in this Contract

In this Contract, when we use the terms listed in this section, they have the meaning given immediately below:

### **AC Act**

The Accident Compensation Act 2001.

### **ACC**

The purchaser of the Services. ACC is named as purchaser of the Services under the Contract on the cover page of this Contract. Where the context requires, the term 'ACC' includes ACC's employees, agents, consultants and contractors, and its successors and assigns. 'Accident Compensation Corporation' has the same meaning.

### **Accredited Employer**

An employer accredited by ACC under the Accredited Employer Programme. 'Accredited' means the employer and ACC have an agreement under which the employer provides entitlements for work-related personal injuries suffered by the employer's employees. 'Employees' includes any subcontractor who meets the terms of the accreditation agreement. The Accredited Employer Programme is subject to a framework established under section 183 of the AC Act 2001.

### **Business day**

A day when most businesses in New Zealand are open for business. Saturday, Sunday and public holidays are not business days. A business day starts at 8.30am and ends at 5pm. 'Working Day' in any Service Schedule means the same as 'Business day'.

### **Business continuity**

The Supplier's capability to continue delivery of Services at acceptable levels following a disruptive event.

### **Charges**

The total amount payable by ACC to you, as stated in each Service Schedule. Charges are payable when the Services under this Contract have been delivered, provided you have submitted a valid tax invoice.

## **Client**

Any person who ACC has accepted as eligible for cover for personal injury under the AC Act and any other person or class of persons ACC regards as a client for the purposes of this Contract. 'Claimant' in any Service Schedule means the same as 'Client'.

## **Commencement date**

See Start date.

## **Confidential information**

Information that has one or more of the following characteristics:

- (a) It is, by its nature, confidential
- (b) It is marked by either Party as 'confidential', 'in confidence', 'restricted' or 'commercial in confidence'.
- (c) It is provided by either Party or a third party 'in confidence'.
- (d) Either Party knows, or ought to know, it is confidential.
- (e) It is of a sensitive nature or commercially sensitive to either Party;

and

is not personal information or health information as defined in clause 9.1.

## **Conflict of interest**

When personal or business interests or obligations conflict with obligations under this Contract. A conflict of interest may apply to either of the Parties or to its service providers. It may be:

- (a) actual: where the conflict currently exists
- (b) potential: where the conflict is about to happen or could happen
- (c) perceived: where other people may reasonably think that a person is compromised.

A conflict of interest means the independence, objectivity or impartiality of a Party or service provider can be questioned.

## **Contract**

The legal Contract between ACC and you comprising the Cover Page, these Standard Terms and Conditions, any Service Schedule, and any Variations made according to this Contract.

## **Date of expiry**

See End date.

## **End date**

For any Service Schedule, the earlier of:

- (a) the date the Service Schedule is due to end, as stated in that Service Schedule, or
- (b) any other date agreed between the Parties as the date for Services to end.

'Date of expiry' in any Service Schedule means the same as 'End date'.

## **Evaluation**

Evaluations can be at a service provider, supplier, and/or Service-wide level, and methods of evaluation may include but are not limited to:

- (a) issues based review or audit, where risks and or concerns have been identified
- (b) post-implementation review, to evaluate the effectiveness of a new Service
- (c) service development review, to inform potential service redesign
- (d) routine programmes of service-wide audits by ACC, and
- (e) post-audit follow up to support ACC's audit function and monitor progress towards recommended actions.

## **Extraordinary event**

An event beyond the reasonable control of the Party immediately affected by the event. If the Party claiming could have prevented or overcome any risk or event by taking reasonable care, it is not an extraordinary event. Examples of extraordinary events include:

- (a) 'acts of God' such as lightning strikes, earthquakes, tsunamis, volcanic eruptions, floods, storms, explosions, fires, pandemics and any natural disaster
- (b) acts of war (whether declared or not) such as invasion, actions of foreign enemies, military mobilisation, requisition or embargo
- (c) acts of public enemies such as terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution or military usurped power or civil war
- (d) contamination by radioactivity from nuclear substances or germ warfare or any other such hazardous properties.

## **GST**

The goods and services tax payable under the New Zealand Goods and Services Tax Act 1985.

## **Injured employee**

A person who has suffered a work related personal injury while employed by an accredited employer.

## **Insolvency event**

The point at which an individual or entity becomes insolvent or unable to pay debts as they fall due. An insolvency event may be any of the following:

- (a) the appointment of a receiver, or receiver and manager, or statutory manager for the whole or part of the activity or your property
- (b) you entering into, or resolving to enter into, a voluntary agreement with creditors or any class of creditors for partial payment to fully satisfy their claims
- (c) you suspending or stopping payment to your creditors generally, or ceasing to carry on business as normal, or threatening or stating that you will do any of those things.

## **Notice**

A formal or legal communication from one Party to the other that meets the requirements of clause 23.

## **Party**

ACC and you are each a Party to this Contract, and together are the Parties.

## **Records**

All information and data necessary to manage this Contract and deliver the Services. Records include, but are not limited to, reports, invoices, letters, emails, notes of meetings, photographs and other media recordings. Records can be hard copies or soft copies stored electronically.

## **Registered health professional**

As defined in the AC Act.

## **Relationship manager**

The person named in each Service Schedule as the Relationship manager for that Service. Relationship managers' responsibilities are listed in clause 11. The relationship manager position may be known by a number of different titles, including supplier manager and contract manager.

## **Services**

All work, tasks and deliverables that you must perform and deliver under this Contract. Services are stated in a Service Schedule.

## **Service provider**

A person engaged by you to provide any of the Services. You may also be a service provider if you are an individual. Examples include: the owner of the Supplier, its directors, employees, subcontractors, agents, external consultants, specialists, technical support and co-opted or seconded staff.

## **Service Schedule**

An attachment to this Contract with the title 'Service Schedule'. Service Schedules are added to this Contract by agreement in writing by the Parties.

## **Start date**

The date when the term of any Service Schedule starts, as set out in that Service Schedule. 'Commencement date' in any Service Schedule means the same as 'Start date'.

## **Subcontractor**

A person, business, company or organisation contracted by you to deliver or perform part of your obligations under this Contract. A person engaged on a contract for Services who performs the tasks of an employee is not considered a Subcontractor.

## **Supplier**

The person, business, company or organisation named as the Supplier on the cover page, also referred to as 'you'. 'Supplier' includes your service providers, successors, and permitted assignees.

## **Term**

The period described in a Service Schedule during which you will provide the Services described in that Service Schedule.

## **Termination date**

The date you will stop providing any or all Services.

## **Treatment provider**

As defined in the AC Act.

## **Variation**

A change to any aspect of this Contract that complies with clause 4.

## **We, us, our, and ours**

Accident Compensation Corporation, also known as ACC, as named on the Cover Page.



**You, your and yours**

The Supplier named on the Cover Page.

## **2. How to interpret this Contract**

- 2.1. The rules in this clause apply when interpreting this Contract, unless the context otherwise requires.
- 2.2. Terms defined in this document bear that defined meaning in the whole of this Contract.
- 2.3. A reference to one gender includes the other.
- 2.4. References to schedules, sections, clauses and subclauses are references to schedules, sections, clauses and subclauses of this Contract.
- 2.5. The singular includes the plural and vice versa.
- 2.6. Clause and other headings are ignored in interpreting this Contract.
- 2.7. Any obligation to not do anything includes an obligation not to let, allow or cause that thing to be done.
- 2.8. References to statutes, regulations, ordinances, bylaws or other instruments include any amendment, substitution or re-enactment.
- 2.9. A person includes a company or other entity. Any reference to a person applies to its personal representatives or to its legal successor.

## **3. Start and end date for the Contract**

- 3.1. This Contract starts on the date the second Party to sign has signed the cover page.
- 3.2. Each Service Schedule has a start date and end date for the relevant Service.
- 3.3. This Contract continues while there is a Service Schedule that has not been terminated or has not reached its end date.

## **4. Changes to this Contract**

- 4.1. Any change to this Contract is called a Variation. Unless clause 4.2 or 4.3 or 4.4 apply, a Variation must be agreed by both Parties and recorded:
  - (a) in writing and signed by both Parties, or
  - (b) through an exchange of emails where the authors have delegated authority to approve the Variation.

## **ACC may amend the Contract**

- 4.2. At any time, after consulting with you, we may give you notice that this Contract (excluding prices) is varied with effect from a date stated in the notice. The notice will take effect from that date, and the Contract will be varied. We may not, under this clause, give a notice that reduces the prices payable under this Contract.
- 4.3. If you can show that you will suffer additional costs as a result of the variation made under clause 4.2, you can claim these additional costs from us. If we agree that the variation has caused additional costs, we will be liable to pay such costs to you. If we do not agree, either Party may require the matter to be resolved under clause 19 (Process for resolving disputes).

## **Variations to give effect to government policy changes**

- 4.4. Despite clause 4.2, we may give you a notice varying this Contract if a change in legislation or regulations or a ministerial directive under the AC Act requires this Contract to be varied in any respect. This Contract will be varied from the date stated in the notice. We will not be liable for any loss or additional costs incurred by you as a result, unless we agree otherwise.

## **5. Scope of these standard terms and conditions**

- 5.1. These Standard Terms and Conditions apply to each Service described in a Service Schedule. Any changes to these Standard Terms and Conditions will be set out in the relevant Service Schedule.
- 5.2. To avoid doubt, ACC and you agree that these Standard Terms and Conditions do not apply to any services you provide which are not described in a Service Schedule (e.g. treatment for a non-ACC covered condition funded by another agency or by the person).

## **6. How each party will behave**

- 6.1. Both Parties agree:
  - (a) to act in good faith and demonstrate honesty, integrity, openness and accountability in their dealings with each other
  - (b) to discuss matters affecting this Contract or the delivery of the Services
  - (c) to notify each other immediately of any actual or anticipated issues that could significantly impact on the Services or the charges
  - (d) Subject to sub clause 6.2(a) and clause 9, not to make or issue to the media or any member of the public any oral or written statement or comment

concerning a client, the client's treatment, ACC or the operation of this Contract, without consulting the other Party beforehand

- (e) to promptly advise the other if:
  - (i) required to provide information to a client, professional disciplinary body or other person under the Official Information Act 1982, the current Code of Health and Disability Services Consumers' Rights or other legislation about a Client or Services provided under this Contract, or
  - (ii) it is the subject of a complaint concerning a Client, the Client's treatment in relation to the Services or the operation of this Contract.

## **No adverse comments**

6.2. Each Party undertakes:

- (a) not to make any oral or written statement or comment to the media, a Client, or member of the public about the operation of the Contract that criticises the other Party or public opinion of the other Party, or that brings the other Party into disrepute (an adverse comment)
- (b) if responsible for such a statement or comment, at the request and with the prior agreement of the other Party, to promptly make an appropriate retraction or take such other remedial steps as are appropriate and reasonable in the circumstances, which will be without prejudice to any other rights, remedies or actions available to the other Party
- (c) not to publicly display (for example, on websites or social networking sites) objectionable or derogatory comments about the Services, this Contract, each other or any of its service providers, and to ensure that its service providers do not do so.

## **7. ACC's obligations**

- 7.1. ACC is a Crown entity and is therefore required to act consistently with the Treaty of Waitangi. We will take Treaty principles into account when designing, delivering, and monitoring Services that impact on economic opportunities and social outcomes for Māori.
- 7.2. We must make decisions and give approvals that you reasonably require to deliver the Services.
- 7.3. We must give all decisions and approvals within the timeframes in a Service Schedule or within reasonable timeframes if a timeframe is not specified.
- 7.4. We must provide you with copies of any policies or procedures we expect you to comply with.

- 7.5. We must pay you the Charges for the Services, as long as you have delivered the Services and invoiced ACC according to this Contract.
- 7.6. We must comply with all applicable laws and regulations.

## **Security**

- 7.7. Subject to all applicable law including the Privacy Act 1993, we will tell you if we are aware of significant security and safety issues with a Client.

## **8. Supplier's obligations**

### **Meet all regulatory and professional standards**

- 8.1. Your service delivery must
- (a) comply with all applicable laws and regulations, including the:
    - (i) Health and Disability Services (Safety) Act 2001
    - (ii) Privacy Act 1993 and Health Information Privacy Code 1994
    - (iii) Health Practitioners Competence Assurance Act 2003
    - (iv) Accident Compensation Act 2001
    - (v) Health and Safety at Work Act 2015
    - (vi) Vulnerable Children Act 2014
  - (b) use the degree of professional skill, care and diligence expected of an appropriately qualified person experienced in providing the same or similar services
  - (c) meet all current clinical, ethical and professional standards and guidelines
  - (d) follow good practice at the level expected from a leading supplier in the relevant profession or industry.

### **Meet the terms of the contract**

- 8.2. You must deliver the Services:
- (a) on time and to the required performance standards and quality, as:
    - (i) set out in these Standard Terms and Conditions and the relevant Service Schedule
    - (ii) reasonably notified by ACC to you from time to time, provided such notified standards are accepted by you
  - (b) for the amounts agreed as Charges.

## **Comply with ACC's policies**

- 8.3. Services must comply with the Code of ACC Claimants' Rights and any reasonable ACC policy on that Code that we provide to you (if that Code applies to the Services). If we contact you about a complaint under that Code, you will co-operate fully with us.
- 8.4. Services must comply with all ACC's policies on Service delivery. We must provide you with a copy of these policies.
- 8.5. If you are at ACC's premises, you must comply with our policies and procedures, including those relating to health and safety, and security requirements. We will tell you what the relevant policies and procedures are, and give you a copy of them.

## **Make sure your personnel and equipment meet the required standard**

- 8.6. You must make sure that your service providers have the necessary skills, experience, training and resources to successfully deliver the Services. This includes any specific qualifications, skills, experience, training and resources specified in a Service Schedule and the standards in clause 8.1. You will make sure that your service providers are aware of your obligations under this Contract, and meet all your obligations in this Contract.
- 8.7. You must make sure that all service providers who are registered health professionals or treatment providers meet the requirements of their registration body under the Health Practitioners Competence Assurance Act 2003, including meeting all clinical competence, cultural competence, and ethical conduct standards set by the registration body. You must advise us promptly if a service provider is subject to any practising restrictions imposed by their registration professional body, and keep us informed of any changes to those restrictions.
- 8.8. You must provide all equipment and resources necessary to deliver the Services.

## **Services must comply with the Treaty and meet cultural needs**

- 8.9. You must recognise the Treaty of Waitangi in the way you provide Services, including taking account of the social, economic and political values of Māori.
- 8.10. If the nature of the Services requires it, you will deliver Services in a manner that is culturally appropriate including meeting the unique needs of the Māori client and that these Services comply with any reasonable ACC policy provided to you. You will contact the Relationship manager to discuss any issues about this clause.
- 8.11. If the nature of the Services requires it, you will deliver Services in a manner that is culturally appropriate including meeting the unique needs of Pacific, Asian and other ethnic or indigenous groups and that these Services comply with any reasonable ACC policy provided to you. You will contact the Relationship manager to discuss any issues about this clause.

## **Contract excludes regulations**

- 8.12. If a Service to a Client is included in a Service Schedule to this Contract, you must charge under this Contract. You cannot charge for that Service under any regulations.

## **Insolvency events**

- 8.13. You agree to advise ACC of an insolvency event as soon as it happens.

## **High profile issues**

- 8.14. Subject to all applicable law including the Privacy Act 1993, you will notify ACC immediately by telling the Relationship Manager for the relevant Service Schedule if you become aware of any issue about a Client or this Contract which may attract interest from the media or the public.

## **Security issues**

- 8.15. Subject to all applicable law including the Privacy Act 1993, you will tell us if you are aware of significant security and safety issues with a Client.

## **Health and Safety**

- 8.16. Ensuring health and safety: In performing its obligations under this Agreement, the Supplier must:
- (a) comply with all relevant health and safety legislation including the Health and Safety at Work Act 2015 ("HSAWA");
  - (b) so far as reasonably practicable, ensure the health and safety of:
    - (i) ACC's and the Supplier's personnel; and
    - (ii) ACC Clients;
  - (c) take all practical steps to ensure that no act or omission gives rise to, or is likely to give rise to, the issue of an improvement or prohibition notice, enforcement action or a prosecution under any health and safety legislation (including the HSAWA) against ACC or the Supplier;
  - (d) advise ACC in writing as soon as possible of:
    - (i) any hazards, risks, accidents, incidents or near misses to the Supplier's or a subcontractor's staff arising from any ACC Client's behaviour or condition;
    - (ii) all notifiable events (as defined in the HSAWA) relating to the Services;

- (iii) any contact by any regulatory agency in relation to any health, safety or environmental matter relating to the Services (unless the Supplier is prohibited by law from so advising ACC);
- (e) comply with ACC's reasonable instructions in relation to any matter referred to in sub clause (d).

## **9. Personal and confidential information will be kept private and secure**

### **Protection of personal information**

- 9.1. You will comply with the Privacy Act 1993 and the Health Information Privacy Code 1994 including:
- (a) ensuring that any personal or health information you hold about a Client is protected by reasonable security safeguards against loss or unauthorised access, use, modification or disclosure
  - (b) appointing a Privacy Officer
  - (c) advising the relevant Relationship Manager promptly if there is a privacy breach involving information about a Client, working with ACC to resolve the breach, and consulting with ACC before dealing with the media in relation to the breach.
  - (d) having a privacy policy which complies with the Privacy Act 1993 and the Health Information Privacy Code 1994
  - (e) using or disclosing personal or health information only where the use or disclosure is permitted or authorised by the Privacy Act 1993 or the Health Information Privacy Code 1994.
- 9.2. You agree that we may assess your privacy policy and practice as it relates to Client information. You will cooperate with any privacy assessment, including completing self-assessments on request.

### **Protection of confidential non-personal information**

- 9.3. Each party confirms that it will not use or disclose the other Party's confidential information to any person or organisation other than if:
- (a) use or disclosure is necessary to provide or use the Services
  - (b) the other Party gives prior written approval for the use or disclosure
  - (c) the use or disclosure is required by law (including under the Official Information Act 1982), Ministers or parliamentary convention



- (d) information disclosed has already become public, other than through a breach of the obligation of confidentiality by one of the Parties.

### **Obligation to inform staff**

9.4. You will ensure that your service providers:

- (a) are aware of the obligations to protect personal and health information and confidential information in this Contract, and
- (b) do not use or disclose any of the other Party's confidential information or any Client's personal or health information, except as allowed by this Contract.

### **Recording of meetings by clients**

9.5. If a Client records (audio or video) a meeting with a service provider, and the service provider is aware of the recording, you will ensure that the service provider:

- (a) tells the Client that the service provider may also record or document the meeting to ensure a complete and accurate record; and
- (b) tells the Client that you will supply a copy of the record or document to ACC if we request it; and
- (c) has processes for holding the record or document securely.

### **Information about service providers**

9.6. You understand that ACC may disclose (for example on the internet) details of suppliers and service providers (including names, qualifications, experience and contact details). You will ensure that:

- (a) your service providers know that ACC can disclose this information; and
- (b) the details provided to ACC are accurate, and tell ACC if any details change.

## **10. Charges and payment**

### **You charge us on a valid tax invoice**

10.1. The Charges are the total amount payable by ACC to you for delivery of the Services. Charges include all service item codes in a Service Schedule. If service items codes for travel are included in a Service Schedule, you can claim for travel under ACC's travel policy. We will provide you with a copy of this policy.

10.2. You must provide valid tax invoices for all Charges on the dates or at the times specified in the relevant Service Schedule. If the invoice you provide to us is not a valid tax invoice, we have no obligation to pay the Charges set out on it. A valid tax invoice must:

- (a) be clearly marked 'Tax invoice'
- (b) contain correct information about you, us, and the Contract, including:
  - (i) your name, address and GST number, if you are registered for GST
  - (ii) ACC's name and address, and be marked for the attention of the person or ACC office specified by ACC for that Service
  - (iii) the date the invoice was issued
  - (iv) the name of the relevant Service Schedule and a description of the Services supplied, including the amount of time spent in the delivery of the Services if payment is based on an hourly rate
  - (v) the date the Services were provided
  - (vi) contain ACC's Contract reference or purchase order number, if there is one
  - (vii) your Supplier ID (also called "Vendor ID")
- (c) contain correct financial information, including:
  - (i) all GST due
  - (ii) the Charges due, calculated correctly in New Zealand currency or another currency agreed in writing by ACC and you
- (d) be supported by GST receipts, if expenses are claimed, and any other verifying documentation reasonably requested by ACC
- (e) be submitted electronically using one of ACC's prescribed electronic methods (available on ACC's website), unless the Service Schedule allows manual invoicing.

10.3. Unless otherwise specified in each Service Schedule, the price for each Service is the entire amount you can charge for that Service. You must not charge any additional amount to ACC, any Client or any other person (as co-payment or part-charge or otherwise) for that Service.

## **We will pay on invoice**

- 10.4. ACC will pay all complying invoices for Services provided according to this Contract. Payment will be in one lodgement to the bank account you specified in the relevant Service Schedule. If a complying invoice is received by ACC by the 10th day of the month following the period being billed, payment will be made on or before the 20th of the month following the period being billed. If the 20th of the month is not a business day, payment will be made on or before the first business day following the 20th. If ACC pays an invoice and later determines that all or part of the invoice was for Services which were not provided according to this Contract, ACC can, at its discretion, and after consulting with you, recover the amount from you or deduct the amount from any payments due to you.
- 10.5. If we cannot approve any invoice or part of an invoice for payment, we will advise you. We will detail on the remittance advice the reasons why we cannot approve payment, and what steps you need to take to obtain approval. After you take these steps, we will then make payment on or before the 20th of the month following the month that approval is given. If the 20th of the month is not a Business day, payment will be made on or before the first business day following the 20th.
- 10.6. If you do not receive payment of all or part of a complying invoice, and we do not give a reason for not making payment, you will contact ACC's provider helpline by phone or email and ask them to investigate and resolve the non-payment.
- 10.7. We will not pay for a Service where the invoice for that Service is not received within 12 months of the later date of:
- (a) the date the Service was provided
  - (b) the date cover was granted by ACC.

## **We do not guarantee to refer clients**

- 10.8. Despite anything stated or implied in this Contract, ACC does not have an obligation to make sure that Clients are referred to you. We do not guarantee you any minimum volume of Services or any minimum amount payable.

## **11. Responsibilities of Relationship managers**

- 11.1. Relationship managers are named in each Service Schedule. Relationship managers are responsible for managing that Service Schedule, including:
- (a) managing the relationship between the Parties
  - (b) managing your overall performance
  - (c) overseeing the effective implementation of the Service Schedule
  - (d) acting as a first point of contact for any issues that arise
  - (e) identifying potential savings and improvements
  - (f) co-ordinating all reporting and review meetings.
- 11.2. If either Party changes its Relationship manager for any Service, it must, within a reasonable period, tell the other Party in writing the name and contact details of the replacement. ACC can advise you by publishing the new details on its provider website.

## **12. How information will be managed and monitored**

- 12.1. You must:
- (a) keep and maintain records using prudent business practice and according to all applicable laws
  - (b) make sure the records are easy to access, and
  - (c) keep the records safe.
- 12.2. When we make a reasonable request for information about the Services, you must give us that information. You must provide all information in a format we can use, and within a reasonable time.
- 12.3. If we need information to comply with an enquiry or our statutory, parliamentary, or other reporting obligations, you must co-operate with us to provide information immediately.
- 12.4. You must make your Records available to us during the term of the Contract and for 10 years after the end date (unless you have already provided them to us).
- 12.5. You must make sure that records provided by ACC or created for ACC, are securely managed. When records are disposed of, you must make sure they are securely destroyed.

## Keeping clinical records

- 12.6. You must ensure that, where clinical records are required, you maintain clinical records that are clear and accurate. Your clinical records must:
- (a) meet the relevant professional standards for clinical record keeping regarding:
    - (i) assessment
    - (ii) Client discussion
    - (iii) care, treatment and medications provided
    - (iv) effectiveness of care or treatment
    - (v) evidence of informed consent
  - (b) be dated and signed and clearly attributable to the Service provider
  - (c) contain the ACC45 number and the National Health Index (NHI) number (if relevant).

## 13. Evaluation of services

- 13.1. ACC has the right to evaluate any Service under this Contract, so that we can check compliance with organisational and Service quality requirements.
- 13.2. Such evaluations can consider any and all aspects of this Contract.
- 13.3. ACC will use any method of evaluation that we determine is appropriate based on the perceived level of risk.
- 13.4. ACC can perform such evaluations itself or by using an appropriate subcontractor or other government agency.
- 13.5. ACC will give you at least 10 business days' notice of our intention to conduct an evaluation. If we believe that delay will unnecessarily prejudice the interests of any person, we may give you notice of our intention to carry out an evaluation within such other time ACC considers appropriate, but on no less than 24 hours' notice.
- 13.6. If ACC considers an evaluation is necessary, then subject to the requirements of relevant law, you will allow ACC access to the information necessary for that process. This includes your records and premises and the records and premises of any relevant subcontractor. You, and any relevant subcontractors will provide ACC with every reasonable facility for and assistance in obtaining access to undertake the evaluation. The person conducting the evaluation may (subject to the rights of Clients or other people receiving the Services) attend Services being provided, and talk with Clients and other providers or users of Services.

## Who pays for an evaluation

- 13.7. We will not charge you and you will not charge us for any initial evaluation process. You will pay for any further evaluations about the same performance issues if you have not improved your Service standards to the level required by ACC within an agreed length of time.

## 14. Improving services

### Process for changes to Service performance

- 14.1. Reports and communications provided by you in relation to Service delivery, ACC monitoring of data and Service delivery, and findings from evaluations (including audits) may be used by ACC, in addition to other lawful uses, to improve Service performance.
- 14.2. ACC and you will discuss reports to identify any issues and decide:
- (a) if performance could be expected to change, or
  - (b) if there are other factors that provide a reasonable basis for the identified performance.
- 14.3. If a change in performance is required, then we will work with you to develop required action(s) by each Party and the timeframes for progress review.
- 14.4. If we have observed a change in performance to bring it within appropriate parameters, we will provide feedback to you and end the performance improvement process.
- 14.5. If improvements have been evidenced, but further change in performance is required, both Parties will agree to an extension of the performance improvement plan. This plan will include any changes to the required action(s) by each Party and the agreed timeframes for those actions.
- 14.6. If we do not observe sufficient improvement, at the end of either the initial or any subsequent performance improvement period, or if you do not agree to a performance improvement plan, we may issue a notice of breach of contract under clause 20.8.
- 14.7. The powers or processes in this clause 14 do not limit ACC's powers under clause 20.8 to 20.10

## **15. Limits on the contractual relationship**

- 15.1. You are an independent contractor. Nothing in this Contract constitutes a legal relationship between the Parties of partnership, joint venture, agency, or employment. You are responsible for your own and your service providers' liabilities. Such liabilities include salaries, wages, holiday or redundancy payments, and any GST, corporate, personal and withholding taxes, ACC levies or other levies attributable to your business or to engaging your service providers.
- 15.2. Neither Party has authority to bind or represent the other Party in any way or for any purpose.

### **Transfer of rights or obligations**

- 15.3. Each Party may only transfer any of its rights or obligations under this Contract if it has the other Party's written approval. ACC may, in its sole discretion, decide whether to give its approval. You must ask ACC for approval for any such transfer at least 30 business days before the date of the proposed transfer.
- 15.4. If you transfer your rights or obligations without obtaining ACC's written approval to the change, then we may give you a notice of breach under clause 20.8. An example of transferring your rights and obligations is a change in your shareholding or ownership that alters the effective control (unless you are a company whose shares are listed on any recognised stock exchange).

### **The Contract does not affect statutory obligations**

- 15.5. Nothing in this Contract affects the statutory obligations of either Party to Clients. Nor does the Contract bind either Party to do or refrain from doing anything in a manner that is not consistent with the law.

## **16. How you deal with subcontractors**

- 16.1. You must not enter into a contract with someone else to deliver any part of the Services without ACC's written approval. If subcontracting is allowed for a Service, that will be stated in the Service Schedule.
- 16.2. If you assign, transfer, subcontract or otherwise dispose of any of your liabilities or obligations under this Contract, you continue to be responsible for those liabilities or obligations.
- 16.3. You are responsible for making sure that any subcontractor is suitable and has the capability and capacity to deliver that aspect of the Services being subcontracted.

16.4. You must make sure that:

- (a) every Contract you sign with a subcontractor contains provisions that enable you to comply with your obligations under this Contract
- (b) the terms in any subcontract you sign are consistent with this Contract
- (c) each subcontractor is fully aware of your obligations under this Contract.

16.5. You must advise ACC immediately if a subcontractor experiences an insolvency event or a bankruptcy or liquidation.

## **17. How to cover risks**

### **Insurance and professional indemnity**

17.1. It is your responsibility to make sure your risks of doing business are adequately covered, whether by insurance or otherwise. If a Service Schedule specifies insurance, you must:

- (a) take out the specified insurance, with a reputable insurer, and maintain that insurance cover for the term of this Contract and for a period of three years after the end date, and
- (b) within 10 business days of a request from ACC, provide a certificate confirming the nature of the insurance cover and proving that each policy is current.

17.2. You will ensure that you and your Service providers:

- (a) have or retain membership with a recognised medical defence organisation (if you or your service providers are eligible to be members), or
- (b) have professional indemnity insurance to cover the period of the relevant Service Schedule.

17.3. You will, within 10 business days of a request from ACC, provide evidence confirming the membership or insurance referred to in clause 17.2.

## **18. Conflicts of interest**

### **Avoiding conflicts of interest**

18.1. You confirm that, as at the start date, you have no conflict of interest in providing the Services or entering into this Contract. You must do your best to avoid situations that may lead to a conflict of interest.



- 18.2. If a conflict of interest arises, you must tell us immediately in writing. You and ACC must discuss, agree and record in writing whether the conflict of interest can be managed and, if so, how it will be managed. Each Party must pay its own costs for managing a conflict of interest.

### **Refusing financial incentives**

- 18.3. If you have a financial interest in an entity that supplies, procures or manufactures products or services, you must obtain ACC's written approval before using those products or services to provide the Services described in the Service Schedules.
- 18.4. If you procure products or services to provide the Services, you must not accept or receive (or permit any service providers to accept or receive) any incentive, rebate or reward for the procurement. You may not receive any gift, voucher, cash, trip or travel, merchandise or equipment or any discount, rebate or credit towards such items or an incentive or reward in any other form.
- 18.5. You must also not accept or receive (or permit any service providers to accept or receive) any incentive or reward for recommending any products or services.

### **No Collusion**

- 18.6. You will not consult or communicate with any other supplier or potential supplier to ACC, or enter into any arrangement or understanding with any other supplier or potential supplier to ACC about any matter which is likely to or may have the effect of reducing competition for the Services including:
- (a) Prices for the Services; or
  - (b) Methods, factors or formulas used to calculate prices for the Services.

## **19. Process for resolving disputes**

- 19.1. The Parties agree to use their best endeavours to resolve any dispute or difference that may arise under this Contract. The following process will apply to disputes:
- (a) The Party must notify the other if it considers a matter is in dispute.
  - (b) The Relationship managers will attempt to resolve the dispute through direct negotiation.
  - (c) If the Relationship managers have not resolved the dispute within 10 business days of notification or any later agreed date, they will refer it to the Parties' senior managers for resolution.
  - (d) If the senior managers have not resolved the dispute within 10 business days of it being referred to them, the Parties will refer the dispute to mediation or some other form of alternative dispute resolution agreed by the Parties.

- 19.2. If a dispute is referred to mediation, the mediation will be conducted:
- (a) by a single mediator agreed by the Parties or, if they cannot agree, appointed by the Chair of LEADR NZ Inc
  - (b) on the terms of the LEADR NZ Inc. standard mediation contract, and
  - (c) at a fee to be agreed by the Parties or, if they cannot agree, at a fee determined by the Chair of LEADR NZ Inc.
- 19.3. Each Party will pay its own costs of mediation or alternative dispute resolution under this clause 19 and half the mediator's fee.
- 19.4. If there is a dispute, each Party will continue to perform its obligations under this Contract as far as practical given the nature of the dispute.
- 19.5. Each party agrees not to start any court action over a dispute until it has complied with the process described in clause 19, unless court action is necessary to preserve a Party's rights.

## **20. Ending this Contract**

### **By notice as of right**

- 20.1. Either party may, without incurring any liability to the other for damages or other compensation, at any time give to the other no less than:
- (a) three calendar months' notice of termination of this Contract and all the Services, or
  - (b) three calendar months' notice of the cancellation (or any lesser notice period for cancellation permitted under the applicable Service Schedule) from this Contract of a particular Service Schedule and the Service(s) described in that Service Schedule.
- 20.2. The date ('termination date') on which this Contract and all the Services must come to an end is the later of:
- (a) three calendar months after the date on which notice under clause 20.1 is received by you
  - (b) any date specified in the notice as the date on which this Contract will come to an end.
- 20.3. The date ('cancellation date') when the Service Schedule and the Service(s) described in that Service Schedule are removed from this Contract is the later of:
- (a) three calendar months (or any lesser notice period for cancellation permitted under the applicable Service Schedule) after the date on which notice under clause 20.1 is received by you

- (b) any date specified in the notice as the date at which the Service Schedule is to be cancelled.

### **Termination without notice on insolvency**

- 20.4. The Supplier's insolvency or liquidation is a deemed breach of Contract. This Contract and all the Services will end immediately (without any requirement for prior notice). This will not apply, however, if the liquidation is for the purpose of reconstruction or amalgamation, the terms of which have been approved by ACC.
- 20.5. The date you are judged bankrupt or the date of appointment of a liquidator is the 'termination date'; that is, the date on which this Contract and all the Services will end.

### **Termination with notice on insolvency**

- 20.6. An insolvency event may be deemed to be a breach of Contract. If an insolvency event has occurred and if, at any time after that event, ACC gives notice to you of termination of this Contract and all of the Services, this Contract and all the Services will end immediately.
- 20.7. The date a notice given by ACC under clause 20.6 is received by you is the 'termination date'; that is, the date on which this Contract and all the Services will end.

### **Termination for breach**

- 20.8. If either Party considers that the other has breached any provision of this Contract, that Party may give notice to the other specifying the breach. The notice must give the other Party 10 business days to stop or to remedy the breach (if it is capable of remedy). ACC will consider you have breached this Contract if we consider on reasonable grounds that you have defrauded ACC (whether or not you are prosecuted for that fraud).
- 20.9. If the breach has not stopped or been remedied within 10 business days, the Party that gave the notice may forward to the other Party a notice of termination of:
  - (a) this Contract and all of the Services, or
  - (b) any particular Service Schedule(s).
- 20.10. The date on which the Contract and all the Services or the relevant Service Schedule(s) will terminate (that is, the 'termination date') is:
  - (a) the date of receipt by the other Party of the notice of termination given under clause 20.1, or
  - (b) any later date specified for that purpose in the notice.

## **21. Rights after cancellation or expiry**

### **Release from cancellation date or end date**

- 21.1. You are released from the obligation to further provide the Service(s) described in a Service Schedule from the earlier of:
- (a) the cancellation date for a particular Service Schedule,
  - (b) the end date of a particular Service Schedule.
- 21.2. ACC is released from the obligation to pay for such Service(s) provided after that date.

### **Rights after termination, cancellation, or expiry**

- 21.3. Termination, cancellation or expiry does not affect any rights, other remedies or obligations of either Party under this Contract or under legislation that arose before or on the date of termination, cancellation or expiry. These rights, other remedies and obligations continue to have effect and may be enforced after the relevant date.
- 21.4. Termination or cancellation does not affect any other rights or remedies of the Party who gave the notice of termination or cancellation. If you have received money for services that ACC did not need to pay you for because you breached this Contract, we may deduct any amount we are entitled to from any money we owe you.

### **Handing over the Services**

- 21.5. You will, within 10 business days of the end date or termination date or cancellation date of any Service Schedule, provide all reasonable assistance and co-operation needed for a smooth handover of the Services to ACC or any person appointed by ACC.

## **22. Suspension of Services**

- 22.1. ACC can give you written notice that all or any of the Services are suspended if ACC considers on reasonable grounds:
- (a) that you may have breached this Contract, and
  - (b) for any reason it is not appropriate for you to continue to provide the Services or any of the Services (for example while the issue is investigated).

- 22.2. If you receive a suspension notice under clause 22.1, you will stop providing Services:
- (a) until the earlier of:
    - (i) the date specified in the notice, or
    - (ii) the date ACC and you agree the Services can begin again
  - (b) permanently, if the Contract or the Service Schedule for those Services is terminated or cancelled while the suspension is in force.
- 22.3. ACC can give you written notice that any service provider is suspended from providing all or any of the Services if ACC believes, on reasonable grounds that, for any reason, it is not appropriate for the Service provider to continue (for example, while the issue is investigated).
- 22.4. If you receive a suspension notice under clause 22.3, you will stop the service provider from providing Services:
- (a) until the earlier of:
    - (i) the date specified in the notice, or
    - (ii) the date ACC and you agree the service provider can start providing Services again
  - (b) permanently, if you and ACC agree that the service provider will no longer provide Services under this Contract or the Service Schedule, or the service provider is removed in accordance with the relevant Service Schedule.
- 22.5. The powers in this clause 22 do not limit ACC's powers under clause 20.8 to 20.10.

## **23. Notices and communication**

### **Notices**

- 23.1. All notices to a Party must be delivered by hand or sent by post, courier or email. The address to be used for notices is the address for that Party stated in the relevant Service Schedule.
- 23.2. Notices must be signed or, in the case of email, sent by the appropriate manager or person having authority to do so.

- 23.3. A notice will be considered to be received:
- (a) if delivered by hand, on the date it is delivered
  - (b) if sent by post within New Zealand, on the 3rd business day after the date it was sent
  - (c) if sent by post internationally, on the 7th business day after the date it was sent
  - (d) if sent by courier, on the date it is delivered
  - (e) if sent by email, at the time the email enters the recipient's information system as evidenced by a delivery receipt requested by the sender provided that it is not returned undelivered or as an error.
- 23.4. A notice received after 5pm on a business day or on a day that is not a business day will be considered to be received on the next business day.

### **How we will provide policies**

- 23.5. When this Contract requires us to provide a copy of policies or procedures, we may meet the requirement by providing a paper copy, an electronic copy or a link to an internet page.

## **24. Business continuity**

- 24.1. You will maintain at all times adequate business continuity arrangements, taking into account good practice. You will use all reasonable endeavours to implement such business continuity arrangements whenever necessary. Your business continuity arrangements will include plans for responding to incidents and business disruptions so that you can continue to provide Services.
- 24.2. You will provide us with details of your after-hours contact points when we ask you to do so.
- 24.3. You will provide a business continuity plan to us where one is required in a Service Schedule.

## **25. Extraordinary events**

- 25.1. Neither Party will be liable to the other for any failure to perform its obligations under this Contract where the failure is caused by an extraordinary event.

- 25.2. A Party who wishes to claim suspension of its obligations because of an extraordinary event must notify the other Party as soon as reasonably possible. The notice must state:
- (a) the nature of the circumstances giving rise to the extraordinary event
  - (b) the extent of that Party's inability to perform under this Contract
  - (c) the likely duration of that non-performance, and what steps are being taken to minimise the impact of the extraordinary event on the delivery of Services.
- 25.3. If ACC, acting reasonably, requires the Services to be supplied during the period affected by an extraordinary event then, despite clause 25.1 we may terminate this Contract immediately by giving notice.
- 25.4. If a Party is unable to perform any obligations under this Contract for 20 business days or more because of an extraordinary event, the other Party may terminate this Contract immediately by giving notice.

## **26. ACC property**

- 26.1. If we ask, you will deliver to us all correspondence, documents, papers, digital library and other property of any nature that may be in your possession or power belonging to ACC. This clause applies both during and after the term of a Service Schedule or this Contract. We will not exercise this power if it will hinder your performance of this Contract.
- 26.2. Clause 26.1 extends equally to any copy of all or part of the correspondence, documents, paper, digital library or other property referred to in that clause.
- 26.3. All information, methods and techniques supplied by you and communicated to ACC will remain your property.

## **27. Organisational quality standards**

- 27.1. Where a standard refers to the requirement for a written policy, procedure, programme, information or plan, you will provide us with a copy on request.

27.2. You are required to:

- (a) have written and applied protocols and policies that outline the standards for the Services
- (b) have in place, and follow, written protocols, procedures and policies for managing the Services. This document needs to be kept up to date and made readily available for staff to read. The document will include written procedures on the following:
  - (i) receiving and responding to complaints
  - (ii) systems to measure customer satisfaction with the Services
  - (iii) collecting and storing information, and keeping it private
  - (iv) roles and responsibilities of those providing the Services
  - (v) culturally appropriate practices
  - (vi) rights and responsibilities of Clients
  - (vii) complying with relevant legislation, regulations, ethical standards and clinical protocols.
- (c) have a documented policy about dealing with vulnerable Clients which will at a minimum be consistent with ACC's policy which we will provide to you.

27.3. You will make sure that:

- (a) all facilities used to provide Services are accessible to people with disabilities. If a Client is unable to access your facility, you will tell ACC and negotiate with ACC (including about any additional travel costs) to arrange an alternative location at no additional cost to the Client.
- (b) Service providers provide the Services from safe, well-maintained, hygienic facilities that are suitably designed and equipped for the Services
- (c) all equipment used in the Services is safe and maintained to comply with safety and use standards.

### **Interpreting services**

27.4. Where Clients require interpreting or translating services to communicate adequately with service providers, you will ensure that such services are supplied without additional cost to the Client.



## **28. General**

### **This is the entire Contract**

28.1. This Contract, including any variation and any Service Schedule, records everything agreed between the parties about the Services. It replaces any previous verbal or written communications, negotiations, arrangements or Contracts for the Services that the Parties had with each other before this Contract was signed.

### **Delaying does not waive rights**

28.2. If a Party breaches this Contract and the other Party does not immediately enforce its rights resulting from the breach that:

- (a) does not mean that the Party in breach is released or excused from performing the obligation at the time or in the future, and
- (b) does not prevent the other Party from exercising its rights resulting from the breach at a later time.

### **New Zealand law, currency and time**

28.3. This Contract will be governed and interpreted under the laws of New Zealand.

28.4. All money is in New Zealand dollars, unless a Service Schedule specifies a different currency.

28.5. Dates and times are New Zealand time.

### **Publication of information about this Contract**

28.6. You may disclose the existence of this Contract. You must obtain our written approval before making reference to ACC or this Contract, or using our logo, in your publications, public statements, promotional material or promotional activities.

### **Signing the Contract**

28.7. The date of execution is the date this Contract is signed. This Contract is properly signed if each Party signs the same copy, or separate identical copies, of the cover page. If this Contract is signed on two separate dates or separate copies are signed, the date of execution is the later of the two dates. Where separate copies are signed, the signed copy can be the original document, or an emailed copy.

## **Clauses that remain in force**

- 28.8. The clauses that, by their nature, should remain in force on expiry or ending of this Contract do so, including:
- (a) clause 1 (definitions)
  - (b) clause 9 (personal and confidential information will be kept private and secure)
  - (c) clause 12 (how information will be managed and monitored)
  - (d) clause 17 (how to cover risk)
  - (e) clause 19 (process for resolving disputes)
  - (f) clause 20 (ending this Contract)
  - (g) clause 26 (ACC property), and
  - (h) clause 0 (general).

## **Precedence**

- 28.9. If there is any conflict or difference between the documents forming this Contract (as stated on the cover page) then the order of precedence is:
- (a) variation made in accordance with clause 4
  - (b) Service Schedule
  - (c) Standard Terms and Conditions.

## **29. Multiple suppliers**

- 29.1. If this Contract is signed by more than one Supplier, the liability of all Suppliers under this Contract will be joint and several.

## **30. Services for injured employees of accredited employers**

### **Purchase of Services by accredited employers**

- 30.1. You agree that accredited employers are permitted to purchase the Services for their injured employees and that you will provide Services to those injured employees, subject to the provisions of clauses 30.2 to 30.4 below.

## **Information to accredited employers**

30.2. We may release information about this Contract (including prices) to accredited employers if the accredited employer has first agreed in writing with ACC to keep that information confidential and to use it only for the purpose of purchasing Services.

## **Access**

30.3. During the term of any Service Schedule, you will provide Services to injured employees of such accredited employers:

- (a) on the same terms and prices as specified in this Contract (subject to any minor adjustments to this Contract that may be necessary to give effect to this clause 30, and to any changes in those terms and prices subsequently agreed between you and accredited employer)
- (b) as if 'ACC' in this Contract was a reference to the particular accredited employer except that an accredited employer cannot exercise or enforce rights which by their nature are intended to be exclusive to ACC including the following clauses of these Standard Terms and Conditions:
  - (i) clauses 4.2 to 4.4
  - (ii) clauses 8.3 and 8.4
  - (iii) clause 9.5
  - (iv) clause 13
  - (v) clause 14
  - (vi) clauses 15.3 and 15.4
  - (vii) clause 22.

For the purposes of this clause, any injured employee of an accredited employer is deemed to be a 'Client'.

## **ACC not liable for purchasing by accredited employers**

30.4. ACC's role is to bring you and accredited employers together. You agree that ACC and each accredited employer is only liable for the individual purchases made by us or that employer, and neither of them has any joint liability (except as provided in section 187(3) of the AC Act). All communications, invoicing and reporting about injured employees will go to the accredited employer of the injured employee or injured employees who receive the Services.