

**MEMORANDUM OF UNDERSTANDING**

**Between**

**HOCKEY NEW ZEALAND INCORPORATED**

**And**

**THE HOCKEY PLAYERS' ASSOCIATION INCORPORATED**



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**TERMS OF MOU AND RELATED CONTRACT YEARS:**

MOU Contract Year:

- 2019 - 1 November 2018 - 31 October 2019
- 2020 - 1 November 2019 - 31 October 2020
- 2021 - 1 November 2020 - 31 October 2021

HNZ Financial Year - This is based on calendar year 1 January to 31 December

Player Contract Year - Term of HNZ Player Contract, which subject to the terms of this MOU, aligns with the annual selection cycle for the National Squads and an MOU Contract Year

The Black Sticks Calendar - MOU Contract Years 2019, 2020 and 2021



This Memorandum of Understanding is made on

2018

Between (1) Hockey New Zealand (Inc) (“HNZ”)

And (2) Hockey Players’ Association (“HPA”)

Together known as “the parties”.

## Guiding Principles

Through this Memorandum of Understanding (“MOU”), the parties recognise the need to align the parties' interests and operate in the spirit of a partnership with the following objectives:

- Hockey in New Zealand is developed through Black Sticks teams and international matches, tours and competitions that are attractive to players, fans and commercial partners alike.
- The best players play for the Black Sticks.
- New Zealand's representative hockey teams compete and win consistently on the world stage.
- Hockey can build a successful and sustainable commercial model.
- HNZ and the Players can mutually benefit from the commercialisation of Hockey.

This Memorandum of Understanding (MOU) is designed to create an environment in which the parties can fulfill the objectives outlined above and the parties agree that they will give primary consideration to these objectives when considering and addressing matters under this MOU.

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## 1. INTRODUCTION

- 1.1 HNZ is a full member of the International Hockey Federation (FIH). HNZ selects and manages the New Zealand women's and men's national representative teams (referred to as the “**Black Sticks Team**” or “**Team**”) which participate in international Hockey.
- 1.2 The HPA acknowledges that HNZ is responsible for the management of the sport and business of Hockey in New Zealand including the right and responsibility to select, assemble and manage Hockey teams to represent New Zealand at all representative levels.
- 1.3 The HPA represents its members who are players selected in the National Squads (“**Players**”) and Development Squads.
- 1.4 HNZ recognizes the HPA as the official representative of the Players and members of the Development Squads (“**players**”).

- 1.5 It is agreed that Development Players are also represented by the HPA and that although they are not specifically covered by this MOU, the parties agree to confirm the obligations between HNZ and Development Players in a separate letter of engagement.

## 2. COVERAGE

- 2.1 This MOU shall cover and be binding on all persons who are selected by HNZ as members of the senior women's or men's national squad ("**National Squad**") or who are subsequently selected to play for the Black Sticks Team(s) during a MOU Contract Year during the Term. All persons covered by this MOU shall be referred to as a Player and collectively as the Players.
- 2.2 Each Player must be engaged by HNZ pursuant to the terms of this MOU and a HNZ Player Contract in the form annexed to this MOU.
- 2.3 HNZ may not engage any Player on any terms other than those contained within this MOU, unless otherwise agreed by the HPA.
- 2.4 For the avoidance of doubt, this MOU shall not apply to persons providing services to an age group national representative team.
- 2.5 The parties agree that the relationship that exists between HNZ and the Players under this MOU and the HNZ Player Contract and HNZ Event Contract annexed as Schedules to this MOU is one of principal and independent contractor pursuant to a Contract for Services.

## 3. TERM, MONITORING AND VARIATION

- 3.1 This MOU shall commence on 1 November 2018 and will expire on 31 October 2021 (the Term). Each MOU Contract Year will commence on 1 November.
- 3.2 The parties will monitor the operation of this MOU throughout the Term and consider any amendments which may be required. The parties agree to meet quarterly during the Term to discuss matters relating to the future of the elite level of the Game and matters affecting the relationship between the Parties.
- 3.3 The parties recognize that circumstances may arise which make it desirable to vary this MOU. A variation must be made in writing and agreed by the parties.
- 3.4 The parties agree to meet to consider a variation in any of the following circumstances:
- (a) where there has been a genuine oversight, or where a problem emerges that was not anticipated by any of the parties;
  - (b) where experience and circumstances show that a variation is required;
  - (c) where the forecast Annual Player Payments ("**APP**") are likely to be negatively impacted and there is likely to be a shortfall of funds required to meet the APP pursuant to clause 9 in any MOU Contract year, the parties agree to meet;
    - (i) to identify the source and amount of the anticipated shortfall;

- (ii) to identify opportunities where HNZ may be able to mitigate the extent of the shortfall;
  - (iii) to review the obligations on Players to the extent they impact on APP; and
  - (iv) following discussions pursuant to this clause, the parties may agree to vary this MOU within any MOU Contract Year.
- (d) In circumstances where the parties are unable to agree to vary this MOU pursuant to clause 3.4(c), the Force Majeure terms pursuant to clause 30 shall apply.
- 3.5 Any disputes arising in relation to this clause will be dealt with in accordance with the dispute resolution clause in this MOU, having regard to the spirit and intent of this MOU.
- 3.6 By 1 February 2021, the parties agree to enter negotiations for a new MOU to apply beyond the expiry of the Term.

#### 4. HNZ'S OBLIGATIONS TO THE PLAYER

- 4.1 HNZ's obligations directly to Players are set out in the HNZ Player Contract and in addition HNZ will:
- (a) perform its obligations under this MOU in a professional and proper manner which reflects its status as a national sports organisation;
  - (b) arrange a time for a joint presentation by the HPA and HNZ at the National Squad's first camp of each new MOU Contract Year to educate and update Players on the MOU and other relevant matters that impact on the environment under this MOU.
  - (c) arrange a time for a presentation by the HPA and HNZ to educate newly contracted Players on the MOU and other relevant matters that impact on the environment under this MOU.
  - (d) adopt protocols for the announcement of the National Squads and Team selections for each MOU Contract Year that ensure Players who are not going to be selected in any National Squad or Team are contacted in advance of any public announcement. Such protocols shall be established by HNZ at the time the Calendar is established. Such protocols shall require agreement with the HPA and may be varied from time to time following further Consultation and agreement with the HPA;
  - (e) will ensure that each Player's performance is assessed and reviewed periodically during the FIH Pro League and following any tour or domestic series in which the Player has been selected in a Team. The purpose of the review is to discuss the Player's hockey performance and hockey development and to adjust, if appropriate, the Player's IPP to further develop and improve;
  - (f) HNZ will Consult with the HPA about any proposed changes to the review process; and

- (g) HNZ will ensure that there is appropriate acknowledgement of and media protocols in place to announce key milestone matches for the Player.

## 5. ANTI-DOPING/PROHIBITED SUBSTANCES

- 5.1 The Players shall at all times comply with all anti-doping rules, policies and regulations applicable to them including the New Zealand Sports Anti-Doping Rules, the FIH Anti-Doping Code, the World Anti-Doping Code and those issued by the International Olympic Committee and Commonwealth Games Federation (as amended from time to time).
- 5.2 HNZ agrees to facilitate anti-doping education seminars with both National Squads during each MOU Contract Year during the Term.

## 6. PLAYER CONTRACTING STRUCTURE

- 6.1 Prior to the commencement of each MOU Contract Year, HNZ will select for the subsequent MOU Contract Year (in accordance with clause 6.3):
  - (a) the Women's National Squad;
  - (b) the Women's Development Squads
  - (c) the Men's National Squad, and
  - (d) the Men's Development Squads.
- 6.2 Each National Squad as per clause 6.1(a) and 6.1(c) shall contain 25 Players unless otherwise agreed between the parties.
- 6.3 The process for selecting the National Squads shall be as follows:
  - (a) For MOU Contract Year 2019 and subsequent MOU Contract Years, prior to 15 September (or such later date as agreed between the parties, provided that such date is no later than 1 October).
  - (b) HNZ will advise the HPA in advance of the date specified in clause 6.3(a) (on a confidential basis), the names of the Players who have been selected into the relevant National Squad.
  - (c) On the date specified in clause 6.3(a), HNZ will:
    - (i) offer a HNZ Player Contract to each Player selected in the relevant National Squad;
    - (ii) advise each Player that he/she has the opportunity to seek independent advice in respect of the HNZ Player Contract; and
    - (iii) if requested by the Player, enter into good faith negotiations and discussions with each Player in regard to the terms and conditions of his/her HNZ Player Contract, including for example:



- a. where a Player has existing or proposed hockey contract commitments that may conflict with the Black Sticks Calendar;
  - b. where a Player is located overseas during the year and requires flights back to New Zealand for Calendar commitments;
  - c. where a Player has existing or proposed extended leave commitments that may conflict with the Black Sticks Calendar;
  - d. where a Player has work or other personal commitments that may conflict with the Black Sticks Calendar, or
  - e. the Player resides outside Auckland.
- (d) Where a Player has existing or proposed contract commitments overseas at the time of being offered an HNZ Player Contract or seeking a No-Objection Certificate (NOC) from HNZ to play overseas, that Player will provide relevant information regarding the contractual and playing arrangements and the Player shall be obliged to provide that information in a timely manner, provided that any information relating to benefits and remuneration in such contracts may be withheld.
- (e) Where a Player makes a request to HNZ pursuant to clause 6.3(c)(iii), the Parties agree that the HPA shall be Consulted.
- (f) HNZ will advise each Player of the right to have a support person or representative present during the negotiations referred to in paragraph 6.3(c)(iii).
- (g) HNZ will allow any Player who is presented a HNZ Player Contract pursuant to clause 6.3(a), 14 days to accept or decline such offer.
- (h) If the Player and HNZ are unable to conclude negotiations as per clause 6.3(c)(iii) by the date specified in clause 6.3(g), HNZ, the HPA and the Player will agree on the best way forward, which may include:
- (i) agreeing to extend the period of negotiation where more information or time is required;
  - (ii) the Player asking to be withdrawn from consideration for an HNZ Player Contract;
  - (iii) HNZ withdrawing the contract offer to the Player and offer the HNZ Player Contract to another Player so as to meet its requirements under clause 6.2, any Player that receives a HNZ Player Contract pursuant to this clause shall be entitled to the rights contained in clause 6.3(c-g); or
  - (iv) other such outcome agreed by the Parties and Player.
- 6.4 The process for the public announcement of the National Squads shall be undertaken as soon as practicable following the conclusion of the contracting process pursuant to clause 6.3 and in accordance with the agreed protocol as provided for in clause 4.1(d).
- 6.5 HNZ may, from time to time, select players to represent the Black Sticks Team in addition to the Players. In such circumstances, the player will be engaged by HNZ

pursuant to the terms of this MOU, and the HNZ Event Contract. For the avoidance of doubt, the additional player(s) shall be entitled to payments detailed in the HNZ Event Contract.

6.6 Where a Player retires or withdraws from a National Squad during an MOU Contract Year, or whose HNZ Player Contract is terminated pursuant to this MOU, the Parties will agree a timeline for offering that HNZ Player Contract to another Player. HNZ shall select a replacement Player subject to that Player entering into a HNZ Player Contract for the balance of the MOU Contract Year, unless otherwise agreed between the Parties. HNZ will follow the process requirements of clause 6.3(a-d) in contracting that Player.

## 7. BLACK STICKS CALENDARS ("Calendars")

- 7.1 Each Player who holds a HNZ Player Contract must be available for the respective Team Calendar (set out in Schedule B), or as agreed otherwise pursuant to clause 6.3.
- 7.2 HNZ will establish the Team Calendars for each succeeding MOU Contract Year after Consultation with the HPA (which shall occur prior to the date specified in clause 6.3(a)).
- 7.3 The Calendars shall identify each selected Players' commitments, including:
- (a) Daily Training Sessions;
  - (b) International Competition including proposed assembly dates. For the avoidance of doubt, this includes the departure and arrival dates associated with international travel; and
  - (c) Player Rest Breaks.
- 7.4 Participation in the National Hockey League in each MOU Contract Year will be at the discretion of each Player who holds a HNZ Player Contract. While Players' accept that the NHL is the premier national tournament, HNZ equally acknowledges that the Team Calendars are demanding and the Players' personal work, study or other commitments, and/or circumstances may prevent them from participating in the NHL.
- 7.5 The Team Calendars may be required to be varied from time to time, due to events beyond HNZ's direct control, or where there is genuine reason to do so. In such circumstances HNZ will notify and Consult with the HPA regarding the proposed variation. Such Consultation will take place at the earliest opportunity where changes are proposed to the relevant Team Calendar.
- 7.6 Pursuant to clause 7.5 the Parties will coordinate the notification to the Players of any variation.
- 7.7 In respect of the FIH Pro League (or any equivalent competition), minor changes to dates of individual fixtures or tours will not affect a Player's commitment to be available for the particular fixture or tour.
- 7.8 In respect of major changes to the format of the FIH Pro League and where events outside the FIH Pro League are moved by more than 2 weeks with less than 4-months

notice, a Player is not required to commit to such variation to the Calendar in his or her HNZ Playing Contract.

## **8. PLAYING AND TRAINING ARRANGEMENTS**

- 8.1 In MOU Contract Years 2019, 2020 and 2021 the playing and training arrangements set out in this clause will apply to Players who are selected to participate in the National Squads and sign a HNZ Player Contract for any of these years;
- 8.2 The Daily Training Sessions for MOU Contract Years 2019, 2020 and 2021 will be based on the following principles:
- (a) a maximum of 12 hours can be scheduled in the Calendars between Monday and Friday and some or all of those hours can be within the work hours of 8:30am-5:00pm. For the avoidance of doubt, a session scheduled for Monday to Friday may commence before 8:30am or conclude after 5:00pm but all hours in that session will be deemed to have occurred between the hours of 8:30am-5:00pm. For the avoidance of doubt the commitments pursuant to this clause 8.2.a includes all National Squad activities such as;
    - (i) individual or team turf training;
    - (ii) time spent with service providers within groups, or as individual athletes;
    - (iii) analysis, planning or leadership meetings;
    - (iv) team building activities; or
    - (v) any other team related activity (excluding Promotions).
  - (b) a maximum of 3 additional hours can be scheduled in the Calendars on one day of the weekend which can be utilised for training, club hockey, strength and conditioning and/or recovery (the timing and activity to be set by the Coach for each Player as far as practicable in advance to provide clarity on timing of these commitments);
  - (c) one recurring day per week, Monday to Friday and one recurring day each weekend will be free of any HNZ contact commitments (including any Promotions), unless agreed otherwise; and
  - (d) each Training Session will be in one continuous period of time at either the start or end of the day and will be for a maximum of four (4) hours (including any preparation periods such as warm-up or warm-downs), to maximise the opportunity for Players to engage in meaningful work and or study.
- 8.3 From time to time it may be necessary for a Player to attend physio, doctor or medical specialist appointments at times convenient to them which are outside of scheduled Daily Training Sessions.
- 8.4 Pursuant to clause 8.2, the intent of scheduling a Training Session between 8:30am to 5:00pm Monday to Friday, is to enable consistent booking of practice time on the turf.

For the avoidance of doubt, the Parties intent in relation to activities outside of those referred to in paragraph 8.2(a) will be to schedule (where practicable) these activities outside 8:30am to 5:00pm Monday to Friday to enable Players more time to balance their work, study or other commitments other than Promotions which may occur during those hours and will, where practicable, be scheduled at the end of a morning Training Session or before the start of an afternoon Training Session.

- 8.5 The Daily Training Sessions for MOU Contract Year 2019 will be as set out in the Team Calendars in Schedule B.
- 8.6 The Daily Training Sessions for MOU Contract Years 2020 and 2021 will be set by HNZ, in Consultation with HPA based on the principles in paragraphs 8.2-8.4 at the same time as the international competition assembly for those years are finalised pursuant to clause 7 of this MOU.
- 8.7 A Player may excuse him or herself from a Daily Training Session, without penalty, by notifying the National Coach (or support staff if he or she is unavailable) as soon as practicable that one of the following circumstances has arisen:
- (a) sickness, including sickness of a person who is dependent on the Player;
  - (b) compassionate grounds, such as bereavement of a relative or someone of special connection to the Player or a wedding of a person who has a special connection to the Player;
  - (c) specialist appointments including injury rehabilitation appointments;
  - (d) injury;
  - (e) exams, including the day prior to allow for final preparation;
  - (f) a work/study commitment that cannot be rescheduled or alternative arrangements made; or
  - (g) other exceptional circumstances that are unforeseen.
- 8.8 Approval may be sought by a Player for extended Special Leave by applying to the HNZ High Performance Director who will notify the HPA of any such applications. Special Leave applications will be considered against the following principles:
- (a) the Player's individual set of circumstances;
  - (b) the relative importance of the identified competition i.e. World Cup, Olympic Qualification, Pro League or an event with world ranking points on offer versus a Development tour or series;
  - (c) the relative importance of the identified competition for the Player's readiness for the next competition which is a pinnacle event; and
  - (d) the potential of the Black Sticks programme to achieve the goal of winning on the world stage is not comprised.

8.9 Special Leave applies to:

- (a) sickness for an extended period, including sickness of a person who is dependent on the Player;
- (b) compassionate leave such as bereavement of a relative or someone of special connection to the player which requires the player's support;
- (c) leave following a series, tour or event that has not been agreed in the Player's Calendar; or
- (d) any other reason where there is a genuine request for an extended period of unscheduled leave.

8.10 A minor temporary change to the start and finish times of a Daily Training Session can be made where this is necessary for operational reasons such as turf availability, but the intention of the parties is that the timings of the Training Sessions are fixed for the MOU Contract Year.

8.11 Permanent changes to the Daily Training Sessions must be agreed in writing by the HPA.

## 9. PLAYER PAYMENTS

9.1 The following payments will be made to Players subject to the terms of this MOU.

### 9.2 Retainer Payment

- (a) Each Player who holds a HNZ Player Contract will be paid a "**Retainer Fee**" of \$13,520 (\$260 per 52-week year) in acknowledgement of their commitment to HNZ (i.e. 40 weeks of training / playing, the 6 weeks of leave and the 6 weeks of recovery time provided for in this MOU).
- (b) Retainer Fees are to be paid to all Players with a HNZ Player Contract as long as they remain in the National Squad (i.e. it includes any period of injury / illness).
- (c) Should a Player retire, or terminate their Playing Contract, the Retainer Fee will cease from that date, or in special circumstances, at such other date as agreed between the Player and HNZ.

### 9.3 Daily Assembly Payment

- (a) In addition to Retainer Fees pursuant to clause 9.2, Players will be entitled to a "**Daily Assembly Fee**" for each day in which they are required to assemble with a Black Sticks Team that has been selected for a competition, tour, series or camp as follows:
  - (i) \$60 per day in MOU Contract Year 2019;
  - (ii) \$80 per day in MOU Contract Year 2020; and
  - (iii) \$100 per day in MOU Contract Year 2021.

- (b) The Daily Assembly Fee is payable to all players selected in a Team, from the date the Team is assembled, (including the date of departure or arrival home), for a tournament, event, or series, whether in New Zealand or overseas.
  - (c) A player who is selected in a Team, but makes themselves unavailable, or is replaced for injury, illness, or any other reason before assembling shall not receive the Daily Assembly Fee.
  - (d) Where a player becomes injured, ill, or needs to be replaced in the Team for any other reason, on or after the date of assembly pursuant to clause 9.3(b), the Daily Assembly Fee will remain payable to that player until the end of the period of assembly. In such circumstances if a replacement player is selected to the Team, the replacement Player will receive the Daily Assembly Fee from the date they assemble with the Team.
- 9.4 If a player who does not hold a HNZ Player Contract, is invited by HNZ to participate with the National Squad in a Training Session, they will be entitled to a payment according to clause 9.3(a) (or the amount detailed in the player's HNZ Event Contract), per Training Session, with a maximum of one payment per day.
- 9.5 HNZ will deduct applicable withholding tax from all payments required to be made to Players pursuant to this MOU. Players will be responsible for the payment of all additional tax, GST, levies and other liabilities and expenses of whatever nature relating to the Player as an independent contractor. This clause will also apply to any players who are entitled to payments pursuant to this MOU.
- 10. ANNUAL PLAYER PAYMENTS (APP)**
- 10.1 It is acknowledged that the securing of adequate funding is essential to the sustainability of the payments referred to in clauses 9.2 and 9.3.
- 10.2 The APP that are forecasted to meet the anticipated Calendars for 2019, 2020 and 2021 are as follows:
- (a) 2019 - \$1,068,000, being:
    - (i) \$678,000 for Retainer Fees; and
    - (ii) \$390,000 for Daily Assembly Fees (based on \$60 per day for an estimated 130 assembled days per National Squad. For the avoidance of doubt the number of assembled days may vary in accordance with clause 7).
  - (b) 2020 - \$1,198,000, being;
    - (i) \$678,000 for Retainer Fees; and
    - (ii) \$520,000 for Daily Assembly Fees (based on \$80 per day for an estimated 130 assembled days per National Squad. For the avoidance of doubt the number of assembled days may vary in accordance with clause 7).
  - (c) 2021 - \$1,328,000, being;

- (i) \$678,000 for Retainer Fees; and
  - (ii) \$650,000 for Daily Assembly Fees (based on \$100 per day for an estimated 130 assembled days per National Squad. For the avoidance of doubt the number of assembled days may vary in accordance with clause 7).
- 10.3 HNZ will provide HPA with regular updates on the levels of funding secured for each MOU Contract Year and the parties agree to meet on or before 1 June each year to evaluate the level of secured funding for the following MOU Contract Year.
- 10.4 In the event of any actual shortfall of projected funding that renders the APP unaffordable (acting reasonably), the parties will follow the process to consider a variation in accordance with clause 3.4(c).
- 10.5 In the event HNZ secures APP funds in addition to the amounts set out in clause 10.2, the Parties will agree to vary the allocation of APP funds for any MOU Contract Year prior to the offer of contracts, provided that:
  - (a) the additional funds secured are to specifically support Player Payments; and
  - (b) those funds are required to be allocated within that MOU Contract Year.

## 11. DONOR FUNDING

- 11.1 HNZ undertakes to use its best endeavours to secure sufficient Donor Funding in order to provide the playing and training environment in Schedule B.
- 11.2 It is agreed that funding will be sought by HNZ from donors, to provide financial support for either ("**Donor Funds**"):
  - (a) the Black Sticks Men's or Women's playing programme; or
  - (b) to support Player Payments pursuant to clause 9.
- 11.3 It is agreed that HNZ is responsible for the Donor Funding programme and is therefore in a position to influence and prioritise where the Donor Fund donations are targeted.
- 11.4 It is agreed that all Donor Funds secured for the purpose set out in paragraph 11.2(b) will be will be used to fund APP.
- 11.5 It is agreed that Donor Funds are excluded from the definition of PGCR.
- 11.6 Subject to 10.5, any Donor Funds that have been secured by HNZ in any MOU Contract Year for the purposes set out in paragraph 11.2(b) above and which are not required to fund the payments pursuant to clause 9 during that MOU Contract Year, will be held in trust by HNZ for future payment to Players pursuant to clause 9 in any subsequent MOU Contract Year ("**Variation Donor Fund Balance**"). The HPA will be provided access to the accounts of the trust fund on request and will be Consulted annually in relation to the future application of any surplus funds from any prior MOU Contract Year.

**12. PLAYER GENERATED COMMERCIAL REVENUE (PGCR)**

12.1 HNZ will be responsible for the development and operation of a strategy to commercialise Hockey in New Zealand. HNZ recognises the contribution that the HPA and the Players (in particular through the use of the Players' Player Property) will make with a view to ensuring this strategy is successful and that it is appropriate that Players share in that success.

12.2 HNZ will, through its commercial strategy and related activities, use its best endeavors to secure revenue during the Term. For the purposes of this MOU, PGCR is the annual consolidated revenue of HNZ for each HNZ Financial Year as per its audited accounts and as determined in accordance with GAAP, including:

- (a) broadcasting revenue relating to the Competitions, Series, Events in which the Teams is involved, or where it uses Player Property (excluding broadcasting revenue that is received as contra);
- (b) subject to clause 12.3, sponsorship revenue related to the Team's activity or involving the use of Player Property;
- (c) match day revenue i.e. gate receipts and hospitality revenue related to the Competitions, Series, Events in which the Team participate;
- (d) licensing revenue related to the Competitions, Series, Events or the Teams or the National Squads as per clause 28;
- (e) any payments received from FIH or any other entity where such payments relate to Player activity other than grants from those organizations which are to reimburse HNZ for expenses (wholly or partially) or which might be expended on a specific activity, programme or service which does not involve the Players or Player Property; and
- (f) any other revenue generated through Player activity or through the involvement of Players;

less:

- (g) any bad debts over \$5,000; and
- (h) actual and reasonable Agent Costs;

and excluding:

- (i) sponsorship revenue for amateur teams or community Hockey purposes (except where Player Property is to be used directly or indirectly by the sponsor);
- (j) grants received unrelated to Player activities or which are specifically tagged for teams (other than Black Sticks Teams) and community Hockey development purposes including grants from the Hockey Foundation;





- (k) High Performance Sport New Zealand (HPSNZ), Community or Gaming Trust and Olympic Solidarity grants;
- (l) affiliation fees;
- (m) player contributions for training camps, academies and tours;
- (n) entry fees for all tournaments in the national domestic tournament programme including, but not limited to, the National Hockey League and U21 Tournament;
- (o) interest earned on HNZ cash and investments, other than any interest earned pursuant to clause 11.6 which shall be added to the Variation Donor Fund Balance, unless agreed otherwise in writing between the parties;
- (p) prize money;
- (q) Donor Funds pursuant to clause 11; and
- (r) any other revenue not generated through Player activity or not through the involvement of Players.

12.3 The value of Contra will only be taken into account for the purposes of calculating PGCR where the value of such Contra (calculated using GAAP) from a particular organisation (as prescribed in any relevant contractual arrangements) exceeds \$100,000 (plus any CPI type adjustment) per annum but only to the extent of the amount over \$100,000 plus CPI per annum.

12.4 HNZ will not amend any existing agreement with a Sponsor or supplier so as to convert cash sponsorship to Contra for the purpose of avoiding inclusion in PGCR.

12.5 Where, in any particular Contract Year, HNZ repays any revenue or returns any Contra that is otherwise included in the calculation of PGCR for that Contract Year, the PGCR for that Contract Year will be adjusted by deducting the amount of the repayment or the notional amount of the returned Contra (as the case requires).

12.6 HNZ will provide financial information, including forecasts of PGCR, on a six monthly basis (and otherwise as may be requested on a reasonable basis) to the HPA during the Term. HNZ acknowledges that the HPA has entered into this agreement in reliance upon its calculations and forecasts of PGCR.

12.7 During the Term, HNZ will calculate for the purposes of contributing to the NPPP, the following percentages of PGCR received by HNZ in each MOU Contract Year:

- \$0 - \$200,000 -10%
- \$200,000 - \$500,000 -15%
- \$500,000 - \$750,000 - 20%
- \$750,000 - \$2,000,000 - 25%
- \$2,000,000 - \$4,000,000 - 30%
- Over \$4,000,000 - 35%

- 12.8 For each of MOU Contract years 2019, 2020 and 2021, the percentage of PGCR referred to in clause 12.7 will be paid by HNZ as follows:
- (a) the calculated percentage amount up to and including \$850,000, will be applied to APP; and
  - (b) the calculated percentage amount in excess of \$850,000, will be paid to the Players on an equal share, pro rata basis, unless HNZ is notified otherwise by the HPA (after consultation with its members).

12.9 The final PGCR calculation pursuant to clause 12.7 and 12.8 shall be completed by HNZ and submitted to HPA in draft by 31 December in each year and will be paid in accordance with clause 12.8 as soon as is practicable after HNZ's audit.

### 13. PERFORMANCE ENHANCING GRANTS - PEGS

13.1 The parties agree that in respect of the PEG funding that is awarded to Players pursuant to the PEG programme managed by High Performance Sport NZ (HPSNZ), HNZ shall allocate the full amount of PEG funds to the APP for distribution pursuant to clause 9.

### 14. HPA MEMBERSHIP FEES

14.1 In the event that the total of PGCR is equal to or greater than \$850,000 pursuant to clause 12.8, the HPA will invoice HNZ (on behalf of its members) the amount of \$25,000 plus GST ("HPA Membership Fees"). For the avoidance of doubt the amount of HPA Membership Fees shall be deducted from the amount applied to the APP for allocation to Players in accordance with clause 12.8(a).

14.2 In the event that the total of PGCR is less than \$850,000 pursuant to clause 12.8 the HPA will invoice on behalf of its members (HPA Membership Fees), the following amounts:

- (a) \$20,000 plus GST in MOU Contract Year 2019;
- (b) \$22,500 plus GST in MOU Contract Year 2020; and
- (c) \$22,500 plus GST in MOU Contract Year 2021.

14.3 For the avoidance of doubt the amount of HPA Membership Fees shall be deducted from the amount applied to the APP in accordance with clause 12.8(a). The HPA will submit an invoice to HNZ pursuant to clause 14.1 or 14.2 within each MOU Contract Year on the following basis;

- (a) \$10,000 plus GST on or before 1 June (for the period 1 November to 30 April); and
- (b) for the balance in respect of either clause 14.1 or 14.2 (whichever applies) plus GST, at such date after confirmation by HNZ pursuant to clause 12.9 and on or before 1 April (for the period 1 May to 31 October).

**15. HNZ AUDIT**

15.1 The HPA shall have the opportunity to request a copy of the independent audit of HNZ Commercial Revenue and the APP which it will keep confidential. HNZ shall provide the independent auditor with full access to all documents relied upon by HNZ relevant to determining its annual Commercial Revenue.

**16. PLAYING ARRANGEMENTS**

16.1 Subject to clause 6, in order to be eligible to be selected for the Black Sticks Team during the course of a MOU Contract Year, a Player must be contracted to HNZ on a HNZ Player Contract or HNZ Event Contract.

**17. PRIZE MONEY**

17.1 Each Player will be entitled to share in any prize money or prizes won by a Team of which the Player is a member, in accordance with the team protocol for such distribution as determined by the Players and this clause. Individual prize money or prizes which are less than \$1,000 shall be retained by the recipient Player, unless otherwise agreed by the Players under team protocol.

**18. PROPERTY**

18.1 Each Player owns his or her Player Property.

18.2 HNZ owns its Team Property which includes its brands, names, logos, uniforms, teams, competitions and its national programmes.

18.3 It is also acknowledged that HNZ owns a range of other property including all trademarks, designs, patents, copyright, domain names, know-how, trade secrets and all other intellectual property rights of a corresponding nature related to or produced by HNZ.

18.4 The HPA owns the exclusive rights to the use of its property.

18.5 HNZ may only use and sub license the use of a Player's Player Property to Sponsors and Broadcasters and, subject to clause 19, to Donors, by associating that Player Property with the names, logos and uniforms of HNZ and at least two other Players from the same team so as to identify those Players as members of the same HNZ Team. The property created by this association is the **"HNZ Player License Property"**.

18.6 For the purpose of HNZ Player License Property, a Player is identified as a member of a HNZ Team if there is an association of the Player Property of three or more Players from the same HNZ team or for different HNZ teams playing in the same competition, in a single image, recording or publication, and in such a manner so as each Player is equally and clearly distinguishable.

18.7 HNZ may only use, or deal with, HNZ Player License Property:

(a) for the Promotion of Hockey; or

- (b) for a Commercial Promotion by assigning it to a Sponsor or Broadcaster in accordance with clause 19; or
  - (c) for a Donor Promotion by assigning it to a Donor in accordance with clause 19.
- 18.8 Material is not regarded as the Promotion of Hockey if its primary purpose is the promotion or endorsement of, or association with Sponsors or Broadcasters, or Sponsors' and Broadcasters' products or services.
- 18.9 HPA and HNZ may agree to pre-approve a lockup competition or naming rights logo that includes the mark of the competition sponsor in conjunction with the competition logo or the naming rights sponsor in conjunction with the Black Sticks logo, that may be used when HNZ produces material for the Promotion of Hockey.
- 18.10 In circumstances where HNZ wish to use the Player Property for the purpose of the genuine Promotion of Hockey in New Zealand, the HNZ Player License Property restrictions in clause 18.6 shall not apply.
- 18.11 HNZ may only assign the HNZ Player License Property to a Sponsor or Broadcaster for the purpose of allowing that Sponsor or Broadcaster to associate the HNZ Player License Property with itself or its goods or services.
- 18.12 HNZ may only assign HNZ Player License Property to Donors for the purpose of allowing the Donor to associate the HNZ Player License Property with themselves, or where approved by HNZ and HPA, a connected companies goods and/or services. For the avoidance of doubt such assignment must meet the provisions pursuant to clauses 18.5 and 18.6.
- 18.13 HNZ will notify and Consult with the HPA prior to each occasion when a Sponsor, Broadcaster or Donor is looking to undertake a Commercial Promotion or Donor Promotion (as the case may be) which uses HNZ Player License Property.

## 19. PROMOTIONAL ACTIVITIES

- 19.1 In MOU Contract Years 2019, 2020 and 2021, each Player contracted under a HNZ Player Contract agrees to provide to HNZ the following Player Attribute or Player Attendance Appearance rights and services ("**Promotional Activities**").
- (a) Promotion of Hockey (minimum of 1 Player):
    - (i) Unlimited use of Player Attribute's for the following Promotion of Hockey purposes which includes:
      - Game Development;
      - Promoting hockey participation;
      - Player biographical profile on HNZ's official website (intent is to profile the player as a **hockey player**, not as a person);
      - HNZ official publications;
      - Hockey Foundation publications;
      - Post-match signing sessions;
      - Pre and post-match media interviews; and

- with the Player's consent, use a Player's designated personal social media identifier (for example handles or hashtag) for match related content.

and,

- (ii) A maximum of three (3) Player Attributes for the following Promotion of Hockey purposes which includes:
- Ticketing advertisements for a HNZ controlled match or series (intent is to permit promotion for fans to attend an upcoming match, series, tour);
  - Hospitality advertisements for a HNZ controlled match or series (Intent is to permit promotion for fans to attend an upcoming match, series, tour);
  - HNZ official broadcaster promoting an upcoming HNZ controlled match or series broadcast, on its own platform (intent is to enable promotion for fans to watch an upcoming match, series, tour within the Broadcaster's own channels);
  - with the Player's consent, use a Player's designated social media identifiers ((for example handle or hashtag) for non-match related content; and
  - HNZ Official Charity.

and,

- (iii) A maximum of three (3) Player Attendance Appearances for the following Promotion of Hockey purposes which include:
- Public appearances (school visits, hospital visits, parades etc);
  - Game development;
  - Promoting participation;
  - Video or audio interviews for HNZ's official website, social media, or other digital media platforms;
  - Presentations;
  - Fan engagement sessions;
  - Public support messages (e.g. messages of support for other sports teams);
  - General media (TV shows, website or blogs) where the sole intent it to promote a HNZ controlled match or series;
  - HNZ Official Charity; and/or
  - Other (as agreed)

(b) Commercial Promotion (minimum of 3 Players):

- (i) A maximum of four (4) Player Attributes allowing a Sponsor or Broadcaster to associate the HNZ Player License Property with:
- An advertising promotion;
  - Commercial or brand association;
  - Product/service endorsement;

- HNZ official merchandise;
- a Player's designated social media identifier (for example handle or hashtag) provided the Player consents in advance; and
- Official Charity of Sponsor or Broadcaster

and,

- (ii) A maximum of three (3) Player Attendance Appearances allowing a Sponsor or Broadcaster to associate the HNZ Player License Property with itself, or its goods or services including:
  - An advertising promotion;
  - Commercial association;
  - Product/service endorsement;
  - HNZ official merchandise;
  - General media (TV shows, website or blogs) that does not promote a HNZ controlled match or series; and
  - Official Charity of Sponsor or Broadcaster.
- (iii) A Sponsor or Broadcaster may use multiple Platforms to promote their Player Attendance Appearance on the same day of the activity without a requirement to record the use of Player Attribute as an additional activity. However, in cases where Player Attributes are used within a promotion that extends beyond the day of the Player Attendance Appearance, and, it will appear on three or more Platforms, then the Player Attribute use will be recorded against the Player.
- (iv) A Sponsor or broadcast advertising promotion may not extend beyond the Term of the HNZ Player Contract, unless agreed by the HPA.

(c) Donor Promotion (a minimum of 3 Players):

- (i) A maximum of one (1) Player Attribute for use by the Donor, or for the Donor to associate with its nominated company as agreed by HNZ and HPA (not to be unreasonably withheld);
- (ii) A maximum of one (1) Player Attendance Appearance for use by the Donor, or for the Donor to associate with its nominated company as agreed by HNZ and HPA (not to be unreasonably withheld);
- (iii) A maximum of one (1) Team based appearance for each Donor who contributes in excess of \$100,000 per MOU Contract Year;
- (iv) The Parties will agree for the provision of additional Promotional Activities for Donors who provide substantial donations in excess of \$250,000 within any MOU Contract Year (such agreement not to be unreasonably withheld).

19.2 No single Player Attendance Appearance or event which a Player is required to perform shall continue for longer than four hours on any one day (including travel time), unless otherwise agreed by the Player. Players shall not be required to undertake Player

Attendance Appearances on the evening prior to a match day or on the match day itself, unless otherwise agreed by the Player.

- 19.3 HNZ will make every effort to schedule Player Attendance Appearances during Team Assembly periods, or where practicable, at the end of a Training Session.
- 19.4 From time to time HNZ may request Players to attend Player Attendance Appearances at times outside of Team Assembly or immediately after Training Sessions, provided that;
  - (a) HNZ must give Players at least 14 days' notification of a requirement to perform any Player Attendance Appearances; and
  - (b) Players may request to be excused from performing such Player Attendance Appearance, which will not be unreasonably withheld by HNZ.
- 19.5 Players will not be required to participate in any Player Attendance Appearances while on official Rest or Recovery periods.
- 19.6 For the avoidance of doubt, pre and post-match media interviews undertaken by a Player while assembled with a HNZ team shall not be included in the calculation of a Player's total Player Attendance Appearances.
- 19.7 For the avoidance of doubt, Team announcements that require Players to attend that take place during Team Assembly or Training Sessions are not required to be recorded as an appearance in accordance with clause 19.
- 19.8 If a Player does not want to appear in, or his or her Player Property to be used for, a promotion on the basis of a Conscientious Objection, the Player may request that HNZ consent to the Player being excused from appearing or his Player Property being used in that promotion, such consent not to be unreasonably withheld.

## 20. NOTIFICATION PROCESS

- 20.1 HNZ will maintain an activity log of Player Promotional Activities for each Player during each MOU Contract Year and will share such log with the HPA at the end of each six months or earlier if requested.
- 20.2 HNZ will notify and consult with HPA prior to the assignment of Player License Property (this includes any assignment of HNZ Player License Property to any organiser of a hockey event where either of the Black Sticks Teams are participating), in sufficient time for the HPA to raise any objection and in sufficient detail to enable the HPA to be aware of:
  - (a) the style of the proposed use, and the way in which the Player License Property will be used; and
  - (b) any product or service with which the Player License Property may be associated.
- 20.3 If the HPA wishes to raise objection to any proposed assignment the Parties may rely upon the problem resolution procedures in this MOU.

## 21. PLAYER PERSONAL PROMOTIONS AND ENDORSEMENTS

- 21.1 A Player may undertake Personal Promotions, subject to the terms of this MOU.
- 21.2 In undertaking a Personal Promotion, a Player may not use HNZ Property (i.e. its brands, names, logos or names, logos and uniforms of HNZ Teams) without HNZ's prior written consent.
- 21.3 A Player may enter into an agreement for services or endorsement directly with HNZ, provided that all activities within that agreement are for additional activities than those detailed in this MOU and the HNZ Player Contract.
- 21.4 From time to time HNZ may wish to engage the services of a Player to support their commercial programme in addition to those obligations detailed in clause 19. e.g. to attend meetings with prospective sponsors, broadcaster, donors or commercial partners. HNZ agrees that in such circumstances the attendance of the Player is not contemplated in the HNZ Player Contract and therefore an additional fee shall be paid to the Player. In such circumstances HNZ:
- (a) will agree the fee to be offered with the HPA prior to HNZ contacting any Player or confirming such arrangement with the prospective party;
  - (b) ensure the Player has sufficient time and information to prepare for the meeting; and
  - (c) acknowledges that a Player will not necessarily have the practical skills and experience for this type of commercial meeting and their involvement shall be limited to general discussions about the hockey and/or team environment.
- 21.5 The following process will apply where any Player is looking to enter into an arrangement to perform or undertake a Personal Promotion:
- (a) Players are required to notify HNZ in writing of the nature and material details of any Personal Promotion, but shall not be required to disclose payment or consideration.
  - (b) HNZ must give written notification of an objection, and the reasons for such objection, to the Player within five (5) working days of receipt of notification of the proposed Personal Promotion.
- 21.6 HNZ may only object to a Player performing a Personal Promotion if:
- (a) it would place the Player in breach of this MOU and/or the Player's applicable HNZ Player Contract;
  - (b) it is a promotion or endorsement of specific goods or services (excluding Tools of Trade) that associates the Player Property of three or more Players with those goods or services;
  - (c) HNZ can demonstrate that the Personal Promotion will have a significant negative financial impact on current or future HNZ revenue. A "significant negative



financial impact" shall be deemed to be a demonstrable loss of more than \$50,000 from a single sponsor;

- (d) it would involve disclosure of confidential information;
- (e) the association of the Player with the sponsor and its products and services would or would be likely to bring the game of Hockey into disrepute. The parties acknowledge that the intent of an objection by HNZ under this clause would be to avoid morally or ethically inappropriate associations between Players and sponsors.

21.7 For the sake of clarity, HNZ may not:

- (a) object to a Player performing a Personal Promotion solely on the basis that the Personal Promotion is for a sponsor or product in competition with an existing or potential HNZ sponsor; or
- (b) object to a Player performing a Personal Promotion for a sponsor or product promoting a Tool of the Trade; or
- (c) in entering into any sponsorship arrangement whether exclusive or otherwise, agree to provisions that would be in conflict with this clause and/or this MOU.

21.8 The parties will, in each MOU Contract Year agree on an independent third party arbitrator to deal with disputes under this clause. If there is a dispute under this clause it will refer the matter for urgent arbitration to that person. The arbitrator's decision will be final and binding on HNZ, the HPA and the Player.

## **22. INJURY / ILLNESS AND INSURANCE**

22.1 Players will be entitled to receive any Player Payments due in accordance with this MOU (with the exception of the Daily Assembly Fee) if unavailable by reason of illness, injury or pregnancy regardless of any period when he or she has been unable to perform Playing Services due to illness or injury.

22.2 Where a Player is injured in the course of fulfilling his or her obligations under a HNZ Player Contract, HNZ will cover the reasonable rehabilitation costs which are not otherwise covered by HPSNZ support services, medical insurance or accident compensation (ACC). In such circumstances, HNZ may nominate the medical practitioner which the Player must attend.

22.3 If HNZ wish to contract an additional player to the National Squad to cover a long term injured Player HNZ must notify the HPA, and that replacement Player will be entitled to the Retainer Fees and Daily Assembly Fees as detailed in clause 9 from the date of signing a HNZ Player Contract for the balance of the Contract Year.

22.4 Further, if a Player has sustained a long-term injury, and is still undergoing rehabilitation at the end of the HNZ Player Contract Term, and the Player is expected (by a registered medical practitioner) to recover from the injury within the next Player Contract Term, the parties will meet and discuss what the Player's intentions are regarding playing in the following year and will consider in good faith whether the injury will have any

influence in whether a HNZ Player Contract is offered to the Player for the next MOU Contract Year.

22.5 For the avoidance of doubt, injured or pregnant players from the National Squad who are not offered a HNZ Player Contract for the subsequent MOU Contract Year will continue to have access to rehabilitation facilities and personnel and have those costs met (up to a maximum of 12 months from the injury) but will not be entitled to Retainer Fees after the expiry of their HNZ Player Contract.

22.6 HNZ will provide full travel and medical insurance cover for all Players representing the Teams overseas, the extent and level of which will be determined by HNZ and notified to the HPA.

### **23. CONSULTATION**

23.1 HNZ will Consult with the HPA on issues which materially affect, or have the potential to materially affect, the Players or this MOU.

23.2 The parties agree that quality and effective communication between the parties is essential to ensure a strong relationship. This communication will be driven by regular contact between the parties.

### **24. PLAYING FOR OTHER ENTITIES**

24.1 Each Player acknowledges that he or she owes primary obligations to HNZ and to play and train for Hockey

24.2 The parties wish to create an environment where Players sign HNZ Player Contracts and commit to playing for Black Sticks Teams in accordance with the Team Calendars. The parties also recognise that the Players are independent contractors and therefore have the right to play for other entities during the Term outside of their obligations to HNZ subject to the terms of this MOU.

24.3 Where a Player wishes to play Hockey for another entity (other than an entity under the control of, or affiliated to, HNZ), the Player shall be entitled to do so without restriction provided that the arrangement will not impact on his/her ability or availability to perform the obligations as set out in his/her HNZ Player Contract.

24.4 Where a Player wishes to play Hockey for another entity (other than an entity under the control of, or affiliated to, HNZ), during a period where he or she is required to perform obligations under his or her HNZ Player Contract, then the Player shall

- (a) notify HNZ of his or her intention before contractually committing to any such arrangement; and
- (b) ensure that by entering into any arrangement he or she will not be in breach of this MOU or his or her other HNZ Player Contract; and
- (c) be required to have a release clause in any contract he or she intends to sign which entitles him or her to be released to fulfill obligations pursuant to his or her HNZ Player Contract.



- 24.5 Where HNZ is concerned with any arrangement pursuant to clause 24.4, HNZ will immediately notify the Player and the HPA of such concern and all parties (including the Player concerned) will work together to attempt to reach a resolution.
- 24.6 If, within fourteen days of HNZ notifying the Player and the HPA of its concern under clause 24.5, the parties cannot reach a resolution, the parties shall resolve the dispute using the dispute resolution provisions in this MOU.
- 24.7 If any Player is playing overseas for another entity other than HNZ or an Affiliated Association, such Player will still be obligated to continue to meet the prescribed fitness levels required of the National Squad. A failure to meet the prescribed fitness levels required of the National Squad may constitute a breach of their HNZ Player Contract.

## **25. PLAYER REST BREAKS**

- 25.1 During each Player Contract Year, each Player will be entitled to six continuous weeks non-contact time to be fixed in the Team Calendar where he or she is not required to train, play or perform Promotional Activities for HNZ. The continuous nature of the rest break can be varied by agreement between the Player, the HPA and HNZ in the HNZ Player Contract.
- 25.2 For the sake of clarity, rest breaks are important for physical and mental recovery and recharge. For the avoidance of doubt a Player will still be required to maintain a reasonable level of fitness during any rest period, taking into account the need for recovery and recharge.
- 25.3 The parties agree that where the Team Calendar precludes a six-week rest period being granted, the parties may agree on two separate periods of rest (which together total six weeks) in the Team Calendar.
- 25.4 For the avoidance of doubt, where a Player elects to play overseas during any period where he or she would otherwise be entitled to a rest break, HNZ and the respective Player will agree, on a case by case basis, to the length and timing of an appropriate rest period (which may or may not be a continuous period of six weeks).
- 25.5 In addition to clause 25.1, in each MOU Contract Year each Player will be entitled to six (6) weeks for recovery and rest with each break intended to be for a minimum of seven (7) days. The recovery breaks referred to will be scheduled in the HNZ Player Contract Calendar following tours, events and or competitions, however HNZ and the Player may agree to reassign any recovery break(s) from time to time. If any individual recovery break is to be less than 7 consecutive days HPA will be notified of the reason and 'make-up days' will be arranged.

## **26. HPA ACTIVITIES**

- 26.1 The HPA may:
- (a) either by itself or through its agents, enter into sponsorship arrangements to generate revenue to enable it to fund various services and activities for its members;

- (b) enter into arrangements with third parties whereby the HPA and/or the Players receive benefits, discounts, upgrades, goods or services, or other non-monetary benefits from such third parties;
- (c) arrange corporate events (including, but not limited to, corporate golf days, corporate functions and, subject to prior Consultation with HNZ, corporate hockey matches) involving Players and for the purpose of raising revenue for the HPA;
- (d) in its discretion, endorse and contribute to charitable activities; and
- (e) develop and maintain an internet site.

26.2 In respect of any of the activities described in the preceding clause above, the HPA acknowledges that it may not, without the prior written consent of HNZ, enter into any arrangements:

- (a) involving the use of any intellectual property, brands, names, logos and uniforms of HNZ or its teams, Sponsors or Broadcasters;
- (b) committing Players to any activities which would prevent those Players from fulfilling their contractual obligations to HNZ;
- (c) committing Players to activities which would or which might place Players in breach of their contractual obligations to HNZ; or
- (d) which are, or are likely to be, damaging to the reputation of HNZ, HNZ Sponsors, Hockey or the Players.

26.3 The HPA shall, upon request, be entitled to receive ten tickets for each HNZ owned/operated game involving a Black Sticks Team.

26.4 The HPA shall provide regular updates to HNZ regarding its actual or proposed activities.

## 27. DISPUTE RESOLUTION

27.1 Any dispute between a Player and HNZ or the HPA and HNZ will be dealt with in accordance with this MOU.

27.2 If any such dispute arises, the following procedure will apply:

- (a) the Player or party wishing to raise the problem must promptly bring it to the attention of the other party to this MOU;
- (b) the parties must endeavour to resolve the problem by Consultation and negotiation;
- (c) the problem is not resolved by Consultation and negotiation within 7 days of the dispute being raised any party may refer the problem to a suitably qualified mediator agreed and appointed by the parties; and

(d) the event that the parties are unable to agree upon the joint appointment of a suitably qualified mediator then, at the request of any party to the dispute, such mediator shall be appointed by the President for the time being of the New Zealand Law Society. Any costs will be shared jointly by the parties.

27.3 If a dispute has not been resolved with 28 days of appointment of the mediator, any party may, after giving written notice to the other party or parties, refer the matter to Arbitration in accordance with the Arbitration Act 1996.

27.4 Nothing in this clause 27 shall prevent any party seeking urgent interlocutory relief.

## 28. PRODUCT LICENSING AND MERCHANDISING

28.1 HNZ will manage all licensing and merchandising programmes involving the use of HNZ Player License Property and HNZ Property, in Consultation with the HPA.

28.2 Commercial Merchandising Products may include, but are not limited to, clothing, headwear and other apparel, hockey equipment, memorabilia, games, computer or electronic games, fantasy games, novelties, back-to-school products, printed products (e.g. calendars, diaries, posters), videos, DVDs and trading cards which are available for sale to the public.

28.3 The proceeds from Commercial Merchandising Products involving the use of an individual's Player Property as an individual or with two or less other contracted Players ("**Player Based Products**") will be allocated on a 75% Players (divided between the individual Players used): 25% HNZ split of net proceeds.

28.4 The proceeds of licensing and/or merchandising products involving the use of three or more Player's Player Property ("**Team Based Products**") should be allocated on a 25% Players (divided between the individual Players involved): 75% HNZ split of net proceeds.

28.5 By way of example, the following are Team Based Products:

- (a) Team-based stickers;
- (b) Team-based posters;
- (c) Team-based videos;
- (d) Team-based electronic and digital games;
- (e) Team-based novelties (including drinking mugs and containers, trading cards, glassware, key rings, pins, broaches, badges, magnets, mouse pads and other products agreed between the parties from time to time); and
- (f) Memorabilia signed by three or more Players;

28.6 By way of example, the following are Player Based Products:

- (a) Memorabilia signed by at least one and no more than three Players;

- (b) A print or photograph of a Player (or up to three Players) signed by that Player (or Players); and
  - (c) Novelties based on an individual Player's Player Property (or the Player Property of up to three players) including drinking mugs and containers, glassware, key rings, pins, broaches, badges, magnets, mouse pads and other products agreed between the parties from time to time).
- 28.7 Any merchandising or licensing agreements of Player Based Products would require the individual Player's prior approval.
- 28.8 In respect of any obligation where a Player is required to autograph shirts, dresses, sticks, balls, posters or other items (other than for individual fans in "door-stop" opportunities) no Player shall be required to participate for more than two hours or to sign more than 200 items during a Contract Year, unless the HPA provides consent for these limits to be altered, such consent to not be unreasonably withheld. To avoid doubt, these activities are in addition to Promotional Activities.
- 29. GST**
- 29.1 All payments referred to in this MOU are net of any applicable GST, unless otherwise specifically stated.
- 30. FORCE MAJEURE**
- 30.1 The parties acknowledge that it is possible that an event may occur during the Term which has the effect of requiring the fundamental basis for the arrangements agreed to be revisited. Such events are regarded as Force Majeure in the context of this MOU.
- 30.2 To avoid doubt, a Force Majeure event may include the adoption of bylaws or regulations by FIH or court rulings during the currency of this MOU that fundamentally reduce the benefits or increase the burden on either party of this MOU.
- 30.3 It shall be regarded as a Force Majeure event if HNZ's funding of the APP is reduced to the point where HNZ considers (acting prudently) that it is unable to sustainably fund participation in the FIH Pro League (or any successor) competition for either or both Black Sticks Teams.
- 30.4 Prior to either party seeking to exercise its rights in clause 30.5, in relation to issues arising under clause 30.3, HNZ will notify HPA of the extent to which it is considered to be insufficient to meet the APP for either or both teams. The Parties agree to enter good faith discussions to explore alternatives to exercising any Force Majeure rights under this clause.
- 30.5 In the event that a Force Majeure event occurs, either HNZ or the HPA may, having followed the due process in clause 30.4 in the appropriate circumstances, terminate this MOU with or without notice and the parties must renegotiate the terms of any ongoing arrangement.



### **31. PAST PLAYER TICKET SCHEME**

- 31.1 HNZ will continue to operate its past player ticket scheme which allows past New Zealand Hockey representatives free entry into home test matches. For the sake of clarity this excludes non-HNZ owned/operated events.
- 31.2 HNZ and the HPA will work together to stage past player functions and events on a case by case basis.

### **32. PERFORMANCE REVIEWS**

- 32.1 Prior to the expiry of each Player's HNZ Player Contract, HNZ will meet with the Player to undertake a performance review and development assessment. Such reviews will have an ongoing development focus and the parties shall discuss and agree to a plan for the subsequent 12 month period (whether or not the Player will be contracted to HNZ or not during that 12 month period), designed to improve the Player's performance.

### **33. SECURITY**

- 33.1 HNZ acknowledge that it has responsibilities under the Health and Safety at Work Act 2015 and that the safety of the Players is paramount. HNZ takes its responsibility of ensuring the Teams safety while representing New Zealand and accepts that managing security risk requires regular monitoring and assessment by independent and qualified persons.
- 33.2 Where a New Zealand team is scheduled to play a test match or series outside of New Zealand, HNZ will complete or commission an appropriate security assessment and Consult with the HPA in regard to the security to be provided for the team and Players.
- 33.3 In respect of clauses 33.1 and 33.2 there may be circumstances where it is appropriate for HNZ to commission an independent on ground pre-tour security assessment to evaluate security management plans, complete threat assessments with independent organisations, assess medical facilities, and assess hotels and training and playing venues.
- 33.4 The HPA shall have the right to request and (subject to any confidentiality obligations preventing such disclosure) be provided with any information required to assist it to provide accurate and appropriate advice to the Players regarding the security to be provided to the team.
- 33.5 The HPA reserves the right to seek independent security assessment advice and to advise its members the outcome of such assessment.
- 33.6 The HPA and the Players shall be entitled to request improvements to security and reasonable assurances as to the Players' safety prior to agreeing to participate in any test match or series.
- 33.7 For the avoidance of doubt a Player may decline to participate in any match or series where he or she has reasonable grounds to consider that the risk to the Players' safety and security from attending such match or event is unreasonable in all the circumstances.

**34. ANTI-CORRUPTION EDUCATION**

- 34.1 The Parties agree that anti-corruption education is a priority in the environment.
- 34.2 The HPA shall undertake anti-corruption education for both Black Sticks Teams in each MOU Contract Year. The HPA may seek a contribution by HNZ for direct costs associated with delivery of the anti-corruption education (e.g. travel costs), such request must be received in advance and agreed by HNZ.
- 34.3 HNZ may choose to provide anti-corruption education directly.

**35. MAJOR EVENTS**

- 35.1 HNZ agrees to provide the HPA with copies of all agreements, terms and conditions or other such arrangements which Players may be required to enter into for Major Events, prior to the Players entering into such arrangements.
- 35.2 HNZ may not engage a Player to perform services for HNZ on any terms other than those expressed in this MOU, unless otherwise agreed with the HPA.
- 35.3 HNZ agrees to work with FIH to ensure it understands event promotion better and that use of Player Property for such promotions will need to be secured through athlete agreements which will need to be agreed separately to this MOU.

**36. PERSONAL DEVELOPMENT**

- 36.1 The Parties acknowledge that a Personal Development programme is the preferred option, although currently neither HNZ nor the HPA have the resources to develop and manage a comprehensive personal development programme for the National Squads.
- 36.2 It is accepted that the independent nature of personal development programmes offered in other sports via their respective Player Associations is likely to offer the most effective range of services to Players in the most cost-effective manner.
- 36.3 The parties therefore agree to work together in the spirit of partnership to source funding that will enable the establishment of a personal development programme.

**37. INTERPRETATION**

<b>APP</b>	means Annual Player Payments, being the funds generated pursuant to clause 10.
<b>Affiliated Associations</b>	means an Association affiliated to HNZ.
<b>Agent Costs</b>	means any agent costs directly incurred by HNZ in generating Commercial Revenue.
<b>Broadcasters</b>	means a party with whom HNZ has entered into an Agreement for the recording and broadcasting of any game of Hockey.



<b>Black Sticks Team or Team</b>	means a team of up to 18 Players selected by HNZ from the National Squad to participate in an event.
<b>Commercial Promotion</b>	means a promotion that is coordinated and executed by a Sponsor or Broadcaster or in certain instances by HNZ by associating the Player Property and/or HNZ Property with a product or service or brand for the benefit of a Sponsor/Broadcaster
<b>Contra</b>	means goods or services received by HNZ pursuant to a commercial agreement which would otherwise have to be purchased by HNZ and as determined in accordance with GAAP.
<b>Conscientious Objection</b>	means genuine and demonstrable family, ethical or religious grounds for not performing a Player Appearance which, for the avoidance of doubt, does not include a Player's own commercial interests.
<b>Consultation / Consult</b>	means that the parties will communicate and receive information and argument with an open mind and, where practical, when that can still realistically influence the outcome, and "Consulted" and "Consult" have a corresponding meaning.
<b>CPI</b>	means Consumer Price Index.
<b>Donor</b>	means a person or entity who donates money for application to certain hockey purposes via HNZ in accordance with clause 11.
<b>Donor Promotion</b>	means a promotion that is coordinated and executed by a Donor or in certain instances by HNZ by associating the Player Property and/or HNZ Property with a donor, or any product or service directly connected to the donor.
<b>FIH</b>	means International Hockey Federation.
<b>FIH Pro League</b>	means the FIH global league which both Teams have been selected to participate in.
<b>GAAP</b>	means Generally Accepted Accounting Principles.
<b>GST</b>	means Goods and Services Tax.
<b>HNZ</b>	means Hockey New Zealand.
<b>HNZ Controlled Match</b>	will be a match organised and controlled by Hockey New Zealand. In 2019, 2020, and 2021 the FIH Hockey Pro League (HPL) matches held in NZ will be deemed

	to be HNZ controlled matches for the purposes of this MoU.
<b>HNZ Event Contract</b>	means the HNZ Player Contract annexed as Schedule C to the MOU.
<b>HNZ Player Contract</b>	means the HNZ Player Contract annexed as Schedule A to the MOU.
<b>Hockey</b>	means the sport of field hockey.
<b>HPA</b>	means the Hockey Players Association.
<b>HPA Membership Fees</b>	means an amount nominated from the Players share of PGCR that the HPA Board and members have nominated to assign to the HPA.
<b>HPSNZ</b>	means High Performance Sport New Zealand.
<b>Individual Performance Plan (“IPP”)</b>	means the plan that is set by HNZ in conjunction with each Player covering all aspects of their health, performance and physical conditioning.
<b>Major Events</b>	means the FIH World Cup, FIH Pro League, a FIH Confederation Event, Olympic Games, Commonwealth Games or any other non HNZ event or competition of equivalent standing.
<b>MOU</b>	means this Memorandum of Understanding including any schedules and attachments.
<b>MOU Contract Year</b>	means the period from 1 November to 31 October in which a Player is a party to a HNZ Player Contract.
<b>PEG</b>	means Performance Enhancement Grant.
<b>Personal Promotion</b>	means an activity undertaken by a Player which involves the use by the Player or another person or organization, of that Player’s Player Property for the specific endorsement or promotion (including sponsorship) of goods and services, and may involve that Player receiving a consideration for endorsing or promoting goods or services.
<b>PGCR</b>	means Player Generated Commercial Revenue.
<b>Platform</b>	means any digital, print, television, video, display, social media, networking, internet, or other medium that is used to publish or display advertising and promotional material.

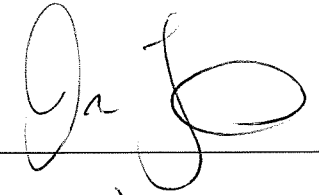
<b>Player Attendance Appearance</b>	means the use of any form of Player Property where the Player is required to attend in person.
<b>Player Attribute</b>	means the use of any form of Player Property where the Player is not required to attend in person.
<b>Player Property</b>	means, in respect of each Player, any means of identifying that Player including but not limited to the Player's name, nickname, image, signature, photograph, voice, talents, and any other identifying feature of the Player on, or in, any written or printed form or any audio, video and digital recordings and includes a license of any relevant trademarks that the Player may have registered or which the Player may have or applied for registration.
<b>Playing Services</b>	means training for and playing Hockey, performing Promotional Activities, media interviews and associated travel.
<b>Promotional Activities</b>	Includes the activities referred to in clause 19.
<b>Promotion of Hockey</b>	means any print publication (e.g. posters, billboards and print advertising), internet or new media publication, or radio or television broadcast (including advertising) which has, as its primary purpose, the promotion of Hockey in New Zealand, or one or more games of Hockey involving a HNZ team (or teams). There should be no commercial association with or benefit to any Sponsor or Broadcaster but for the avoidance of doubt promotional activities for HNZ's Official Charity Partner are classified as Promotion of Hockey.
<b>Rest Break Periods</b>	means the rest periods set out in clause 25.1 and clause 25.5.
<b>Sponsors</b>	means a party with whom HNZ has entered into an agreement for the promotion of goods or services excluding promotion of Licensed Products.
<b>Stakeholders</b>	means the stakeholders of HNZ being its funders, Sponsors, Broadcasters, Suppliers, organisations with a legal or contractual connection to it, its members and their clubs.
<b>Team Calendar</b>	means the Black Sticks calendar determined by HNZ in accordance with this MOU and detailed in Appendix B.

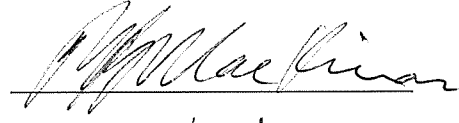
<b>Team Property</b>	means the names and logos of Hockey New Zealand and the names, logos and uniforms of the Black Stick, which are owned by HNZ.
<b>Tools of the Trade</b>	means a hockey stick, hockey shoes, and goal keeping equipment.
<b>Training Session</b>	means any individual session within the Standard Training Hours within Schedule B.
<b>WADA</b>	means World Anti-Doping Association.
<b>World Cup</b>	means the World Cup of Hockey as administered by the FIH.
<b>\$</b>	means NZD.



EXECUTION

Signed for and on behalf of The New Zealand Hockey Federation Incorporated )  
In the presence of:

 (IAN FRANCIS)

 (PAUL MACKINNON).

Date: 04 / 10 / 2018

Signed for and on behalf of The Hockey Players' Association Incorporated in the presence of: )

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Date:

