**Memorandum of Understanding and**

**Terms of Reference for Sports Partnerships**

**Explanation:**

Once the Clubs/Groups/Organisations have agreed in principle to work together on a sports partnership project, it is recommended that the relationship is recorded through a Memorandum of Understanding (MOU).

An MOU records the intent of the Clubs/Groups/Organisations and how they will work together to achieve the desired outcome. The MOU is **not** a legally binding document. It simply records the process and responsibilities of the Clubs/Groups/Organisations to explore the viability of the project and agreed outcomes.

In most sports partnerships, the Clubs/Groups/Organisations will form a Project Group or Working Group and appoint people from their own Club/Group/Organisation to be on the Working Group. The terms of reference of that Working Group should be recorded to ensure the expectations, authority and roles are clear.

In this template, the Terms of Reference are attached to, and form part of the MOU, as a schedule. This is to ensure that it is all contained in one document and that the Clubs/Groups/Organisations sign off on the terms of the TOR as well as the MOU.

The Terms of Reference will need to set out how the Working Group is to operate including:

* The composition of the Working Group and how it is appointed.
* The power of the Working Group – can it make decisions? If so, what are the limitations?
* The budget for the Working Group – will each Club/Group contribute, or will external funding be sourced for the Working Groups work? Once approved, does all expenditure need to be approved by the parties?
* The deliverables of the Working Group – what do you want it to achieve? By what dates?

This template provides a base document for Clubs/Groups/Organisations to use when progressing a sports partnership. However, it is important to note that the MOU will need to be amended to suit the partnership and therefore there are a number of areas highlighted that will need to be completed.

Please also note the drafting notes below.

**Drafting Notes:**

Below are some notes to be considered for some of the clauses, in addition to the notes within the template. These notes, and the notes within the templates (including the highlighting), should be removed once the MOU /TOR has been drafted:

**MOU – Drafting Notes**

Parties

(Front Cover Page/

First page) Insert the full legal name of each club/group or organisation. If it is an incorporated society, charitable trust or company, you can search for its proper legal name at [www.societies.govt.nz](http://www.societies.govt.nz/) or [www.companies.govt.nz](http://www.companies.govt.nz/). For example, “North Shore Rugby Football Club Incorporated”.

If it is not incorporated (which will be the case if it is not on either of the websites above) and is only a group of people, then the full names of each individual should be listed.

 The short name is a shortened name by which the club, group or organisation may be known by e.g. “North Shore Rugby”. This short name can then be used throughout the MOU.

Project Name

(Front Cover Page/

First page)The project name will not necessarily mean it is the name of the end product/entity but is simply used to describe it. For example, the “Parrs Park Sports Partnership Project.”

DateThe date to be inserted into the “Dated at this day…” should be the day on which the **last** Party signs the MOU/TOR. It should not be pre-dated and it is suggested it is inserted by hand.

Clause 1.4 The MOU has an example purpose/objective provided. The Working Group may be tasked with a different purpose/objective as it will depend on the nature of the project.

Clause 2.1 (e ) The number of Parties to be inserted here, will depend on the number of groups that are part of the Project and at what point it is no longer viable to continue the project.

Clause 4.2 This is an example of how the Working Group can be formed but there may be other ways the Parties wish to do so. For example, there may be more than one representative from some Parties.

**TOR – Drafting Notes**

Clause 1.1 The number of members of the Working Group is likely to be determined by the number of parties who are part of the project. However, a group of 7 – 10 people is likely to be an effective number.

Clause 1.1(a) The number of representatives of each Party can be amended as there may be times when some Parties wish to have more than one representative.

Clause 1.1(b) A Working Group may or may not wish to have an independent member. It will depend on the make-up of the Working Group and whether an independent person would be beneficial.

Clause 1.4 The number for the quorum of the Working Group is commonly around two thirds of the total number of Working Group members.

Clause 1.5 This Co-Option clause is optional, but it does provide some flexibility if specialised skills are needed for a period of time.

Clause 1.6 If there is no independent position then this clause can be deleted.

Clause 2.1 The timeframe between Working Group meetings to be inserted, can be changed to suit the Parties.

Clause 2.1(f) The percentage to be inserted can be amended or you can simply have by consensus, with Chairperson having casting vote (if any vote is tied).

Clause 4.1 The deliverables listed are just examples of what could be included in this section. The key tasks will need to be discussed and developed by the Parties.

Clause 4.3 This clause sets out some example of recommendations for a new entity. The recommendations will need be determined depending on the project that is required.

Clause 5.1 The budget may set out an amount to be spent on each deliverable or it may be a lump sum budget which can be spent how the Working Group sees fit.

Signing Add more signing clauses as required for the number of Parties. Each Party can delegate a person, or persons to sign the MOU and TOR. It can be, but does not need to be, the Party’s Representative on the Working Group, as long as they have authority to sign on the Party’s behalf (which should be recorded in your Board/Committee minutes.)

**[INSERT FULL NAME OF CLUB #1]**

(“[insert short name of club #1”)

**[INSERT FULL NAME OF CLUB #2]**

(“[insert short name of Club #2]”)

**[INSERT FULL NAME OF CLUB #3]**

(“[insert short name of club #3]”)

**…**

**AND**

**[INSERT FULL NAME OF CLUB]**

(“[insert short name]”)

**MEMORANDUM OF UNDERSTANDING and**

**TERMS OF REFERENCE of**

**SPORTS PARTNERSHIP for**

**[name of project] PROJECT**

**MEMORANDUM OF UNDERSTANDING**

**DATED THIS DAY OF 20XX**

**PARTIES**

* + - * 1. **[insert full name of club #1]** an [incorporated society/company/trust/group] ("**[insert short name of Club #1]**")
				2. **[insert full name of club #2]** an [incorporated society/company/trust/group] ("**[insert short name of Club #2]**")
				3. **[insert full name of club #3]** an [incorporated society/company/trust/group] ("**[insert short name of Club #3]**")
				4. …add more as required etc

# PROJECT BACKGROUNd AND PURPOSE

* 1. **The Project**: [insert a description in here of the background to the project, ie describe the park/grounds/facility/programme and the proposed outcome ie “to investigate the need for and viability of building a new multi-sport facility at [insert]” (“the Project”)or “ to investigate the need for a joint holiday programme/administrator/communications plan/membership model/funding strategy/accounting system/etc between the Clubs (“the Project”).
	2. **Vision**: The vision for the Project is [insert the ultimate aim of the project].
	3. **Parties**: [briefly describe each Club/Group and why it has an interest in the project - this could also include the challenges for each Club/Group, the key requirements for each of them to be involved in the Project etc].
	4. **Purpose of Project Group**: In order to carry out the Project, the Parties have decided to set up a Working Group to undertake work and provide recommendations to the Parties in relation to the Project. The overall purpose of the Working Group is to [prepare a report outlining a set of recommendations for final approval of the Boards/Committees of the Parties ].
	5. **Terms of Reference**: Representatives from each of Parties will be part the Working Group. The Terms of Reference for the Working Group, as agreed by all the Parties, are detailed in **Schedule 1** of the MOU.

# PERIOD OF THE PROJECT

#### **Period:** This MOU, and the Project, will start on the day this MOU is signed by all the Parties and will continue until the first of any of the following circumstances:

* + 1. **Parties Agreement to End:** the Parties agree in writing that it is no longer necessary or appropriate to carry on the Project or the requirements under this MOU have been satisfied;
		2. **Working Group Recommendation**: the Working Group recommends to the Parties, and the Parties agree, that the Project is not achievable or for any other reason should come to an end;
		3. **Insufficient funding**: there is insufficient funding to enable the Project and the Working Group to continue;
		4. **Dispute**: a dispute is unable to be resolved by the Parties; or
		5. **Parties exiting:** [insert number eg 2] or more Parties withdraw from the Project, in accordance with this MOU.

#### **Amendments:** The MOU (including the Terms of Reference) may be amended at any time by the agreement in writing of all the Parties. The MOU may be amended to include a new Party provided all the remaining Parties agree to it being part of the Project.

### **3.** **PRINCIPLES OF WORKING TOGETHER**

#### 3.1 **Commitment:** The Parties are committed to work together with the common goal of the undertaking the Project. In doing so, each Party agrees to the following principles:

* + 1. **Reputation:** to use its best efforts to ensure that it does not do, or permit anything to be done, which is or may be detrimental to the goodwill, name, or reputation of any other Party or the Working Group;
		2. **Good Faith:** to act in good faith to carry out its obligations as set out in this MOU;
		3. **Autonomy:** to accept and recognise that each Party is an autonomous entity or group and that it is entitled to make its own decisions on any recommendations made to it, or to withdraw from the Project, in accordance with this MOU;
		4. **Co-operation:** to co-operate with each other and work as a team, so as to support the Working Group to achieve its objectives;
		5. **Communication:** to communicate openly and honestly to each other and to keep the communication lines open to ensure effective decision making by the Parties. The Parties will act constructively and openly to avoid conflicts or disputes and if any arise, will deal with them promptly and resolve them in a fair manner; and,
		6. **Timeliness:** to contribute, make decisions and communicate with the other Parties and the Working Group in a timely manner to ensure the Project progresses efficiently and effectively.

#### **SPECIFIC OBLIGATIONS OF PARTIES**

#### 4.1 Each Party agrees to fulfil the following obligations in relation to the Project:

* + 1. **Support:** to provide all reasonable support, information, materials and assistance to enable it to meet its obligations under this MOU;
		2. **Approvals:** to obtain approval to enter into this MOU, and for any other approvals which are required during the period of the Project, either from its board/committee or its members, as determined by the Party;
		3. **Media/Publicity**: to only make public comment on the Project through the agreed spokesperson from the Working Group;
		4. **Meetings:** to meet at times reasonably requested by each other during the period of the Project to plan and agree on any actions necessary to give effect to this MOU (eg to amend this MOU or terms of reference); and
		5. **Share Workload:** to share and allocate tasks and action items equitably between all the Parties and to deliver on them in the manner agreed to by the other Parties.
		6. **Confidentiality**: to keep confidential and not (without the consent of the other Parties) disclose any Confidential Information about the other Parties or the Project except as required by law. For the purpose of this MOU, ‘Confidential Information’ means all information or data, in any form or medium whatsoever, relating to the Parties or the Project which by its nature, or by the circumstances of its disclosure to the holder of the information, is or could reasonably be expected to be regarded as confidential.
		7. **Notices:** to provide an email address or addresses for all communications to the Parties relating to the Project.

# 5. WORKING GROUP

#### 5.1 **Role and Responsibility:** The Parties agree that a Working Group shall be established by the Parties to [eg investigate the concept of building a multi-sport facility]. The Working Group is required to undertake the specific tasks set out in the Terms of Reference in **Schedule 1.** In summary these will include:

(a) [insert a brief summary of the Working Group’s responsibilities from the TOR]

#### 5.2 **Representatives on the Working Group:**

#### (a) Each Party shall appoint [“a” or if more than one put the number] representative from it to be a member of the Working Group. Each Party may also appoint an alternate representative to attend as the representative’s proxy if the representative is unavailable to attend a meeting of the Working Group.

#### (b) Each Party’s representative must hold office with the Party (eg as a Board/committee member) and be chosen by the Party on the basis that he/she is available to attend the meetings of the Working Group and has the necessary skills to add value to the Working Group.

#### (c) A Party may change its representative if it wishes to do so,(for example, due to unavailability, resignation or the Party no longer wishes that person to be their representative). If a Parties wishes to do so, it must give written notice, as soon as possible, to the Working Group and the other Parties of the change and the name of the replacement representative.

#### 5.3 **New Parties**: If a new Party becomes part of the Project in accordance with clause 2.2, the new Party may appoint [“a” or if more than one put the number] representative to the Working Group on the basis described in clause 5.2.

#### 5.4 **Withdrawal of Party:** Any Party who, for any reason, wishes to withdraw from being involved in the Project, must give 14 day’s written notice to all the Parties and the Working Group. Clauses 4.1(c), 6.1, and 6.2 shall continue in full force and effect, notwithstanding such withdrawal.

# 6. DISPUTES

#### 6.1 **Disputes:**  Any dispute or difference arising between the Parties regarding this MOU and/or the Project will be dealt with in the first instance through facilitating a meeting with a representative from each of the Parties, at which they will attempt, in good faith, to resolve the dispute or difference.

#### 6.2 Should the dispute of difference not be resolved by such meeting, any Party may give written notice the other Party that the dispute is to be referred by each Party to an independent mediator (e.g. Regional Sport Trust) for resolution.

## **SIGNED AND AGREED BY THE PARTIES:**

|  |  |
| --- | --- |
| Full Name of Party | [E.g. North Shore Rugby Football Union Incorporated] |
| Authorised Signatory Name(s) | [E.g. John Smith] | [E.g. Mary Brown] |
| Authorised Signatory Signature(s) |  |  |
| Position eg Committee member  | [E.g. President] | [E.g. Committee Member] |
| Date |  |  |

|  |  |
| --- | --- |
| Full Name of Party |  |
| Authorised Signatory Name(s) |  |  |
| Authorised Signatory Signature(s) |  |  |
| Position eg Committee member |  |  |
| Date |  |  |

|  |  |
| --- | --- |
| Full Name of Party |  |
| Authorised Signatory Name(s) |  |  |
| Authorised Signature(s) |  |  |
| Position e.g. Committee member |  |  |
| Date |  |  |

**SCHEDULE 1 to MOU**

**Working Group Terms of Reference**

|  |  |  |
| --- | --- | --- |
| **Title:** | [Name of Working Group] |  |
| **Objective:** | [Name of Project] |  |
| **Responsible to:** | [insert names of PARTIES from the MOU] |  |

1. Working Group - Composition and Appointment
	1. **Composition**: The [Working Group] shall comprise of up to [insert number] members as follows:
		* 1. [insert number] of the positions are the Party’s representatives (1 from each Party);
			2. [insert number] of the positions is for an independent and cannot be associated with any of the Parties.
	2. **Changes to representatives**: A Party may change its representative on the Working Group at any time by providing notice to the Chairperson of the Working Group. If a representative is unable to attend a Working Group meeting, the Club the person represents may send an alternate representative as proxy to attend the meeting in place of the representative.
	3. **Chairperson:** At the first meeting of the Working Group, the Working Group shall appoint a Chairperson from amongst the Working Group members. The role of the Chairperson is to chair meetings and represent the Working Group where necessary. The Chairperson will be the spokesperson for the Project unless otherwise agreed. If the Chairperson is unavailable for any reason, or the Working Group wishes to do so for any other reason, the Working Group may appoint another person from the Working Group to act as Chairperson, for the period of unavailability (if due to that) or for such period as the Working Group decides. If the person who is the Chairperson is no longer a member of the Working Group, a new Chairperson shall be appointed by the Working Group from amongst its members.
	4. **Quorum**: The quorum of the Working Group shall be[insert]Working Group members present at a meeting.
	5. **Co-option:** The Working Group may co-opt a further member with specialist skills to the Working Group, if required, for such period and on such terms as the Working Group considers necessary.
	6. **Independent appointments**: The independent position(s) shall be appointed by the other members of the Working Group on the basis that he/she can bring some independent thinking to the Working Group.
	7. **Term**: Each member of the Working Group shall be appointed to the Working Group for the duration of the Project, unless they resign or are replaced by their appointing Party in accordance with the MOU.
	8. **Vacancy**: If a position on the Working Group is vacant at any time, the Party or the Working Group (whoever appointed the position which is vacant) may appoint another person in their place.
	9. **Removal**: A Working Group member may be removed from their position on the Working Group by agreement of all the Parties if:
		* 1. the Working Group member has breached these Terms of Reference (provided that the member has been given notice of the alleged breaches and a reasonable opportunity to be heard on them); or
			2. the Working Group is notified by a Party, that they wish to change their representative.
2. Working Group Meeting Protocols
	1. **Meeting Protocols**: The Working Group shall:
		* 1. meet as often as the members of the Working Group consider appropriate, but shall meet at least once every 2 months;
			2. except to the extent specified in these Terms of Reference, the Working Group shall regulate is own procedure;
			3. ensure meetings, conference calls and any decisions of the Working Group made by email, are recorded in minutes;
			4. invite other persons to attend meetings (ie consultants, stakeholders) provided all members of the Working Group agree to the person attending. The attendees shall have the right to speak but no right to vote;
			5. if requested, provide the minutes of the meetings to the Parties;
			6. endeavour to reach decisions by consensus. However, if there is not a consensus on a specific matter, then a vote may be taken and will be passed if 75% or more of the members of the Working Group agree to the matter. Each Working Group Member shall have one vote; and
			7. hold meetings in person/face to face but if necessary may hold meetings by telephone, video conference or other means of electronic communication provided that all persons participating in the meeting are able to hear each other effectively and simultaneously.
3. Working Group Members - Duties and Responsibilities
	1. **Duties and Responsibilities:** The duties and responsibilities of each Working Group member are:
		* 1. to comply with the MOU including these Terms of Reference and in particular to adhere to the Principles of Working Together set out in clause 3 the MOU:
			2. to act in good faith and in the best interests of the Working Group and the Parties at all times and in accordance with these Terms of Reference;
			3. to use his or her best efforts to consult and keep up to date with the Party he/she represents to ensure he/she is representing the Party’s views to the best of his/her abilities;
			4. to report back to their Party on key decisions and progress made by the Working Group;
			5. to prepare for meetings by reading and considering the papers/materials sent in advance of the meetings;
			6. to work collaboratively with the other members of the Working Group and respect the skills and views of the other members of the Working Group;
			7. to communicate and engage frequently, openly and honestly with the other members of the Working Group;
			8. declare any real or perceived conflict of interest. The remaining members of the Working Group shall consider whether the conflict of interest is of a serious nature and if it is, take whatever action it considers necessary; and
			9. keep confidential and not disclose (unless required by law) any Confidential Information relating to the Working Group.
4. Deliverables
	1. **Deliverables:** The Working Group shall complete the following deliverables by the dates or timeframes specified (“Deliverables”):

|  |  |
| --- | --- |
| **Deliverables** | **Date /Timeframe for Completion** |
| Develop a project plan for approval by the respective Clubs. | [insert] |
| Undertake a feasibility and/or needs study. |  |
| Investigate other potential users of the facility. |  |
| Consult with stakeholders (community, local boards, interest groups). |  |
| Consult with potential funders and source potential funding for the Project (council, RST’s, grant funders, businesses, sponsors and supporters). |  |
| Investigate governance and structural options for the Project. |  |
| Deliver a final report containing recommendations in accordance with clause 4.3. |  |

* 1. **Variation to Deliverables:** Should the Working Group consider that any of the Deliverables are not achievable, or are not achievable by the date or timeframes specified, the Working Group shall recommend changes to the Deliverables to the Parties for approval.
	2. **Report:** The report to the Parties shall include the following recommendations:
		+ 1. the responsibilities, functions and powers of the proposed entity;
			2. the governance and structural options of the proposed entity, including the composition of the proposed Board;
			3. a proposed staffing structure for the new entity;
			4. financial considerations and financial budgets necessary to effect the change;
			5. stakeholder views including political support for the project;
			6. facility design and costs; and
			7. identification of other potential facility users within the wider community who could support operational viability.
1. Authority and Budget
	1. **Financial budget:** In undertaking the Deliverables, the Working Group shall carry out its work in accordance with the budget in **Appendix 1** which has been approved by the Parties.
	2. **Reimbursements:** The Working Group shall not receive any reimbursement for expenses unless the expenses are specifically listed in **Appendix 1** or prior written approval has been provided by the Parties.
	3. **Decision making**: In undertaking the Deliverables, the Working Group shall have the authority to make decisions and determinations, including:
		* 1. appointing consultants and contractors as required for the development of the Project; and
			2. seeking advice from independent external parties;

provided that:

* + - * 1. all decisions and determinations do not exceed the Budget as set out in **Appendix 1**; and
				2. regular Project updates are provided to the Parties in accordance with the specified timeframes.

**SIGNED AND AGREED BY THE PARTIES:**

|  |  |
| --- | --- |
| Full Name of Party |  |
| Authorised Signatory Name(s) |  |  |
| Authorised Signatory Signature(s) |  |  |
| Position eg Committee member  |  |  |
| Date |  |  |

|  |  |
| --- | --- |
| Full Name of Party |  |
| Authorised Signatory Name(s) |  |  |
| Authorised Signatory Signature(s) |  |  |
| Position e.g. Committee member |  |  |
| Date |  |  |

|  |  |
| --- | --- |
| Full Name of Party |  |
| Authorised Signatory Name(s) |  |  |
| Authorised Signature(s) |  |  |
| Position eg Committee member |  |  |
| Date |  |  |

**APPENDIX 1 - BUDGET**

 **(attached)**