

**TERMS AND CONDITIONS OF
THE EMPLOYMENT
CONTRACT FOR NON-
AMATEUR PLAYERS AT
SWISS BASKETBALL CLUBS**



**SWISS
BASKETBALL**

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PREAMBLE

These terms and conditions (**T&Cs**), together with the employment contract for non-amateur players at Swiss Basketball Federation (known as "Swiss Basketball") clubs, govern the relationship between the club as employer and the player as employee.

The club is a member of Swiss Basketball and as such, is entitled to take part with its teams in competitions organised by Swiss Basketball.

To participate in these competitions, the player must be qualified by Swiss Basketball. In accordance with its by-laws, the purpose of Swiss Basketball includes the promotion of basketball in Switzerland. To this end, Swiss Basketball may regulate, restrict or ban the participation of clubs and players in competitions for objective reasons (especially on disciplinary or approval grounds).

The parties are aware of their obligations towards Swiss Basketball as an organiser of sporting competitions.

Where masculine pronouns are used throughout this document, they are understood to refer to natural persons (especially players) of both sexes. Feminine pronouns have been omitted for reasons of clarity.

I. Contract provisions and amendments

Art. 1 Contract provisions and amendments

These terms and conditions (**T&Cs**) of the employment contract for non-amateur players at Swiss Basketball clubs form an integral part of the employment contract for non-amateur players at Swiss Basketball clubs (referred to hereinafter as the "**employment contract**").

The provisions of the employment contract (excluding greyed-out text) and the T&Cs are mandatory. This means that they may not be amended nor supplemented.

Any additions or amendments shall be valid solely where applied to Articles 5 (accessory gainful activity), 7 (maintenance and improvement of physical capabilities), 17 (sports gear and outdoor clothing), 27 (medical infrastructure / education) and where specifically stated in Art. 9 of the employment contract.

II. Term and end of the contract

Art. 2 Term of the contract

The term of the contract is governed by the employment contract.

For non-amateur players who are minors, the contract term may not exceed four years, in accordance with FIBA Rules.

Art. 3 Termination of the contract with immediate effect and with just cause

Either of the parties may terminate the contract without notice at any time for just cause (Art. 337(1) CO).

In particular, the following shall be considered as just causes:

- Serious or repeated breach of the terms and conditions of this contract, the by-laws or rules of Swiss Basketball;
- Relegation to a division in which non-amateur players are unable to participate.

The parties may also allow for other just causes, such as:

- a) the club's relegation;
- b) refusal or withdrawal of the club's licence;
- c) the player's suspension for misconduct for a period of at least one month by the competent sporting authorities for official competitive matches organised by Swiss Basketball.

The party terminating the contract for just cause must provide due justification if requested to do so by the other party following the termination.

If the other party does not challenge the existence of the just cause in writing with a brief statement of the reasons, within a period of ten days following receipt of the notice of termination, he shall be deemed to have accepted the termination.

Art. 4 Termination of the contract with immediate effect and without just cause

If one of the parties terminates the contract with immediate effect but without just cause, compensation shall be payable as provided for by law (Art. 337c and Art. 337d CO).

III. Obligation of the player

Art. 5 Accessory gainful activity

With the exception of professional apprenticeships, the player may not carry on any other gainful activity without the club's prior written consent. Any subsequent change in the player's accessory gainful activity shall also be subject to the club's written approval.

The club may withhold consent only if the accessory gainful activity envisaged does not allow the player to correctly fulfil his obligations under this contract.

Art. 6 Training and matches

For the term of this contract and subject to other gainful activities authorised in advance by the club as per art. 5, the player shall be at the club's disposal and undertakes to:

- take part, whether individually or collectively, in all matches, training sessions, training camps, sessions and meetings of club teams permitted under Swiss Basketball rules to select non-amateur players and for which the player is entitled to play under Swiss Basketball rules;
- take part in all activities deemed necessary by the club as part of the player's professional activity, in particular collective or individual theory classes, discussions, and match preparations;
- take part in any trips in Switzerland or abroad, subject to schedules, expenses and transport determined by the club, and to remain with the club during travel, unless otherwise expressly authorised by the club.

Art. 7 Maintenance and improvement of physical capabilities

The player undertakes to make unreserved use of his talent and capabilities for the benefit of the club, to make every effort to maintain and where possible increase the level of his physical, mental and psychological capabilities, and to avoid in general anything that could or may appear to be detrimental to the effectiveness of his professional performance or to the club's image.

In particular, the player shall refrain from:

- any behaviour which adversely affects his physical and mental performance significantly, whether in the short, medium or long term;
- practising any other sport or activity, including during periods of leave, which may present a substantial accident risk, notably:
 - Autocross competitions, hill climbing (as a motor sport), circuit-based motor racing, stock-car racing (including training); rallying; driving an automobile on a circuit (except for road safety classes)
 - Base jumping
 - Full contact sports (e.g. boxing)
 - Deliberate glass breaking
 - Extreme karate (breaking bricks, slates or planks with the hands, head or feet)
 - Motocross racing (including on-circuit practice)
 - Motor boat racing (including practice)
 - Motorbike racing, including practice races and driving a motorbike on a circuit (except for road safety classes)
 - Downhill mountain biking competitions, including practising on downhill circuits
 - Bike jumping including acrobatics (such as somersaults, spins, or lifting one's hands off the handlebars or one's feet off the pedals)
 - Quad bike competitions (including practices)
 - Downhill skateboarding, whether in a competition or a speed race
 - Snowcross, including practices
 - Ski racing (speed record attempts)
 - Speed flying
 - Scuba diving to depths in excess of 40 metres
 - Hydrospeed or riverboogie (river descent on a float)
 - Rock climbing or practising winter sports in off-piste environments, with disregard for elementary rules (e.g. lack of experience, insufficient equipment, bad weather)
 - Paragliding or hang gliding in particularly unfavourable wind conditions
- The practice of any other sport (including basketball) in an organised setting with other clubs or teams, without the club's prior written consent.

A player's participation in activities with national teams is reserved (see art. 28).

Art. 8 General conduct / role model behaviour

The player is bound to behave, in his professional and private life, in such a way as not to damage his personal reputation, nor that of the club nor basketball in general.

The player is aware of his status as a role model and will behave accordingly. He accepts that, as a person in the public eye, he must live up to high standards of social and moral behaviour, both on and off the basketball court.

Art. 9 Participation by the player in the club's advertising and commercial activities / Image rights / New media

The player undertakes to take part in any advertising and commercial activity that may be reasonably requested of him by the club, in any form whatsoever, without receiving any supplementary payment over and above the agreed salary. The player has no claim to any share of any revenue that may derive therefrom for the club.

The player agrees that the club may disseminate images of any kind depicting him, whether alone or with the team, and having been made by the club in the context of the player's professional activity, in any form and in particular in the new media (such as the internet, mobile electronic devices or computer games). The player furthermore agrees that he shall receive no remuneration for this over and above his agreed salary.

Subject to the club's written consent, the player is entitled to use his own image himself with no obligation to remunerate the club.

Art. 10 Personal collaboration by the player with the media

The player undertakes not to collaborate with any media (television, radio, press, computer media, etc.) without the prior written or verbal consent of his club or of persons contractually associated with the club.

The player also undertakes to refrain from making any statements that may be detrimental to the reputation of his team-mates, his trainer, his club, Swiss Basketball and its management, the FIBA or the sport in general.

Art. 11 Advertising and commercial activities of the player

The player's personal advertising activity is permitted solely with the club's prior written authorisation.

The player may not display on his sports gear any advertising other than that specified by the club.

Unless authorised in advance by the club in writing, the player is not entitled to take part in an autograph signing session, nor to sign any agreement with a sports equipment supplier.

In principle, any contract in force between the player and a sports equipment supplier or any other commercial advertising partner must be terminated by the player as soon as possible. However, the club may authorise the player to maintain an existing contract with a sports equipment supplier or other commercial partner. Such authorisation must be given in writing.

Art. 12 Sports ethics

The player undertakes not to accept services or promises of services from third parties with the aim of throwing the results of a match.

The player will comply with any anti-doping regulations required by law and the relevant associations. The player is also bound by the Code of practice for safeguarding the integrity of Swiss Basketball and by the Swiss Olympic Ethics Charter.

The player undertakes to show consideration for third parties (team-mates, opponents, referees, spectators, etc.), to respect their person and their health, and never intentionally to injure or risk injuring them, in particular during a match or a training session. When on court, the player shall notably refrain from provoking or insulting the referee, opponents or spectators by using inappropriate words or gestures.

Art. 13 Medical care

It is incumbent on the player to take out insurance for himself with an insurance company or a health insurance fund to cover medical and pharmaceutical care in the event of illness in accordance with the Federal Act on Health Insurance (HIA). The player shall cover his own membership expenses.

The player undertakes to inform the club's official doctor of any medical problems as soon as possible. He undertakes to inform the club's doctor of the name and area of specialisation of any doctors and other health professionals that he may consult outside the club.

Before the start of the working relationship, and then annually before returning to training in the case of an employment contract covering more than one season, the player will be called by the club's official doctor for a medical examination. The doctor will give the club a medical certificate indicating solely the player's fitness to carry on his work but excluding any other medical data. The cost of this examination will be borne by the club.

The player undertakes to follow any medical prescriptions issued by healthcare professionals approved by the club and intended to restore or maintain full fitness for work, such as massages, medical and sports examinations, vaccinations, treatments and prevention measures.

If the player has any doubts about the club doctor's diagnosis, he is entitled to seek a second opinion from a specialist at his own expense. In the case of conflicting diagnoses, the club and the player shall be obligated to seek a third independent opinion, which shall be binding upon both parties. The associated costs shall be divided equally between the parties.

Art. 14 Obligations on the player in the event of illness or accident

If the player is prevented from working due to illness or accident, whether related to his work or otherwise, he must notify the club as soon as possible.

Where his state of health requires, the player must obtain suitable medical treatment as quickly as possible in consultation with the club doctor. He is required to follow the recommendations of the club doctor and to inform him if he consults another doctor for compelling personal or objective reasons.

Furthermore, he must send the club's secretariat a medical certificate issued by the club's official doctor or, exceptionally, by another doctor, within two days following the accidental event or the onset of illness.

Art. 15 Medical secrecy

The player releases doctors and any other healthcare professionals consulted from their duty of professional confidentiality with regard to the club's official doctor, for any medical information related to his fitness to work.

Clubs are obligated to ensure that their team doctors keep confidential files on all player injuries.

Art. 16 Military or civil service, civil defence

The dates of any military, civil defence or civil service obligations must be communicated to the club as soon as possible after their announcement in the public domain or on the Army website¹, but at the latest within three days of receipt of the official communication from the competent authorities.

The player shall make every effort to perform his obligations at times that most benefit the club.

Art. 17 Sports gear and outdoor clothing

The club shall provide sports gear free of charge to the player. It may also provide him with outdoor clothing. Sports gear and outdoor clothing remain the property of the club and must be returned to it by the player upon request by the club at the end of the working relationship. The player undertakes to use them with care.

The player undertakes to use the gear provided by the employer (shirt, socks, boots, tracksuit, bag, etc.) during all the club's sporting activities.

The club chooses the brand of gear which is mandatory for the player. If the player fails to comply with this undertaking, with the result that the club is required to pay a contractual penalty to the equipment supplier, the club may require the player to reimburse the contractual penalty.

The club may display commercial advertising on the player's equipment with no recompense payable to the player.

¹ www.vtg.admin.ch/fr/mon-service-militaire/dates-de-convocation.html (as at 4 December 2017)

The player undertakes to wear any outdoor clothing provided by the employer, during all non-sporting activities in which he takes part as a member or representative of the club. This applies, in particular, to media appearances (TV, press conferences, sponsor events, etc.).

The player is not entitled to financial gain from wearing the sports gear or outdoor clothing of third parties, except with the club's prior written consent.

Art. 18 Place of residence and address for notices

Unless otherwise permitted in writing by the club, the player shall be required to choose a place of residence that enables him to reach in the club's sports facilities within one hour. If the player encounters any difficulties in finding suitable accommodation within this range, the club will provide him with active support until the player's efforts are brought to a successful conclusion.

Club mail may be validly sent to the player at the address indicated on page 1 of the employment contract. The player is required to inform the club immediately of any subsequent change of this address. If the club is not informed in writing of the player's subsequent change of address, it may validly send correspondence and formal notices to him at the last address supplied for notices.

IV. Obligation of the club

A. Remuneration paid to the player**Art. 19 Salary and fringe benefits**

The club shall pay the player, at the end of each month, a basic monthly salary, plus any bonuses and fringe benefits provided for in the employment contract.

No bonuses shall be paid for friendlies, pre-season matches, training or other similar matches.

The player's remuneration is liable for statutory social contributions (OASI, IV, LEC, ALV, AIA, OPA and others). The player shall pay employee contributions.

The player's remuneration is also liable for income tax (and also tax paid at source where applicable). This tax must be borne exclusively by the player, as required by law. On 31 January of each year and at the end of the contract, the club shall provide the player with a salary certificate.

If the parties expressly agree on a net salary, all social contributions and taxes paid at source shall be paid in full by the club.

Art. 20 Reimbursement of expenses

The club shall reimburse the player for any expenses incurred in the course of his professional activities, within the limits agreed in the employment contract.

Travel expenses for away matches shall be borne by the club, from the official starting point. The same applies to meals ordered by the club during trips.

All training camp costs shall be borne by the club, unless specifically agreed otherwise.

Art. 21 Other allowances

As an employee, the player is entitled to statutory allowances in the canton in which the club has its registered office. It is incumbent on the club to take all the steps necessary on the player's behalf.

Family allowances shall be paid to the player at the end of each month, either by the club or directly by the Family Allowances Office concerned, in accordance with the applicable cantonal legislation. The same applies to any other allowances.

B. Remuneration in the event of obstacles to work and social insurance²

Art. 22 Illness

Those that apply must be checked in Art. 6 of the employment contract.

a) Statutory regulations

If the worker is prevented from working without any fault on his part, Art. 324a CO is applicable. During the first year of service, the club shall be required to pay to the player the salary for three weeks (Art. 324a (2) CO). Subsequently, the club shall pay the player's salary according to the "Bernese scale" (Art. 324a (2) in fine CO; Annex 2 of the T&Cs).

A correction shall be applied to the net salary; in principle, a player who is prevented from working without any fault on his part must not receive compensation exceeding that which he would have received by working normally (Art. 6 OASIO).

b) Other statutory regulations

If the club has taken out a collective daily sickness allowance insurance covering at least 80% of the salary for 720 days or the number of days stipulated by the insurance contract, and if it pays at least half of the premiums for this insurance, it is released from its obligation to continue paying the salary under paragraph (a) above (Art. 324a (4) and 324b CO).

If the club has taken out this kind of insurance, its terms and conditions are an integral part of this contract (Annex 3 of the T&Cs, if applicable). The player shall be bound by any reservations stated by the insurance company.

² The right to a salary provided for by Arts. 22, 23 and 24 gives rise to a single "credit" amount, which is used up by a period of three weeks' illness in the first year, for example.

Art. 23 Accident

a) Statutory regulations

Pursuant to the Federal Act on Accident Insurance (AIA), players are insured against professional and non-professional accidents up to the maximum salary, as per Art. 22 AIO and which covers at least 80% of the salary.

A correction shall be applied to the net salary; in principle, a player who is prevented from working without any fault on his part must not receive compensation exceeding that which he would have received by working normally (Art. 6 OASIO).

In the event of a non-professional accident, the accident insurer may reduce the payout in the event of serious misconduct or dangerous pursuits. Otherwise, the statutory regulations per the AIA and ordinances, as well as Art 324b CO, are applicable.

b) Addition to the statutory regulations (if applicable, check Art. 6 of the employment contract).

In addition to cover required by statutory regulations, the club may also take out additional collective insurance for the part of the player's salary not covered by the AIA.

If the club has taken out additional collective accident insurance and has paid at least half of the corresponding premium, it is released from the obligation to continue paying the player's salary within the meaning of Art. 324b CO.

If the club has taken out this kind of insurance, its terms and conditions are an integral part of this contract (Annex 3 of the T&Cs, if applicable). The player shall be bound by any reservations stated by the insurance company.

Art. 24 Other obstructions not involving fault

If the player is prevented from working due to the performance of any legal obligation (compulsory military service in the Swiss army, service in civil defence, or a civil service activity), the club shall pay the fixed salary provided for by this contract according to the Bernese scale (Annex 2), provided the club has received the compensation forms from the player.

In all cases, the club's obligations concerning salary payments extend to the basic monthly salary and to any fringe benefits, but exclude any match bonuses, unless the player plays a part or all of the match.

Art. 25 Occupational pension scheme

Occupational pension schemes are stipulated in Art. 7 of the employment contract.

C. Leave

Art. 26 Leave

Pursuant to Art. 329a (1) CO, the player is entitled to four weeks' paid leave per annum, this period being increased to five weeks' paid leave until the age of 20.

For employment contracts of a term of less than 12 months, leave dates are calculated in proportion to the term of the contract.

The employer is required to grant two consecutive weeks of leave pursuant to Art. 329c (1) CO.

D. Other obligations of the club

Art. 27 Medical infrastructure / education

The club shall make available to the player the services of a medical team comprising at least one qualified physiotherapist, and the club's official doctor.

The services of this team, along with those of any specialist consulted on the orders of the official doctor, are free of charge for the player, provided they concern treatment given in order to maintain, restore or develop the player's ability to work as a basketball player.

Insofar as is possible, the club shall provide educational support not related to basketball to players who are minors.

The club will not cover the costs of dental treatment, except where the player suffers an accident while working.

Art. 28 National teams

The club encourages and permits the player to participate in all national team activities for which the player may be selected, including 3x3 and 5x5 activities.

V. Salary assignment or pledge

Art. 29 Salary assignment or pledge

Pursuant to Art. 325 CO, the player may not assign or pledge his future salary deriving from this contract. The guarantee of maintenance obligations arising under family law is reserved to the extent that the salary may be seized.

VI. Permanent or temporary change of club

Art. 30 Rules applicable in the event of a permanent change of club

If the player permanently leaves his Swiss club to play for another Swiss club, Swiss Basketball rules shall be applicable. If the transfer occurs at the end of the season and if the player has signed an employment contract with another Swiss Basketball member club, the player may take part in pre-season preparations with his new club provided his current club gives its written consent.

If the player permanently leaves his Swiss club to play for a foreign club, FIBA rules shall be applicable.

Art. 31 Rules applicable to the temporary loan of a player to another club

If the player is temporarily loaned to another club, this contract shall continue to apply in principle. However, the parties may agree to amend the terms and conditions of this contract, in particular, either to suspend the contract in the event of an employment contract being established with the club to which the player is loaned, or to reduce the player's salary.

The club and the new club shall agree on the player's temporary contractual obligations³ towards the new club.

³This applies in particular to the obligations arising from Arts. 6 to 18 of these T&Cs.

VII. Formalities and special agreements

Art. 32 Reference language

The contract is drafted in the official language of the place in which the club's registered office is located.

Upon request and for information purposes only, the player shall receive an English translation of the employment contract and the T&Cs. If the player is not fluent in any of the languages of the club nor English, the parties shall employ a translator and shall each bear half of the resulting costs. Requirements of sporting regulations and legal permits

Art. 33 Requirements of sporting regulations and legal permits

As of the date of signature of this contract, the player declares that he is eligible to play for his new club in compliance with the applicable sporting regulations of the FIBA and Swiss Basketball, and that he is free of any obligation to his former employer.

If the player is not of Swiss nationality, the club shall, after signature of this contract, take all steps necessary to obtain the required work and residence permits from the competent authorities. If the necessary permits are refused, this contract shall be terminated automatically with immediate effect.⁴

Art. 34 Amendments of the contract

Any subsequent amendment to this contract and/or its Annexes signed by the parties must be set down in writing.

Art. 35 Confidentiality

The parties shall treat the contents of this contract as confidential and keep it secret. This confidentiality obligation is subject to the duties of disclosure imposed by law, the contract and/or association regulations.

Art. 36 Special agreements between the parties

Special agreements between the parties are subject to Art. 9 of the employment contract.

⁴ This provision applies to cases where the refusal of the work or residence permit prevents the player from beginning to play for his club. Conversely, cases where the player initially obtains the necessary permits but these are later revoked, owing to the player no longer satisfying the legal conditions, are subject to Art. 3 of the T&Cs.

VIII. Disciplinary sanctions

Art. 37 Recognition of disciplinary authority

The player expressly recognises the disciplinary authority of his club. Both parties also recognise the disciplinary power of Swiss Basketball, Swiss Olympic and the FIBA.

Art. 38 Contractual penalties and other sanctions

In the event of a serious or repeated breach of the obligations arising from the contract, or from a sanction ordered by a sports body (Swiss Basketball, Swiss Olympic, FIBA), the club may impose the contractual penalties (within the meaning of Art. 160 et seq. CO) stipulated in Article 8 of the employment contract. Any sanctions imposed by the club must remain proportionate to the seriousness of the misconduct.

Any fines imposed on the club by a sporting body (Swiss Basketball, Swiss Olympic, FIBA) may be charged to the player if these fines are the result of his misconduct (gross negligence or wilful misconduct). If necessary, the club is authorised to deduct them from the amount paid to the player.

If the player is prevented from playing in official matches owing to suspension imposed by Swiss Basketball, Swiss Olympic or the FIBA following a gross breach of his obligations under by-laws or regulations, the club may reduce his salary according to the seriousness of the breach.

IX. Disputes

Art. 39 Disputes

In the individual employment contract, the parties shall choose whether disputes shall be brought before the ordinary courts or before the Basketball Arbitral Tribunal (BAT) in Geneva (Switzerland).

The disciplinary authority of the club and the disciplinary bodies of Swiss Basketball is reserved.

X. Applicable law

Art. 40 Compliance with association rules

The contracting parties undertake to comply with and be subject to the by-laws, regulations and directives of Swiss Basketball, Swiss Olympic and the FIBA, as well as those of the club. The main documents are indicated in Annex 1 of the T&Cs.

The player confirms that, prior to signing this contract, he has had the opportunity to become acquainted with the above-mentioned documents which are available to consult at the secretariat/office of the club, and in the case of Swiss Basketball, the by-laws, regulations, directives and rules, on that organisation's website. He may obtain copies of these documents upon request. By signing the contract, he expressly declares that he accepts the latest versions of all these documents as an integral part of the contract.

Art. 41 State law

This contract is governed in a suppletive capacity by the laws of Switzerland, and notably by Art. 319 et seq. CO (employment contract).

Annexes:

- Annex 1:** Principal regulations of Swiss Basketball, the FIBA, and Swiss Olympic
- Annex 2:** Bernese scale
- Annex 3:** Terms and conditions of loss of income insurance in case of accident or illness (if applicable)

Annex 1

PRINCIPAL REGULATIONS OF SWISS BASKETBALL, THE FIBA AND SWISS OLYMPIC

Swiss Basketball

- By-laws
- Legal regulations
- Code of practice for safeguarding the integrity of Swiss Basketball
- Anti-doping declaration

FIBA

- FIBA Internal Anti-Doping Rules

Swiss Olympic

- Anti-doping rule
- Swiss Olympic ethical charter

Annex 2

BERNESE SCALE

If the player is prevented from working through no fault of his own (Art. 324a CO), he shall be entitled to a salary for a period based on his length of service with the club.

Years of service	Salary entitlement period
3 months and over	3 weeks
1 year and over	1 month
3 years and over	2 months
5 years and over	3 months
10 years and over	4 months
15 years and over	5 months
20 years and over	6 months