**SECONDMENT AGREEMENT**

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| Parties | |
| **Between:** | *<If Company:* [Company A],having its registered offices at [Insert registered offices]> <*if Individual* [Insert Full Name], residing at [Insert residential address]>, (“KiwiNet Partner”); |
| **And:** | *<If Company:* [Company B],having its registered offices at [Insert registered offices]> <*if Individual* [Insert Full Name], residing at [Insert residential address]>, (“Host”). |

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| Background: |
| 1. The Secondee is employed by the KiwiNet Partner. 2. The Host wishes to contract the services of the Secondee from the KiwiNet Partner to assist with [*brief* *description of the Services required*]. 3. This contract sets out the terms and conditions governing the Secondment of the Secondee from the KiwiNet Partner to the Host. |

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| Specific terms | |
| **Secondee** | [*full name of the the KiwiNet Partner employee being seconded to the Host*] |
| **Services** | [*description of services to be provided by Secondee*  *Include any key accountabilities or expectations of the Secondee and timeframes for meeting those accountabilities or expectations*] |
| **Remuneration** | [*description of the remuneration to be paid by the Host to the KiwiNet Partner for the services of the Secondee eg “[hourly rate ] plus GST for a maximum of [      ] hours or [fixed price] plus GST”*  *Invoicing terms can be included if different to payment on 20th of the month following the date of invoice]* |
| **Working hours** | [*maximum amount of the KiwiNet Partner’s liability if different to the total fees payable by the KiwiNet Partner under a relevant Work Order*] |
| **Location** | *[street address where Secondee is to perform Services*] |
| **Start date** | [*date*] |
| **End date** | [*date*] |
| **Host contact person** | [*name, email address and phone number of Host staff member* *dealing with the KiwiNet Partner and Secondee*] |
| **Host address for notices** | [*street address and or fax number – not PO Box*] |
| **KiwiNet Partner contact person** | [*name, email address and phone number of the KiwiNet Partner’s staff member* *dealing with the Host and Secondee*] |
| **KiwiNet Partner address for notices** | C/- WaikatoLink Limited, Level One, Core Facilities Building, Waikato Innovation Park, Hamilton, New Zealand |
| **Variations** | The General Terms below are varied as follows: [*Any amendments to the General Terms must be identified in this section, not in the body of the General Terms*] |

**GENERAL TERMS**

Except as varied by the Specific Terms above, the following General Terms apply to the Secondment under this contract. In the event of any conflict between the Specific Terms and the General Terms, the Specific Terms shall prevail.

1. **DEFINITIONS AND INTERPRETATION**
   1. In this contract the following terms have the following meanings:

BACKGROUND IPR means all IPR owned by a party at the date of this contract or developed or acquired by a party after the date of this contract that is outside the terms of this contract.

IPR means all intellectual property rights and industrial property rights of any nature whether conferred by statute, common law or equity, including without limitation, all rights in any patent, copyright, trade mark, design, database, circuit lay-out, know-how, trade secret, confidential information, or right of confidence including all such rights or similar rights in any invention, device, material, data, drawing, sample, method, process, text, algorithm, schematic, software, hardware, firmware, get-up, any other original works or materials, or any component of the same, and any application to register the same, whether or not registered or capable of registration.

SECONDMENT means the provision by the KiwiNet Partner of the Secondee to the Host for the purpose of performing the Services.

WORKING DAY means any day other than a Saturday, Sunday, public holiday in Wellington, Auckland or Christchurch, New Zealand, and any day from 24 December to 5 January inclusive in any year.

* 1. In this contract:

1. in addition to the definitions in clause 1.1, unless the context otherwise requires, terms given a meaning in the Specific Terms have that meaning.
2. a reference to a person includes any other entity or association recognised by law and the reverse.
3. words referring to the singular include the plural and the reverse.
4. a reference to a paragraph, section, clause or a party is a reference to that paragraph, section, clause or party in this contract.
5. the use of the word “including” does not infer any limitation.
6. where two or more persons are listed as a party to this contract, their liability is joint and several.
7. all monetary amounts are in New Zealand dollars unless stated otherwise.
8. clause headings are for reference purposes only.
9. time is of the essence.
10. **PURPOSE OF SECONDMENT**
    1. The Secondee shall be seconded from the KiwiNet Partner to the Host to carry out the duties and responsibilities as set out under Services in the Specific Terms.
11. **STATUS OF SECONDEE** 
    1. The Secondee will remain an employee of the KiwiNet Partner subject to his or her current employment agreement.
    2. the KiwiNet Partner shall procure any variation to the Secondee’s employment contract with the KiwiNet Partner that is needed to provide for matters relating to the Secondment under this contract.
12. **REMUNERATION AND EXPENSES**
    1. The Host shall pay to the KiwiNet Partner the Remuneration for the Secondment as set out in the Specific Terms.
    2. Subject to any payment terms set out in the Specific Terms, the KiwiNet Partner shall issue invoice(s) to the Host for the Secondment and the Host shall make payment to the KiwiNet Partner by the 20th day of the month following the date of invoice.
    3. The Host will reimburse any actual and reasonable work-related out of pocket expenses (including travel, accommodation, meals, materials etc), incurred by the Secondee during the Secondment.
    4. the KiwiNet Partner will continue to pay and be responsible for the Secondee’s remuneration.
13. **LOCATION**
    1. The Secondee shall perform the Services at the Location set out in the Specific Terms unless otherwise agreed between the parties.
14. **WORKING HOURS**
    1. The Secondee shall be exclusively on Secondment to the Host for the Working Hours.
15. **LEAVE** 
    1. The Secondee will continue to accrue annual leave as per his or her employment agreement with the KiwiNet Partner.
    2. Sick and bereavement leave arrangement will remain as set out in the Secondee’s employment agreement with the KiwiNet Partner.
    3. The Secondee shall be entitled to take any leave approved by the KiwiNet Partner during the term of the Secondment and the KiwiNet Partner shall provide the Host with reasonable notice (if possible) of any intent of the Secondee to take leave.
    4. Unless otherwise agreed between the parties, the KiwiNet Partner is not required to provide a replacement for the Secondee whilst the Secondee is on leave.
16. **CODES OF CONDUCT AND HEALTH AND SAFETY**
    1. For the duration of the Secondment, the Secondee will be bound by requirements of:
17. the Host’s code of conduct;
18. the KiwiNet Partner’s code of conduct;
19. the Health and Safety in Employment Act 1992 and any safety procedures applying to the Location; and
20. any relevant policies, procedures and practices of either the Host or the KiwiNet Partner.
    1. Any perceived differences in interpretation of either the Host’s or the KiwiNet Partner‘s codes of conduct, should be raised and discussed by all parties concerned.
21. **TERM AND TERMINATION OF THE SECONDMENT**
    1. The Secondment begins on the Start Date and will end:
22. on the End Date subject to any variation to the End Date agreed in writing by the parties;
23. in the event that the Secondee leaves the employ of the KiwiNet Partner, on expiry of the relevant notice period required under the Secondee’s employment agreement with the KiwiNet Partner;
24. on the giving of 20 Working Days written notice by a party to the other party (or less if agreed by the parties);
25. if a party is in material breach of this contract, upon written notice of termination to the breaching party from the other party provided:
26. the breach is incapable of remedy; or
27. if the breach is capable of remedy, it has not been remedied within five (5) Working Days of receipt of written notice to remedy the breach.
28. in the case of serious misconduct by the Secondee, upon such notice to the KiwiNet Partner, if any, as the Host considers appropriate.
    1. Provided the Secondee remains in employment with the KiwiNet Partner, at the conclusion of the Secondment the Secondee will return to his or her role at the KiwiNet Partner.
    2. Provided there has been no earlier termination of this contract, at least two weeks prior to the End Date, the parties shall meet to consider and agree whether an extension to the End Date is required.
29. **CONFIDENTIALITY**
    1. During the Secondment the KiwiNet Partner will procure that the Secondee will abide by the confidentiality and secrecy requirements set out in: the codes of conduct and policies of both the Host and the KiwiNet Partner;
    2. In addition to the obligations in clause 10.1, the Secondee shall not be entitled to discuss or disclose any information, processes, materials, documents, costs or secrets related to any aspect of the businesses of the Host or the KiwiNet Partner without express agreement of the organisation owning that information. The only exceptions are where:
30. that discussion or disclosure of information is legitimately required as part of the Secondee’s performance, duties and responsibilities in relation to his or her work for either the Host or the KiwiNet Partner; or
31. disclosure is required by law or by a government agency or government authority.
32. **HOST ORGANISATION’S RESPONSIBILITY**
    1. the Host will be responsible for:
33. The general induction of the Secondee into the Host’s business.
34. Providing the Secondee with the resources he or she needs to perform the Services.
35. Agreeing with the Secondee clear performance expectations, processes for performance feedback and for recording and assessing his or her performance.
36. Providing management and supervision to the Secondee in relation to the Services.
37. Providing regular briefings for the KiwiNet Partner on the Secondee’s performance and progress during the Secondment at intervals to be agreed, such briefings not to be less than monthly.
38. Discussing any concerns or difficulties related to the Secondment with the KiwiNet Partner as soon as they arise,.
39. Providing and maintaining a safe working environment for the Secondee that complies with the Health and Safey in Employment Act 1992.
40. Providing a Host contact person as set out in the Specific Terms to liaise with the Secondee and the KiwiNet Partner during the Secondment.
41. THE KIWINET PARTNER**’S RESPONSIBILITIES**
    1. the KiwiNet Partner will be responsible for providing an the KiwiNet Partner contact person as set out in the Specific Terms to liaise with the Secondee and the Host during the Secondment.
42. **NON SOLICITATION**
    1. Other than with the prior written consent of the KiwiNet Partner, the Host must not at any time during the term of this contract or for a period of 12 months after termination of this contract for any reason, solicit, endeavour to entice away from or discourage from being employed by the KiwiNet Partner, the Secondee
43. **INTELLECTUAL PROPERTY**
    1. Background IPR owned by a party will remain with that party. Except to the extent necessary for the Secondee to perform the Services or expressly stated otherwise, the KiwiNet Partner grants no rights in its Background IPR to the Host.
    2. Unless otherwise agreed in writing between the parties:
44. all IPR produced by the Secondee in the course of his or her Secondment shall vest in the KiwiNet Partner;
45. the Host shall at the KiwiNet Partner’s request do all acts and things and execute all documents necessary to give effect to clause 14.2(a).
46. the Host shall refrain from challenging or disputing (or assisting or encouraging any third party to challenge or dispute) the KiwiNet Partner’s rights and ownership set out in clause 14.2(a), both during and after the term of this contract;
47. the Host shall not disclose, publish or do anything which may adversely affect the KiwiNet Partner’s ability to obtain legal protection for any IPR produced by the Secondee during the Secondment;
48. if the KiwiNet Partner requires access to the Host’s Background IPR for the purpose of making any commercial use of any IPR produced by the Secondee, the Host grants the KiwiNet Partner a perpetual, transferable, non-exclusive, worldwide and royalty–free license to use its relevant Background IPR.
49. **DISPUTES**
    1. If any dispute arises as to the terms of this contract, then any party may give notice to the other party of that dispute. The parties will endeavour to resolve it quickly and fairly in good faith.
    2. If the dispute or difference cannot be settled by good faith negotiation between the parties within five (5) Working Days of the dispute or difference arising, such dispute or difference may be referred by either the KiwiNet Partner or the Host to the mediation of a single mediator agreed by the parties, or failing that, appointed by the President for the time being of the New Zealand Law Society or his/her nominee.
    3. If the dispute or difference cannot be settled within 15 Working Days of the dispute or difference being referred to mediation pursuant to clause 15.2, any party may commence court proceedings and shall be entitled to exercise all rights and remedies available to it at law.
    4. Nothing in this clause 15 shall prevent a party from commencing court proceedings for the purposes of seeking urgent interlocutory relief.
50. **LIABILITY AND INDEMNITY**
    1. The Host acknowledges that the KiwiNet Partner will have no liability to the Host arising out of the Secondment. If, however, the KiwiNet Partner is held liable to the Host by a court of competent jurisdiction, the total liability of the KiwiNet Partner (whether in contract, tort including negligence, or otherwise) to the Host for any loss, liability or damage suffered by the Host (howsoever arising), will be limited to the Remuneration (exclusive of GST) specified in the Specific Terms and paid to the KiwiNet Partner by the Host in the 12 months prior to the date of the claim.
    2. The Host indemnifies the KiwiNet Partner and its subsidiaries, officers, employees (including the Secondee) and subcontractors against any claim, proceeding, liability, damage, loss or cost (including legal costs on a solicitor/own client basis), incurred by the KiwiNet Partner arising directly or indirectly in connection with any breach of this contract or otherwise arising from any work and actions taken by the Secondee in carrying out the Services.
51. **GENERAL**
    1. No amendment to this contract is binding unless in writing and signed by an authorised representative of the parties.
    2. Nothing in this contract will create, constitute or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the Host and the KiwiNet Partner or the Host and the Secondee.
    3. A failure by a party to enforce a provision of this contract will not constitute a waiver of any right to future enforcement of that or any other provision.
    4. If any part of this contract is unenforceable, invalid or illegal, the other terms will remain in force.
    5. All clauses of this contract that are intended to continue after termination, including clauses 10 (Confidentiality), 13 (Non-Solicitation), 14 (Intellectual Property), 15 (Disputes), 16 (Liability and Indemnity) and 17 (General) will continue in full force and effect.
    6. Any notice to a party under this contract will be deemed to have been delivered immediately upon hand delivery to the address of that party in the Specific Terms, three (3) Working Days after posting within New Zealand to the address of that party in the Specific Terms, or immediately on receipt by the sender of evidence the notice has been successfully faxed to the number of that party in the Specific Terms.
    7. The Host may not transfer, subcontract or assign any of its liabilities or rights under this contract to any other person without the prior written consent of the KiwiNet Partner.
    8. This contract records the entire understanding and agreement between the parties regarding the Secondment and supersedes and extinguishes all prior agreements, statements, correspondence and undertakings, whether written, oral or both made between the parties relating to the Secondment. The parties agree that in entering this contract, they have not relied on any representation (including pre-contractual representations) other than those which are set out in this contract.
    9. This contract may be signed in counterparts, including by facsimile or email, all of which, when taken together, will constitute one and the same document.
    10. This contract will be governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
    11. The date of this contract shall be the date that the last party signed.

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| Signed by*[Insert Host name]* |  | Signed by*[Insert KiwiNet Partner name]* |
| Signature |  | Signature |
| Name of authorised signatory |  | Name of authorised signatory |
| Position |  | Position |
| Date |  | Date |