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

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| Background: |
| The Contractor has agreed to provide Work to the KiwiNet Partner on the terms below.  |

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| Specific terms |
| **Work** | [d*escription of service and/or goods being purchased*] |
| **Deliverable and deliverable dates**  | [*list of deliverables and dates*] |
| **Price (NZD)**  | [*hourly rate*] plus GST for a maximum of [      ] hours or [*fixed price*] plus GST |
| **Expenses**  |  [*e.g. travel, accommodation, materials*] plus GST to be pre-approved |
| **Location** | [*if relevant,* *street address where work to be undertaken*] |
| **Insurance** |  [*type and level of insurance required of Contractor*] |
| **Start date** | [*if any or if applicable*] |
| **End date** |  [*if any or if applicable*] |
| **Nominated Personnel**  | [*name, email address and phone number of Contractor’s nominated personnel*] |
| **Contractor 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 staff member* *dealing with the Contractor*] |
| **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 Work provided by the Contractor to the KiwiNet Partner under this contract.

# Duties and responsibilities of the Contractor

* 1. The Contractor shall:

## (if relates to services) perform the Work using the Nominated Personnel at the Location (if any),

## exercise reasonable care and skill in performing the Work consistent with standards generally accepted in the applicable industry or profession in New Zealand and so as to promote and further the interests of the KiwiNet Partner,

## deal with the KiwiNet Partner in good faith and follow all reasonable directions of the KiwiNet Partner,

## do everything reasonably necessary or proper for the provision of the Work and promptly advise the KiwiNet Partner of any matters that may materially affect the Contractor’s ability to complete the Work,

## keep detailed records of the Work,

## keep all property belonging to the KiwiNet Partner safe and secure and not release any such property without the prior written authority of the KiwiNet Partner,

## procure and maintain general liability insurance for not less than NZ$1,000,000 during the term of this contract, and furnish the KiwiNet Partner with evidence of such insurance if requested,

## comply with all relevant laws and statutory regulations in performing the Work,

## ensure that all Nominated Personnel comply with this clause 1.1(a) to 1.1(h).

## If any of the Work comprises the making and/or supplying of goods by the Contractor, the Contractor warrants that the goods do not infringe any intellectual property rights of any third party, the goods will be of merchantable quality and fit for the KiwiNet Partner’s intended purpose.

# Nominated Personnel and Subcontractors

* 1. Subject to clause 1.1(a) the Contractor shall:

## not delegate or replace or have any other person other than the Nominated Personnel perform its obligations under this contract, or appoint any subcontractor to perform any part of the Work without the KiwiNet Partner’s prior written consent,

## ensure that the Nominated Personnel are bound by obligations at least as protective of the KiwiNet Partner as the terms of this contract, and will do all things necessary to enforce such obligations ,

## be liable to the KiwiNet Partner for any loss suffered by the KiwiNet Partner due to the actions or omissions of the Nominated Personnel, or any approved subcontractor.

# Intellectual Property Rights

* 1. The Contractor agrees:

## that all industrial and intellectual property rights of any nature (and any application to register any of the same rights), whether conferred by statute, common law or equity, including without limitation, all rights in any patent, copyright, trademark, design, database, circuit, layout, 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 and any other original works or materials, or any component of the same, and any application to register the same, arising from the Work performed and provided under this contract, whether or not registered or capable of registration, will be and remain the property of the KiwiNet Partner,

## that the KiwiNet Partner is not obliged to exercise its rights and ownership set out in this clause during the term of this contract or after its termination, nor will the KiwiNet Partner be obliged to compensate the Contractor for perfecting or transferring such rights and ownership,

## at the KiwiNet Partner’s request, to do all acts and things and to execute all documents necessary to give effect to this clause,

## to 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 this clause, both during and after the term of this contract.

# Confidentiality

* 1. Confidential Information means:

## all information and materials relating to or arising from the Work in any form whatsoever, and

## information which is by its nature confidential or which the discloser advises the recipient is confidential and includes the terms of this contract, and

## includes anything disclosed before the date of this contract.

* 1. Confidential Information does not include:

## information which at the date of this contract is in the public domain or subsequently enters the public domain without fault on the part of the recipient,

## information that is received in good faith by the recipient from a third party,

## information which is at the date of this contract, independently acquired or developed by, or already properly in the possession of, the recipient and which the recipient can demonstrate by written record to be previously known to the recipient.

* 1. The recipient of Confidential Information shall:

## keep it in the recipient’s possession and treat it as confidential regardless of when disclosed,

## not use any Confidential Information belonging to the other party for any purpose other than as required in terms of this contract,

## only disclose Confidential Information to employees, officers, approved subcontractors or professional advisers on a need to know basis and shall be liable to the discloser for any breach by those persons of these confidentiality obligations.

* 1. The restrictions in this clause 4 do not apply where disclosure is required by law or by a government agency or government authority.
	2. The parties acknowledge that any breach of this confidentiality obligation may result in damages for which monetary compensation would not be an adequate remedy and that the affected party is entitled to specific performance or injunctive relief in addition to any other remedies at law or in equity.
	3. No party gives any representation or warranty with respect to any information other than that it has the right to disclose such information.

# Payment

* 1. the KiwiNet Partner shall pay the Contractor for Work that is properly completed and delivered in accordance with the Deliverables and upon the Deliverable dates.
	2. The Contractor shall invoice the KiwiNet Partner on the last day of each month for Work provided by the Contractor during that month, which invoice must include an itemised account of the time spent by the Contractor providing that Work. The Contractor may only invoice for any pre-approved Expenses itemised in the Specific Terms or with the prior written agreement of the KiwiNet Partner.
	3. Any correctly rendered invoice shall be paid by the KiwiNet Partner by the 20th day of the month following the month in which the Contractor’s invoice was provided to the KiwiNet Partner unless a dispute arises in connection with that invoice. In that case, the KiwiNet Partner may withhold the disputed amount (but not any amount which is not in dispute).
	4. the KiwiNet Partner will, on receipt of a complying tax invoice including evidence of GST registration, pay the Contractor GST incurred for the Work.

# Title and Risk

* 1. The Contractor warrants that if any goods are provided to the KiwiNet Partner as part of the Work, clear title in the goods shall pass to the KiwiNet Partner upon payment to the Contractor.
	2. Risk in any goods that are provided to the KiwiNet Partner as part of the Work shall only pass to the KiwiNet Partner once the goods have been either delivered to or collected by the KiwiNet Partner (as directed by the KiwiNet Partner), and the KiwiNet Partner has confirmed its acceptance of the goods to the Contractor in writing.

# Termination

* 1. This contract will terminate on the earlier of:

## 10 Working Days written notice given by the KiwiNet Partner,

## the End Date (if any) provided all Deliverables have been provided to the KiwiNet Partner to its satisfaction or at such later date that the Deliverables are provided to the KiwiNet Partner’s satisfaction,

## delivery of written notice by the KiwiNet Partner to the Contractor that the Contractor is in breach of any of the terms of this contract, or

## immediately if the Contractor ceases trading and/or commences winding up (otherwise than for the purposes of a solvent reconstruction) or a receiver, or similar is appointed over any of the assets of the Contractor, or any action is taken to have the Contractor declared insolvent or bankrupt.

* 1. On termination of this contract for any reason, the Contractor shall:

## immediately deliver to the KiwiNet Partner all Confidential Information, records, materials, devices and other items belonging to the KiwiNet Partner and/or relating to the Work, in the Contractor’s possession or under its control, at the time of termination,

## not retain possession or control of any copies or extracts of anything specified in clause 6.2(a) without the written consent of the KiwiNet Partner.

# Liability

* 1. The Contractor shall ensure it has sufficient customary insurances to cover its potential liabilities under this contract together with any Insurance specified in the Specific Terms.
	2. If any of the Work performed or provided by the Contractor is not acceptable in the KiwiNet Partner’s reasonable opinion, the Contractor shall at the option of the KiwiNet Partner, immediately:

## in relation to goods:

## replace the goods;

## refund to the KiwiNet Partner any payment made in relation to the goods;

## in relation to services:

## perform the services again;

## refund to the KiwiNet Partner any payment made in relation to the services.

## The Contractor indemnifies the KiwiNet Partner, its subsidiaries, officers, employees, agents 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.

# Non solicitation

* 1. The Contractor must not at any time during the period of this contract or for a period of 12 months after termination of this contract for any reason, either on the Contractor’s own account or for any other person, firm, organisation or company:

## solicit, endeavour to entice away from or discourage from being employed by or contracted to the KiwiNet Partner, any employee, contractor, client or customer of the KiwiNet Partner, or

## approach, undertake, canvass, solicit, or entice the business of clients of the KiwiNet Partner for or with whom the Contractor has worked while engaged by the KiwiNet Partner.

# Dispute resolution

* 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 working days of the dispute or difference arising, such dispute or difference may be referred by either party to the mediation of a single mediator agreed to by both 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 8.2, either 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 8 shall prevent either party from commencing court proceedings for the purposes of seeking urgent interlocutory relief.

# General

* 1. 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.
	2. If any part of this contract is unenforceable, invalid or illegal, the other terms will remain in force.
	3. No party shall be liable for any default in its obligations under this contract if that default arises from any cause reasonably beyond its control.
	4. All clauses of this contract that are intended to continue after termination, including clauses 1.2, 3 (Intellectual Property Rights), 4 (Confidentiality), 6 (Title and Risk), 7 (Termination), 8 (Liability), 9 (Non Solicitation), 10 (Dispute Resolution) and 11 (General) will continue in full force and effect.
	5. Any notice to a party under this contract will be deemed to have been delivered three working days after posting to the address of that party specified in the Specific Terms of this contract or immediately on receipt by the sender of evidence the notice has been successfully faxed to the number specified in the Specific Terms of this contract.
	6. The Contractor may not transfer or assign any of its liabilities or rights under this contract to any other person without the prior written consent of the KiwiNet Partner. the KiwiNet Partner and its successors or assigns may in its absolute discretion without the consent of or notice to the Contractor, transfer or assign all or any of its rights or obligations under this contract to any other person.
	7. This contract records the entire understanding and agreement between the parties regarding its subject matter and supersedes and extinguishes all prior agreements, statements, correspondence and undertakings, whether written, oral or both made between the parties relating to the same subject matter. 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 agreement.
	8. 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.
	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 Client name]*  |  | Signed by*[Insert KiwiNet Partner name]* |
| Signature |  | Signature |
| Name of authorised signatory |  | Name of authorised signatory |
| Position |  | Position |
| Date |  | Date |