

NZ-IPipp38

## **Product development contract**



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This agreement is dated [date] :

ABC Limited, a company incorporated in New Zealand [under company registration number [number] and] whose registered office is at [full ], [ ] (“ ”);

and

Brainy Geeks Limited, a company incorporated in New Zealand [under company registration number [number] and] whose [ ], (“ ”).

It is now agreed as follows:

## 1. Definitions

“Confidential Information” means all information about the parties, including any information which may give a commercially competitive advantage to

.

information about staff, their performance and

,

data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer ,

, , ;

information about the Intellectual Property, the Know-how and all

;

information created or arising from this agreement;

information owned by a third party and in respect of which ABC Client

- .

information, comment or implication published on

.

data or information relating to pre-clinical and clinical trial results, processes, formulae, procedures, designs, drawings, apparatus,



information about the Intellectual Property and

"Intellectual Property"

means intellectual property of every sort, whether or not registered or registrable in any country, including intellectual property of kinds coming into existence after today; and including, among others, patents, trade marks, unregistered marks, designs, copyrights, software, domain names, discoveries, know-

"Know-how"

means scientific or technical information, and other procedures and ways of working and organising

"New IP"

means any Intellectual Property:

written, discovered or arising from a Project or from the activity

including not only new developments but also improvements to and

whether or not created by Brainy Geeks;

whether after specific consideration or by accident;

even if created by a partner, employee or sub-contractor of Brainy Geeks outside

"Person"

means a human individual, a corporate entity, a partnership, a governmental authority and any organisation which is managed or controlled as a unit. A reference to a Person includes reference to that Person's successors, legal



representatives, permitted assigns and any  
Person to whom

“Project” means a particular piece of work undertaken by  
Brainy Geeks for ABC

“Work” means work on a Project, done from time to time

## 2. Interpretation

In this agreement:

- 2.1. a reference to one gender shall include any or all genders and a reference to the singular may be interpreted
- 2.2. a reference to a person includes a human individual, a corporate entity and any organisation
- 2.3. in connection with any benefit given by this agreement, a reference to a party includes
- 2.4. a reference to a person includes reference to that person’s successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a
- 2.5. a reference to a paragraph or schedule is to a paragraph or schedule to this agreement unless the context
- 2.6. the headings to the paragraphs and schedules (if any) to this agreement are inserted
- 2.7. any agreement by any party not to do or omit to do something includes an obligation not to allow some



- 2.8. a reference to the knowledge, information, belief or awareness of any person shall be deemed to include the knowledge, information, .
- 2.9. the words “without limitation” shall be deemed to follow any use of the words “ ” “ ” .
- 2.10. in any indemnity, a reference to costs or expenses shall be construed as including the estimated cost of management time of , [ \$ 200 ].
- 2.11. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail. If a version of this agreement ,

### **3. Relationship of parties**

- 3.1. Nothing in this agreement shall create a partnership, employment, or other relationship between the parties, other .
- 3.2. Neither party shall have, nor represent that it has, any authority to make any commitment on the ,

### **4. Preliminary warranties**

Brainy Geeks confirms that:

- 4.1. it is not aware of anything within ;
- 4.2. it is not insolvent and knows of no circumstance which would ;



4.3. Neither it nor any of its employees, agents or

-

;

4.4. it does not now perform or intend to perform, during the term of this agreement, consulting or other services for,

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,

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## 5. Work under this contract

5.1. This is an “umbrella” agreement so that every Project provided by ABC

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5.2. If any variation to this agreement is required in respect of any Project, that

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5.3. Any such variation as mentioned above shall

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5.4. ABC Client has no

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5.5. Following completion of any Project, ABC Client shall have [\[30\]](#)

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5.6. If ABC Client rejects Work, Brainy Geeks , [ 21 ]

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## 6. New Intellectual Property

- 6.1. In the course of work ,
- 6.2. Brainy Geeks will keep full records in appropriate media, including New
- 6.3. For the purpose of copyright law in any country or jurisdiction, all work done by Brainy Geeks for ABC Client shall be “work for hire” “
- 6.4. Brainy Geeks agrees that it will not:
- 6.4.1 claim nor register any intellectual property right relating to
- 6.4.2 represent that it is the owner or
- 6.4.3 publish any words or take any action whatever, which tend to denigrate
- 6.5. For the sake of good order, Brainy
- 6.6. Brainy Geeks now assigns to
- 6.6.1 documents and materials in
- 6.6.2 any copyright which



6.6.3 ideas, inventions, concepts, methods, ,

.

6.7. Brainy Geeks undertakes to do whatever is necessary from time to time to vest legal ownership of New IP in ABC Client. This

. [ ]

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6.8. If ABC Client requires a signature from Brainy Geeks or action by Brainy Geeks in connection with New IP, and is unable to secure that signature or ,

/ / -

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## 7. Payment

7.1. Within [seven] days of completing a ,

[ ].

7.2. Each invoice must specify the Project

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7.3. Each invoice shall specify the bank name, bank ,

,

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,

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7.4. No expense or extra cost

.

7.5. Payment shall be made by ABC Client within [ 14 ]

.

7.6. Within [28] days of receipt of an invoice, ABC Client may



7.7. ABC Client

7.8. If ABC Client does not become aware of

## 8. Hardware, Client IP and Writer's Equipment

8.1. In this paragraph "Hardware" means any tangible thing

" "

8.2. So far as ABC Client provides Client IP in connection with any Work, ABC Client grants a personal, non-

8.3. Brainy Geeks is responsible for any loss, theft, unauthorised

8.4. While on ABC Client's premises, Brainy Geeks will comply with all relevant

8.5. So far as Brainy Geeks wishes to bring onto ABC Client's premises any equipment, cable, machine or device whatever, including mobile phones , ( " ),

[ / ]



8.6. In any event, ABC Client may, in its absolute discretion, /

## 9. Security of ABC Client's systems

Brainy Geeks now agrees that ,

9.1. access any information in any medium, in ,

9.2. modify, copy, or ;

9.3. copy nor install data ;

9.4. download any of ;

9.5. collect or use , , ;

9.6. collect or use any information ;

## 10. Use of sub-contractors

Brainy Geeks may perform any or all -

10.1. Brainy Geeks must first obtain the written consent of ABC Client to -

OR

10.2. Brainy Geeks must first obtain the written consent - ;



10.3. Brainy Geeks remains liable for

- ;

10.4. Brainy Geeks agrees that it will indemnify ABC Client fully

- .

10.5. if Brainy Geeks engages employees or sub-contractors to work on a Project, it shall ensure that every such

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10.6. A permitted sub-

- -

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10.7. ABC Client will have neither obligation nor

- ,

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10.8. ABC Client will have the right but not the obligation to pay the

-

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OR

10.9. [Each Work

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OR

10.10. So far as any Work is

- ,

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OR

10.11. Brainy Geeks shall not sub-

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## 11. No competition

11.1. Brainy Geeks agrees that he will not within three years of the termination date by any means and neither for itself nor for any other



11.2. Brainy Geeks agrees that he will not within three years of the termination date neither for the itself

11.3. Brainy Geeks agrees that he will not within three years of the termination date by any means and neither for

11.4. Brainy Geeks agrees that the provisions

## 12. Confidential Information

12.1. All Confidential Information and other data, supplied by ABC Client to Brainy

12.2. The parties are aware that, as a result of this agreement, they will each have access

12.2.1 except as provided in this

12.2.2 not use the Confidential Information in any way for themselves



;

12.2.3 not store, copy, or use the Confidential

[ . . . ]

12.2.4 keep all records of

;

12.2.5 keep all records only at the address

(

);

12.2.6 use their best endeavours to keep confidential (

)

12.3. Each party now undertakes to the other to make all relevant employees' agents and sub-

12.4.

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## 13. Warranties concerning Work by Brainy Geeks

Brainy Geeks warrants as follows:

13.1.

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13.2.

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13.3.

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13.4.

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13.5.

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13.6.

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13.7.

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13.8.

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## 14. Indemnity by Brainy Geeks

14.1.

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14.1.1

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14.1.2 its breach of this agreement;

14.1.3

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14.1.4

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14.2.

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, (“ ’ ’ ’  
)  
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## 15. Indemnification process

15.1.

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15.2.

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15.3.

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15.4.

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15.5.

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15.6.

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15.7.

15.8.

## 16. Insurance

16.1.

16.1.1 \$ [ 2 ,  
000 , 000 ] ;

16.1.2 \$ [ 2 , 000 ,  
000 ] ;

16.1.3 \$ [ 2 , 000 ,  
000 ] ;

16.1.4 /

\$ [ 1 , 000 , 000 ] ;

16.2.

12

## 17. Taxation

17.1.



17.2.

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17.3.

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17.4.

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17.5.

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17.6.

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## 18. Termination of this agreement

18.1. This agreement takes effect immediately.

18.2.

[ 28 ]

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18.3.

,

:

18.3.1 Brainy Geeks merges with another;



18.3.2

[ 25 ]

%;

18.3.3 a third party takes control of Brainy Geeks.

18.4.

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18.5.

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18.6.

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18.7.

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## 19. Miscellaneous matters

19.1.

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19.2.

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19.3.

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19.4.

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19.5.

19.6.

19.7.

19.8.

19.9.

19.10.

19.11.

It shall be deemed to have been delivered:

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24



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19.12.

19.13.

19.14.

19.15.

19.16.

19.17.

19.18.

**Signed by** [personal name] on behalf of [Client name] as its / its representative who personally accepts liability for the proper authorisation by [Client name] to enter into this agreement.



**Signed by** [personal name] on behalf of [Writer name] as its / its representative who personally accepts liability for the proper authorisation by [Writer name] to enter into this agreement.



# Explanatory Notes:

## Product development contract

# Paragraph Specific Notes:

Notes referring to specific paragraphs

### 1. Definitions

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really

The definition relating to the subject matter of the agreement requires particular care on your part. The better you can define it,

As for words chosen - that is for you. We have used "Brainy Geeks" for the contractor. You can change to some derivation of their real name or use a legal

By all means use the search/replace function in your word processor to change them. Here are examples of changes to defined terms, but if you do change the defined word,

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really

### 2. Interpretation

Leave these items in place unless there is a good reason to edit or remove. Each of these items has been carefully considered in the context of this agreement and has been included for a purpose.

### 3. Relationship of parties

We have no comment

### 4. Preliminary warranties

These warranties set the scene you require for

### 5. Work under this contract



Sets up the “umbrella”

## **6. New Intellectual Property**

New IP is a defined term. This is a most important provision, particularly if you are dealing with a contractor based abroad. International law on who owns newly created intellectual property is complicate and muddled. Copyright law in most jurisdictions assumes

## **7. Payment**

This is a suitable system. We have no

## **8. Hardware, Client IP and Writer’s Equipment**

This paragraph covers everything that you might provide to your contractor. It includes hardware of any sort,

You grant a licence to use your stuff. The paragraph then

## **9. Security of ABC Client’s systems**

Tough provisions to protect your organisation.

## **10. Use of sub-contractors**

When you contract for any work, you cannot know whether your contractor has employees or self employed people: sub-contractors. It is therefore important to provide for the possibility that he may be using self employed people and not employees. If

We also provide that if sub-contractors are used,

## **11. No competition**



Basic provisions to prevent competition (similar to what you might find in a director's service contract). Leave the last

## **12. Confidential Information**

A full provision to cover this important subject.

" "

## **13. Warranties concerning Work by Brainy Geeks**

This is a

## **14. Indemnity by Brainy Geeks**

This paragraph is cleverly worded to protect all your people as individuals as

' " "

## **15. Indemnification process**

Many agreements provide for an indemnity. In this agreement we have taken the process further in this

" "

## **16. Insurance**

No matter how strong is Brainy Geek financially, you cannot

## **17. Taxation**

A basis of taxation can change at the whim of a government.



18. **Termination of this agreement**

Termination of the agreement is not the same as

19. **Miscellaneous matters**

A number of special points. We have identified each of these as

**End of notes**