TEMPLATE DEED OF ASSIGNMENT OF INTELLECTUAL PROPERTY – USER NOTES

This document is intended for use by the founders of a startup company to formally transfer intellectual property relevant to the business, products or services of the company, to that company.

Before completing this deed, we suggest that companies and their founders first work to identify and record the intellectual property that the company intends to use (or is already using) in its business, including details of who:

- created the intellectual property, and on what basis (e.g. as a founder, employee or external consultant of the company); and
- owns that intellectual property and on what basis (i.e. if the company owns intellectual property because it was created by its employees in the course of their employment, this should be recorded).

This will help to:

- identify any intellectual property that needs to be transferred by a founder or consultant, etc to the company (and to properly describe that intellectual property in a deed of assignment); and
- prove ownership of the company's intellectual property in the future, e.g. in a capital raising or M&A transaction.

When using the deed of assignment, try to be as specific as possible when listing in the Schedule the intellectual property to be transferred. While the deed includes a *catch-all* assignment of any intellectual property owned by the founder that is relevant to the business, products and services of the company, relying on this alone may hinder you in demonstrating title to intellectual property in a subsequent due diligence process for a capital raising or M&A transaction.

This document is a generic document intended for use for a simple transfer of intellectual property. If the business uses complex intellectual property, we recommend you consult an intellectual property lawyer or patent attorney.

USING THIS TEMPLATE

The ***User Notes*** and the statements in the footer (all marked in red) are included to assist you to prepare this document. They are for reference only. You should delete all user notes and the statements in the footer from the final form of your document.

The use of [*square brackets*] around black text means that:

- the requested details need to be inserted
- there are different options for you to consider
- the whole clause is optional and you need to consider whether to include it, based on your circumstances and the user notes.

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Before finalising your document, check for all square brackets to ensure you have considered the relevant option and deleted the brackets.

If you delete any clause or schedule, remember to cross reference check the document.

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DEED OF ASSIGNMENT OF INTELLECTUAL PROPERTY

DATE

PARTIES

1 [***INSERT FULL LEGAL NAME***] (**Assignor**)

2 [***INSERT FULL NAME OF COMPANY***] **LIMITED**, company number [*insert company number*] (**Company**)

BACKGROUND

- The Assignor is a [*shareholder in*] [*founder of*] [*employee of*] the Company.
- The Assignor has agreed to assign to the Company all of his or her intellectual property rights relating to the business, technologies, software, products and services of the Company on the terms set out in this Deed.

SIGNED AND DELIVERED

[User note: This document must be signed by two directors of the company (unless otherwise specified in the constitution of the company). If the company has only one director, that director's signature must be witnessed.]

SIGNED AND DELIVERED as a DEED for)
[*INSERT NAME OF COMPANY*] LIMITED by:)

Director	Director
Print full name	Print full name

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SIGNED AND DELIVERED as a DEED by)
[***INSERT NAME OF ASSIGNOR***] in the)
presence of:)

Signature of witness

[*Insert name of Assignor*]

Occupation of witness

Address of witness

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TERMS OF THIS DEED

1 INTERPRETATION

1.1 **Definitions:** In this Deed, the following terms have the stated meaning:

TERM	MEANING
Assigned IP	all Intellectual Property Rights arising in connection with or relating to the business, technologies, software, products and services of the Company, including all Intellectual Property Rights in the: • patents, trade marks and domain names; • copyright works including software and websites; and • knowhow and confidential information, listed in Schedule 1.
Deed	this Deed, including its Schedule.
Intellectual Property Rights	includes all right, title and interest in and to copyright (including copyright in software source code and object code), rights in databases, inventions, patents, registered and unregistered trade marks, registered and unregistered designs, circuit layouts, confidential information, know-how, trade secrets, trade names, business names, and domain names, all applications for any of those intellectual property rights, and like rights.

1.2 **Interpretation:** In this Deed:

a a reference to:

i a **clause** or a **Schedule** is to a clause in or a schedule to this Deed;

ii a **person** includes a body corporate, an association of persons (whether corporate or not), a trust, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal personality;

iii **including** and similar words do not imply any limit;

iv a **statute** includes references to that statute as amended or replaced from time to time;

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v a **party** is a reference to a party to this Deed, and includes that party's permitted assigns; and

vi **$** or **dollars** are to New Zealand currency;

b the **headings** in this Deed are for convenience only and have no legal effect; and

c the **singular** includes the plural and vice versa.

2 ASSIGNMENT

2.1 **Assignment:** To the extent that the Assignor owns (or if applicable owned) Intellectual Property Rights in the Assigned IP, the Assignor assigns to the Company (or if applicable confirms the assignment to the Company of) all of his or her right, title and interest in the Assigned IP.

2.2 **Assignment of right to sue:** The assignment in clause 2.1 includes the right for the Company to sue or bring proceedings against any third party for infringement of any Assigned IP (whether the infringement occurs before, on or after the date of this Deed) and the right to sue for damages and other legal and equitable remedies in respect of all causes of action arising before, on or after the date of this Deed.

2.3 **Perfection of assignment:** The Assignor must:

a do all reasonable things and execute, at the Company's request and cost, all documents that the Company considers necessary or desirable to give effect to the assignment in clause 2.1, including perfecting any part of that assignment, and to facilitate the filing, obtaining, maintenance, protection or enforcement of the Assigned IP in the name of the Company; and

b not challenge, contest or oppose the validity of, or the Company's right, title or interest in or to, any of the Assigned IP.

2.4 **Moral rights:** The Assignor irrevocably and unconditionally waives in favour of the Company any and all moral rights conferred on the Assignor by legislation in New Zealand or elsewhere in the world in respect of any work the rights in which are, as a result of this deed, vested in the Company.

1 GENERAL

1.1 **Confidentiality:** The Assignor must keep this Deed, its terms and information he or she receives about the Company and its business in connection with this Deed, the Assigned IP and all information relating to the Assigned IP (**Confidential Information**) confidential, and must not use or disclose that Confidential Information without the prior written consent of the Company except to the extent that:

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a disclosure is required by law;

b the relevant information is already in the public domain; or

c disclosure is reasonably required to obtain professional advice and the party receiving the Confidential Information has entered into confidentiality undertakings substantially the same as those set out in this clause.

1.2 **Entire agreement:** This Deed contains all of the terms agreed between the parties relating to the matters dealt with in this Deed and supersedes and cancels all prior discussions and agreements covering the subject matter of this Deed. The parties have not relied on any representation, warranty or agreement relating to the subject matter of this Deed that is not expressly set out in this Deed, and no such representation, warranty or agreement has any effect from the date of this Deed.

1.3 **Further assurances:** The parties must each sign all further documents, pass all resolutions and do all further things as may be necessary or desirable to give effect to this Deed.

1.4 **Amendments:** This Deed may only be amended by agreement of the parties in writing.

1.5 **Waiver:** No exercise or failure to exercise or delay in exercising any right or remedy will constitute a waiver by that party of that or any other right or remedy available to it.

1.6 **No partnership:** Nothing contained in this Deed will be deemed or construed to constitute any party to be a partner, agent or representative of any other party, or to create any trust or commercial partnership.

1.7 **Costs:** Except as otherwise provided in this Deed, the parties will meet their own costs relating to the negotiation, preparation and implementation of this Deed.

1.8 **Partial invalidity:** If any provision of this Deed becomes invalid or unenforceable to any extent, the remainder of this Deed and its application will not be affected and will remain enforceable to the greatest extent permitted by law.

1.9 **Signature:** This Deed may be executed in two or more counterparts, each of which is deemed an original and all of which constitute the same Deed. A party may enter into this Deed by signing and sending (including by email) a counterpart copy to each other party.

1.10 **Delivery:** For the purposes of section 9 of the Property Law Act 2007 and without limiting other delivery modes, this Deed is delivered by each party on the earlier of:

a physical delivery of an original (or counterpart) of the Deed properly executed by that party, to each other party (or its solicitors); and

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b transmission (including by email) of a facsimile or scanned copy of an original (or counterpart) of the Deed properly executed by that party, to each other party (or its solicitors).

1.11 **Governing law and jurisdiction:** This Deed will be governed by New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

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SCHEDULE

ASSIGNED IP

PATENTS, TRADE MARKS AND DOMAIN NAMES

[*Insert details of patents, registered and unregistered trade marks and domain names that the Assignor has or had an ownership interest in, including any applications for patents, trade marks, etc.*]

KNOW HOW AND CONFIDENTIAL INFORMATION

[*Insert details of know how and confidential information the Assignor has or had an ownership interest in.*]

COPYRIGHT WORKS INCLUDING SOFTWARE AND WEBSITES

[*Insert details of copyright works including software and websites. For software, include relevant details of software name and version, libraries etc., and do the same for websites if relevant.*]

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